

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
December 15, 2011

LET IT BE REMEMBERED, that the Collier County Planning Commission, in and for the County of Collier, having conducted business herein, met on this date at 9:00 a.m. in REGULAR SESSION in Building "F" of the Government Complex, East Naples, Florida, with the following members present:

Mark Strain, Chairman
Melissa Ahern
Phillip Brougham
Diane Ebert
Karen Homiak
Barry Klein
Paul Midney
Brad Schiffer
Bill Vonair

ALSO PRESENT:

Jeffrey Klatzkow, County Attorney
Nick Casalanguida, Growth Management Division/Planning & Regulation
Ray Bellows, Zoning Manager
Thomas Eastman, Real Property Director, CC School District

CHAIRMAN STRAIN: Okay, good morning, everyone. Welcome to the Thursday, December 15th meeting of the Collier County Planning Commission. If you'll all please rise for Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Thank you. If the secretary will please do the roll call.

COMMISSIONER HOMIAK: Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER HOMIAK: Mr. Vonair?

COMMISSIONER VONAIR: Here.

COMMISSIONER HOMIAK: Mr. Schiffer?

COMMISSIONER SCHIFFER: I'm here.

COMMISSIONER HOMIAK: Mr. Midney?

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?

COMMISSIONER KLEIN: Here.

COMMISSIONER HOMIAK: Mr. Brougham?

COMMISSIONER BROUGHAM: Present.

CHAIRMAN STRAIN: Okay, with the roll call, we heard a new name. Bill Vonair, welcome to the Planning Commission. I look forward to working with you. We should have an exciting time. We generally have long meetings and a lot of detail. I know that is part of your past, so I think you'll find it very interesting.

***With that, addenda to the agenda. Does anybody have any changes?

(No response.)

CHAIRMAN STRAIN: There is one difference in today's agenda. The consent item that normally is first was moved to be last today. It's an internal consent item, and there are some time pressures and time constraints on one of the public meetings, so we moved those forward.

***Planning Commission absences. The next meeting is January 5th, and right now, Ray, we have Lost Grove Mine. And anything else on that agenda; do you know?

MR. BELLOWS: I don't have that in front of me.

CHAIRMAN STRAIN: Well, we know we have one, and that particular one will probably be lengthy because it will be hopefully a wrap-up of that particular hearing.

COMMISSIONER BROUGHAM: Mark, this may be an outdated sheet, but I show Vanderbilt Partners II, LTD as an item.

CHAIRMAN STRAIN: Is that the boat docks at The Dunes?

COMMISSIONER BROUGHAM: Yes.

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Ray, with the length of Lost Grove Mine, and I'm not sure we'd even -- you might want to think about that in how you schedule it. Because that one's going to -- the Lost Grove Mine may take a little bit of time. I know they want to bring in new witnesses, so --

MR. BELLOWS: Yeah, it's come to my attention that it may be an issue with the boat dock and that petition so it may need to be rescheduled anyways.

CHAIRMAN STRAIN: Okay, I'd carefully think about that day.

Does anybody on the Planning Commission know if they're not going to be here for the January 5th meeting?

Ms. Homiak?

COMMISSIONER HOMIAK: I may not be back from New Hampshire yet.

CHAIRMAN STRAIN: That's cold up there, young lady.

Anybody else?

COMMISSIONER HOMIAK: I'm looking forward to being cold.

CHAIRMAN STRAIN: It's been too cold down here the last few days, and this has been a warm winter so far.

Okay, we'll still have a quorum.

***Approval of minutes. We were distributed electronically the November 17th minutes. Does anybody have any corrections or changes?

(No response.)

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

COMMISSIONER HOMIAK: Motion to approve.

CHAIRMAN STRAIN: Ms. Homiak made the motion. Seconded by --

COMMISSIONER AHERN: Second.

CHAIRMAN STRAIN: Ms. Ahern.

Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER VONAIR: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

***BCC report and recaps, Ray.

MR. BELLOWS: Yes, on Tuesday, December 13th, the Board of County Commissioners approved the conditional use for the NABOR building. That was petition number CU-PL-2011-855. That was approved on their summary agenda. So that adopted all the Planning Commission recommendations.

CHAIRMAN STRAIN: Okay. Well, that's good.

That was yesterday's or --

MR. BELLOWS: Tuesday.

CHAIRMAN STRAIN: Tuesday.

How did the RLSA come out? I don't even know. Anything -- because that was something we had asked about. Did that --

MR. BELLOWS: Let me see if I can get Mike Bosi to come up and talk about the RLSA. He walked in at the right time.

COMMISSIONER BROUGHAM: Just in time.

CHAIRMAN STRAIN: Just for the record, I don't read the paper and I don't get to watch all those meetings, so I don't get to see the results of a lot. I used to read the paper, I used to write for it, but I stopped in August.

MR. BOSI: Mike Bosi, Comprehensive Planning Manager.

Yesterday at the continuation of the BCC's public hearing, the Board directed staff to accept the proposal for Stantec to package the amendments as accepted by the Board at their April 21st, 2009 BCC hearing, provide the data associated with it.

But also, an interesting twist was The Conservancy offered \$90,000 to provide for an outside independent review to review the data and analysis associated with the amendments and make sure that they felt that they were appropriate to have a third party independent voice within the process. Not to tie it with the EAR-based amendments at adoption, but to trail it and -- because there's going to be some time required for the RFPs associated with the

outside consultant, the coordination of the various contracts and aspects of all the parties.

So it's not going to be included as part of the EAR-based amendments but it's going to be lagging behind it somewhat based upon the premise of almost a triple participation. Because you've got the property owners providing some monetary consideration with the packaging and the data provided, you've got The Conservancy provided monetary contributions for the outside independent review, and then the county provided the county staff and application and all the processing of the actual amendments and the time for the hearings.

So it was -- I think it was a good solution that's going to allow us to move forward with it in the appropriate time.

CHAIRMAN STRAIN: Well, that's good. I'm surprised. I'm glad The Conservancy's jumping in like they are, since they had a lot of concern over the plan. And whenever it comes before this Board, as it boils down, I would suggest that we talk as it gels up, depending on how all these new entities and the quantity of the data and analysis comes in.

But I would expect we will take multiple meetings to get through that. And we may want to schedule irregular meetings to do that, not interrupt our normal process. And I want to make sure that this Board has absolutely plenty of time to review every paragraph, every sentence of that entire document, so -- and the data and analysis to support it. We just need a lot of heads up on that. That will have a -- that's a major impact to Collier County, so I think we need to study it hard.

MR. BOSI: Understood. And we understand that there will be a tremendous amount of eyes and scrutiny and attention to the process. And we would schedule it like we would schedule the EAR-based amendments, separate, outside of your regularly scheduled meetings so it wouldn't interrupt that schedule.

CHAIRMAN STRAIN: You probably need more than one meeting, though.

MR. BOSI: Yes, understood.

CHAIRMAN STRAIN: So I would consider that.

Last time too, one of the biggest issues was the panther habitat issue. Is someone going to be getting that nailed down? Because there was a big discussion over what is and what isn't primary and secondary. And that will have a big bearing on how the processes out there go forward.

And I know there was a Memorandum of Understanding between the property owners and a group of scientists to resolve it. I can't recall where that went. But is all that stuff going to be part of the data and analysis that's going to be coming towards --

MR. BOSI: Well, remember the -- what you're talking about is the process for -- the moving forward with development within secondary panther zones to the primary panther zones. That's the association of the habitat conservation plan. That's what the Board of County Commissioners was going to tie, wait until that process ran its course.

The Board said we're not going to wait until that process runs its course, because we're not sure if it's ever going to run its course. And that's for the federal permitting side of the issue. Let's create and deal with our land use issues, the issues that are under our control within those individual policies, and move it forward.

CHAIRMAN STRAIN: But I think it would be important for this Board's analysis as time goes forward, and if you're going to start lining up experts and people to look at it, to understand the impact of secondary and primary on the buildability of areas. Because that will be a big issue with upcoming applications, and it would be nice to address it during the process.

Nick?

MR. CASALANGUIDA: Mr. Chairman, would it be to our benefit maybe in --
(Outside noise.)

CHAIRMAN STRAIN: The gong is going to come out and get you next.

MR. CASALANGUIDA: I have a cold, but that wasn't my voice.

(Laughter.)

MR. CASALANGUIDA: Since we need to do an RFP on this, would it be to our benefit maybe in January just to maybe, I don't want to say, put an agenda item just to -- say an outline of maybe a one-hour discussion on what's important for this commission to understand, maybe just put together an outline for the RFP?

In other words, these are the concerns we had in the initial review and want to make sure these are covered so that we're focused on those specifics?

CHAIRMAN STRAIN: If it can fit within your process, I would think that would be helpful. My concern is that it would be nice to have the experts who know the secondary and primary, those kind of issues, put some factual measurement or quantitative values we can look at so that when we study it and make a recommendation and the Board adopts something, it's locked in. That's what we do from now on. No more of this going back and forth, or you're violating this habitat or you're violating that. No, here's the rules, here's what we've got.

And I'm trying to get there is what I'm saying. If we can find some way that this process can help us get there, that would be a huge help to this Board.

Mike?

MR. BOSI: I would say I understand those issues, and I believe we will make every effort. But we also have to realize that the financial contribution for that outside independent review was \$90,000. And that also trying to bring in additional specialists to coordinate further studies, I think we may be limited in terms of that ability. Not sure. And I think maybe that's why Nick's proposal to kind of clarify these issues with you as an agenda item probably will be in the best interest, so we all know that road map moving forward.

CHAIRMAN STRAIN: Well, you have some big operators looking at moving forward in another big area in the RLSA. It would be to their best interest to get that answer nailed down and everybody. So maybe you'll find some way of getting that done. But I think that's important. I'd hate to see us have to debate every single new town out there over the issue of secondary and primary. We just ought to get it done.

MR. CASALANGUIDA: Why don't we put on the agenda for January just what I would call a scoping discussion for what is the primary areas of interest in this RLSA review based on what we've heard in the review that was adopted and any concerns that you've had through discussions with, you know, landowners, individuals, and say look, these are the things we want to make sure we review and cover, and we haven't left it out and we've not -- don't find ourselves six months later saying we should have looked at that.

CHAIRMAN STRAIN: I agree. To have a comprehensive plan addressing everything, we don't -- that limits the amount of debate we're going to need to have on issues that are black and white then.

MR. CASALANGUIDA: Okay.

CHAIRMAN STRAIN: That's okay? Thank you, guys, appreciate it.

COMMISSIONER KLEIN: Mr. Chairman, can we go back to the actions of the Commission just for a moment?

CHAIRMAN STRAIN: That's what we're still on.

COMMISSIONER BROUGHAM: Oh, okay.

CHAIRMAN STRAIN: The RLSA discussion was something they took up yesterday about moving that overlay forward.

Go ahead.

COMMISSIONER KLEIN: I just wanted to mention that I had a meeting with Tom Henning a few minutes ago before we started this, and he told me, and he would like me to tell the people here, that his decision on the newspaper article about the -- that was today, his decision was the right decision to make as far as his property in the Immokalee -- he, with the passage of that, his property would have been enhanced and would have zoning enhancements. So he said he made the right decision and he wanted everybody to know that.

CHAIRMAN STRAIN: Okay. There was a newspaper -- again, I don't read the paper, so you got me at a loss. What was the paper -- since you opened it up, I'm just curious.

COMMISSIONER KLEIN: I was alluding to the paper. I should have been just alluding to what happened with the Commission.

CHAIRMAN STRAIN: I knew that it was a -- I know there was only four members voting. I didn't know all the particulars. But if there's a conflict of interest because of property ownership or because of a perception of property, then nobody should vote on it who has that. I know I have abstained from this Board for a possible conflict on properties at a time when I was working on nearby adjoining properties. So, I mean, it doesn't surprise me that if he's got that property out there he did that. That's certainly within reason.

Ray, did that overlay -- how did the -- the Immokalee Master Plan did not move forward then, right? Is that going to come back with any decisions made in that regard?

MR. CASALANGUIDA: No, sir. They're just going to just review it as a community and decide what they want to do at some later time. But there is no plan to bring it back right now.

CHAIRMAN STRAIN: I'm trying to think of anything else about that. The Planning Commission's recommendations weren't all intact when it got to the Board, were they?

MR. CASALANGUIDA: They were. I think the recommendations -- I think Penny talked about -- actually, Penny presented or just said that the three items that were discussed prior would be the same as with the last time they came to the Board of County Commissioners, so if --

CHAIRMAN STRAIN: No, but the last time it came it was modified by the CRA inconsistent with this Board on some of the issues. I was just curious how it ended up.

MR. CASALANGUIDA: Okay, so exactly what came to the Board last time was what came to the Board this time. No changes.

CHAIRMAN STRAIN: As far as anything else, that was -- so we only have one land use item besides those two items on the agendas, so, okay.

***Chairman's report, I think we've already expressed my concerns over the RLSA. That was where I was going to go during the report.

***Advertised public hearings. We'll move right into those. First item up is PUDA-PL2011-47, the Sabal Bay MPUD.

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

(Speakers were duly sworn.)

CHAIRMAN STRAIN: Disclosures on the part of Planning Commission. Anybody have any meetings, discussions?

Mr. Vonair, since you're the new kid on the block, any time that you've met with or had any discussions on an item that comes before the Board, you just need to disclose it in the beginning.

COMMISSIONER VONAIR: Understood.

CHAIRMAN STRAIN: I had a meeting with the applicant's attorney and -- Pat Utter, I believe, of the applicant. And we discussed all the issues that I'm going to repeat here today, the questions that I had.

So with that, Mr. Anderson, it's all yours.

MR. ANDERSON: Thank you, Mr. Chairman. Good morning. My name is Bruce Anderson from the Roetzel and Andress law firm.

I want to introduce the other members of the project team. Mr. Pat Utter and Valerie Pike from Collier Enterprises. Margaret Perry from Stantec. John English, also from Stantec. Our transportation consultants, Reed Jarvi. And Andy Woodruff from Passarella Environmental Consulting.

This is an amendment to the Sabal Bay PUD. The Sabal Bay project has been around for a number of years. Most recently it was last approved in 2005.

Sabal Bay comprises 2,416 acres, of which 938 of those acres are identified for residential uses, 50 acres of commercial uses, 32 acres for public facilities, and 16 acres of recreation village center uses that are wholly interior to the development.

There is 780 acres identified on the master plan to be deeded to the Rookery Bay National Estuarine Research Reserve, and an additional 522 acres of additional preserve area in addition to the lands to be deeded to Rookery Bay. That means that more than half of the acreage of this project will be in a state of preserve. The balance of the acreage consists of right-of-way and Lely canal easements.

The biggest change to this PUD is the removal of golf course as a permitted use. In connection with the removal of the golf course, the preserve area is being increased by 45 acres.

Additional changes that are being made: Adding approval for outside storage, except for boats, and adding a car wash, post office and docks and electrical boats as an allowable use within the recreation village center area.

There is an increase in the commercial acreage by five acres, from 45 to 50 acres. I'm told by the project engineer that that results as a result of inclusion of additional right-of-way that is within the boundaries of the commercial activity center. There is, however, no increase in commercial square footage proposed.

Another amendment proposed is to allow the height of assisted living facilities and continuing care retirement communities, which I'll abbreviate in the future as ALF and CCRC. The proposal is to allow those facilities to go up to a height of 80 feet, and to allow a floor area ratio of 0.6. The reason for the increase in building height and floor area ratio is to allow some flexibility to meet market demands for what seems to be larger sized units today.

This amendment will remove the affordable housing section of the PUD, which contains requirements that

were not uniformly applied to other development.

The bald eagle and gopher tortoise management plans are both proposed to be removed from the PUD to simply require compliance with the requirements of the U.S. Fish & Wildlife Service and the Florida Fish and Wildlife Conservation Commission. From time to time those requirements change, and we want to avoid the necessity of having to come back for a PUD amendment each time those requirements change.

There are two access points being added to the PUD master plan. One is at Danford Street and the other is along U.S. 41 opposite the entrance to the original Lely development at Saint Andrews Boulevard.

The Danford Street access is to allow for direct access to the Hamilton Harbor Marina and Clubhouse. And the new U.S. 41 access is to provide for direct access to a so-called orphan parcel that is separated from the rest of the project by an FPL transmission line easement.

There are other changes proposed to the development standards, including some deviations from additional Land Development Code requirements.

The Environmental Advisory Council heard this petition last month and unanimously recommended approval. And we respectfully request your approval as well.

Yesterday I met with the chairman of the Planning Commission, and there are some housekeeping items that I'd like to get out of the way based on that meeting. Some of these items are in the existing PUD, and we were not proposing to change them. The reason being when you come in for a PUD amendment you try to change as little as possible, only what is necessary. But the Chairman recommended that additional clean-up was needed from the existing PUD, and my client is ready to make those changes.

Throughout the PUD there are references to owner. All of those references should be capitalized so that we know that we're specifically referring to the two Collier entities or their successor.

Throughout -- also throughout the PUD there are references to ALF, assisted living facilities. To each of those references we should add or, and/or continuing care retirement communities, CCRC.

Those are the two global changes.

Additional housekeeping items are to update the amount of commercial development that has been constructed since the 2005 PUD amendment. The -- and those would be to sections -- the statement of compliance Section 2.B and Section 2.2 of the PUD.

That new commercial square footage number is 101,894 square feet of existing constructed commercial.

Section 1.1 of the PUD states that the ownership information is contained in that section, but in fact it is not. And that should be struck, the reference to ownership being contained there.

There's potential for a community development district to provide infrastructure to this project, and there are references in different sections about private ownership of the roadways, and you should strike ownership from there. They won't -- they may or may not be privately owned. So they should read privately or CDD owned.

Section 2.6 of the PUD presently allows up to 10 percent of each lake, of the fill from each lake to be hauled off-site without the necessity of getting a commercial excavation permit. Again, that's in the existing PUD. That is different than the Land Development Code requires. So the reference to per lake would be struck such that this provision complies with the requirements in the Land Development Code that no more than 10 percent total of the excavation material not to exceed 20,000 square feet may be hauled off-site without the necessity of getting a commercial excavation permit.

Section 2.14, there was a proposal to add a new use relating to telecommunication facilities. Staff has advised us that no special zoning approval is needed for these facilities unless they are communication towers. And there are provisions in the Land Development Code for permitting of communication towers.

Lastly, there are two references to the potential use of time share units and the fact that they would not be counted as hotel units. There is a limitation in the PUD for 250 hotel units. Instead, any of those time share units would be counted as regular residential dwelling units, like any home. The Chairman asked that we, rather than that being implied, that we come right out and state that they would be counted as residential dwelling units, and that is a change that we're willing to make.

And with that, I will conclude my formal presentation, and I or other members of the project team are available to answer your questions now or later. Thank you.

CHAIRMAN LEFEBVRE: Okay. Thank you.

Is there any questions at this time from members of the Planning Commission?

COMMISSIONER SCHIFFER: I'll ask one.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: And Ray, this might be to staff. And it's about the affordable housing. I mean, back in -- when this was done, 2005? -- everybody felt we needed to put \$1,000 on the -- I don't want to go into the other two, but are we going to totally wipe that out from future projects or have we determined there's no need for affordable housing in the county or --

MR. CASALANGUIDA: Maybe, Commissioner Schiffer, I could speak on that because I worked on the agenda item that was at the Board just recently.

The Board gave staff direction to come up with a process to eliminate it, whether in whole or in part, as each PUD comes forward. But as PUDs come forward that have that commitment, they do want to evaluate if they feel there still is a need and make that decision. Some of the Board members expressed that there wasn't that need today and therefore we shouldn't be asking for those dollars.

COMMISSIONER SCHIFFER: But it said that staff determined that there was, so there is no need to deposit money in the affordable housing trust anymore.

MR. CASALANGUIDA: Well, it depends. If you ask the Affordable Housing Committee staff or the board members, everybody's got a different perception.

One of the concerns that came up is four years from now we could be in the same position we were four years ago, where there could be a need and those dollars could be spent wisely. These could be unencumbered non-grant dollars, so they wouldn't have the same restrictions like NSP-1 has, so these might be more flexible.

But right now the county did a study last year that showed the median price or the market rate price that matches the affordable housing prices, that there's an abundance of that in the county today. So I think the Board is reacting to what they're hearing today and have said if petitioners feel that those dollars should not be put towards affordable housing, the Board is sympathetic to that right now.

COMMISSIONER SCHIFFER: But you know, buying affordable houses is a two-sided thing. You have to have price and you also have to be financed. So while we definitely have the price, we don't have the financing at all. So that money could be used to help people get into these houses that are now affordable.

MR. CASALANGUIDA: Sure. Buy down mortgages or down payments or --

COMMISSIONER SCHIFFER: But in the analysis it says staff says that that's no longer needed. So that came from what you just described that you're under direction from the Board that is no longer needed to fund the affordable housing trust.

MR. CASALANGUIDA: Based on the premise that the prices that are out there right now, there's enough units at those rates to qualify for programs that you wouldn't need any more units that are considered affordable housing.

COMMISSIONER SCHIFFER: But the trust also helps with down payment assistance and stuff like that --

MR. CASALANGUIDA: They do.

COMMISSIONER SCHIFFER: -- so that's the side I think that needs that help now.

MR. CASALANGUIDA: This Commission could recommend to the Board that that money be spent specifically for that. And that's something we would carry forward if you felt as a majority that that's what the Board should hear.

CHAIRMAN STRAIN: Phil?

COMMISSIONER BROUGHAM: Mark, just to comment on that discussion, it would seem to me that the prudent thing to do for the county is to try to plan ahead. And we've heard a lot of bravado in the past months about how well and how badly others before them planned ahead.

This cycle is going to repeat itself. And it would seem a prudent thing to do that when we have the opportunity that we should, you know, have a fund or have contributions to a fund to prepare for the eventuality that's going to come. I mean, we're going to run out of housing at some point and we'll be right back behind the eight ball.

I would be in favor of a recommendation to basically follow along the lines that Brad and you discussed, that at least go forward and say it might be prudent for developers as appropriate to continue to contribute to this fund for possibly some restricted or different uses than in the past. But at least we'll have something to start with.

MR. CASALANGUIDA: Certainly. If the majority felt that way, we would carry that forward.

CHAIRMAN STRAIN: We're not done with it yet.

Anybody else? Melissa?

COMMISSIONER AHERN: Heidi, what are the legal ramifications for having certain PUDs contribute to this fund and other PUDs not?

MS. ASHTON-CICKO: I certainly would want to treat them all the same. I know there was a Board item yesterday on the affordable housing commitments and I don't know that that was resolved. But we certainly want to treat them all the same. So whatever our policy is, we should apply it across the board.

COMMISSIONER AHERN: Thank you.

CHAIRMAN STRAIN: I think the better question is, Heidi, what is our policy on exacting money for affordable housing from all PUDs equally throughout the county as it stands today?

And what policy may we have had in the past that you know of in written format by resolution or ordinance that allows for such exactions on an equitable basis? Any?

MS. ASHTON-CICKO: There have been ordinances that have been adopted in the past by the affordable housing. I don't believe at this time we currently have a policy.

CHAIRMAN STRAIN: Therein lies I think where the real crux of the problem is. In the past it was thought that this was a legitimate way to possibly improve the affordable housing inventory in Collier County. It was moved forward in an inappropriate manner, from the best I could see, in the sense that we don't have a rational nexus determination, we don't have a standard in which we know every development of a certain value, of a certain size, of a certain type is required to make a certain donation to affordable housing.

While it's a nice thing to do, it may not meet the specifics that the law needs to set those values. And I think that's where it's an injustice to property owners. Either we do it all for everybody equally or we don't do it at all until the laws are passed that provide that benefit. Just like we have impact fees.

And I believe that's where I would be coming from on this. I don't see affordable housing as something we shouldn't consider, but I think the emphasis should be on the officials who make our laws to create one that standardizes this. And until they do, I think it's unfair to just arbitrarily pick on different developments and people to do that with.

Paul first and then Phil.

COMMISSIONER MIDNEY: You know, looking back on having lived through this 10 years ago, and that was my first major comment when I came on this planning board about affordable housing and how I had experience with families in Immokalee before they were able to qualify for affordable housing and living in bad expensive housing and after they were able to get into something that was affordable and how it had such a positive impact on those families, the kids, the parents, everybody.

And now looking back after 10 years, it seems like a lot of the problem wasn't so much that there was an affordable housing need as much as there was the overvaluation of property in those days. You know, now we see a house that in those days was worth 240,000 is worth about 80,000. And so the real values of housing was inflated. And that I think contributed to a lot of the affordable housing problem, which had to do more with the market than with other things, you know.

So I agree with you, Mark, we have to sort of -- it's probably going to be very hard to get a rational economic analysis that takes into account the needs of working class families and somehow the housing market, and should there be some obligation in the county, not so much an obligation, but it's sort of like a prudent thing for the good of everybody, because we all are one county, we're all people who live in this county, and to make the county better for everybody, maybe it would be a logical and a prudent thing for people to contribute.

But the basis for it, I agree with you, it sort of has to be logically determined.

CHAIRMAN STRAIN: Okay, Phil?

COMMISSIONER BROUGHAM: Understanding what you said, I don't disagree with that. But I think on the -- where do we go from here? I mean, if it -- and a big if. If it's a consensus of this Board in terms of our future responsibilities to evaluate PUD petitions, rezone petitions and so forth or use of the land, how can we add our voice to solve the issue? If the issue must be resolved at the County Commissioners level, then how do we get this policy in place if we feel it's beneficial?

CHAIRMAN STRAIN: Well, first of all, I don't think this Board has the encompassing background to jump into that with any kind of recommendation. But there's a couple of things that I think we should consider:

Number one, we shouldn't perpetuate something from the past that we know it may not have been done in the

best way possible. And we should clean that up. And that's the objective of some of the issues in this PUD.

The second thing is Brad is on a committee that deals with strictly the issue of affordable housing. It would seem to me that that committee could initiate recommendations in regards to standardization of affordable housing.

However, I do know that's been attempted in the past and it's not been met with success. And that may have been for a reason, reasons beyond the control of this Board. But the only thing I can suggest, if it feels -- if a -- for a group as focused as that Affordable Housing Committee is, and that's their sole criteria, where ours is much more scattered, if they were to continually put that request through in different formats, and one of them got accepted, then across the board every applicant coming in here knows what to expect.

And that's where I think the source ought to be, more than haphazard attempts to enforce something that really shouldn't be enforced.

COMMISSIONER BROUGHAM: That was my question, who can we look to or should have the --

CHAIRMAN STRAIN: Blame it all on Brad.

COMMISSIONER BROUGHAM: Brad, get busy.

CHAIRMAN STRAIN: He started it.

COMMISSIONER SCHIFFER: I'm just raising the question. I think it's naive to think that the problem with affordable housing is the price of the affordable house. Because these people are not getting financed, so they're not getting the house anyway. The problem is they're not getting the house. So you have to help them with the financing.

I do agree that these thousand dollar things, I was here during that time, and these things were put in in some cases at the Commission meeting. I don't want to comment on whether that was fair or not. But the point is it was done, it was done by the Commissioners, the Commissioners that are mostly still sitting.

So I think I would rather see the Commissioners take it out and make that statement, if they're the ones that put it in. I would -- at least A and B. C, I definitely think we should scratch from this.

But there still is an affordable housing problem, you know, no matter what the prices look like. And that money is going into a trust fund that solves the problem from a couple different directions.

CHAIRMAN STRAIN: We have to recommend something to the Commission. And along the lines of the changes to the PUD, one of the requests to change is A, B and C. I'm not against A, B or C. And if this Board recommends to support that, we're not making the decision, we're still leaving it up to the Commission. All we're saying is it's reasonable to consider this, and they can then debate it at their level.

I think for us not to take a position on it or to take a position we disagree with, it might send the wrong signal. So I would rather see us take an affirmative position that hey, A B and C basically are outdated, they're inconsistent with any policies we have on the books, and until a new policy is formed we recommend you consider their request.

COMMISSIONER SCHIFFER: And people are looking for it. It's 8.10, A, B and C.

CHAIRMAN STRAIN: And Page -- in the staff report, it's Page 7 of the staff report.

COMMISSIONER SCHIFFER: Mark, there's no doubt at the time these projects were coming forward people were sticking these requirements into it.

CHAIRMAN STRAIN: Oh, I agree.

COMMISSIONER SCHIFFER: And they were sticking it into it at the hearing. And we discussed the pros and cons of that.

And then I guess as the price slumped in the housing everybody forgot about it, because policy should have been done at that time. I agree with that. But I think they were being stuck in at the meetings by the Commissioners in some cases. Let the Commissioners make a formal stand. Staff said it was taken out of one before, but it wasn't really done at that level, it was, I guess -- what is the history of taking it out of the prior PUD?

I don't -- in the staff report it mentioned the --

MR. CASALANGUIDA: In terms of what the Board just directed staff to do?

COMMISSIONER SCHIFFER: Yeah, it mentioned one of the PUDs where -- Sonoma Oaks, what happened there? How did that happen?

MR. CASALANGUIDA: It was part of the amendment. They came through the amendment process and took it out. And then recently Sandalwood PUD that was part of a Burt Harris claim settlement agreement came and requested from the Board that that be taken out from them as well too. That's what was the nexus behind the amendment or the request that the Board asked us to do with the LDC.

If I could refresh your memory a little bit. One of the issues why this came up, the thousand dollars, was the

concept of inclusionary zoning. If a development wants to do all high end and not provide for that balanced mix of service workers or people being able to provide teachers living in the urban area, then they would pay into this housing where the county could provide it. That's where that thousand dollars started to come up with.

So when development came in and said we're going to have a broad mix where we have commercial, residential, and some of that residential will be for the first-time buyer, the service worker, then obviously the Board wasn't asking for that thousand dollars. But if someone said I want to do a high-rise or I want to do a high-end development, there's no opportunity for your police officer or teacher to buy into a home, a development like this, that's where that thousand dollars started popping up.

CHAIRMAN STRAIN: Okay, go ahead. Are you finished?

COMMISSIONER SCHIFFER: I'm done.

CHAIRMAN STRAIN: Melissa?

COMMISSIONER AHERN: I was just going to add to that, you know, that part of the issue, and especially with the land values at the time, if you're building 1,000 units, you needed to have a certain percentage of affordable housing. And developers didn't want to put one area of multi-family housing in the middle of a high-end community. And when you looked at the values, it was cheaper to do the thousand dollar buy-out, basically, to affordable housing than it was to try to build that and take the loss on the market value.

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: I agree, it was kind of a clumsy mitigation of the problem. But again, the problem now is not the value of the house. There's plenty of houses out there that have the right price. They can't get financing, so they need the money for that.

But anyway, I'm really not making a recommendation whether we put it in or not. I think if we decide to take it out, then I wouldn't mind seeing some policy on that, not just that staff said they did it in another one so let's do it here.

And at the time I honestly wasn't a big fan of essentially putting a gun on the people and taking the thousand bucks anyway at that time. So I think it would be better, and it's kind of I think what Mark was alluding to, that there become a policy to -- you know, and it should be a formal policy that people can debate and vote on rather than how these things got in here.

So, you know, the only reason I would favor taking it out -- and again, C, I would never put in, but take it out -- is just to bring it up as the issue. Because the applicant will want to take it out and he'll want to take it out in front of the Commissioners. And it will be noted if we did recommend that it stay and it would make it a conversation that they had to have. Thank you.

COMMISSIONER EBERT: Mark?

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: We have had almost everyone who has one of these who hasn't started, they are coming back with an amendment taking out the affordable housing. They are just plain removing it. So we have been taking out a lot.

I spoke with someone in the housing administration and they said we really don't care anymore, because we got \$10 million from the federal government. So --

CHAIRMAN STRAIN: Well, for the background from this Board's perspective, when this all started five, eight, 10 years ago, and I was on this Board, I had sat in a very -- meeting with the housing director to try to understand the policy and the procedures and how this money was being allocated or taken and requested. I was assured at that time that it was an acceptable way of making sure there was money for affordable housing. And that was from the housing director at the time.

But it turns out there was never really any -- no formal rational nexus established or policy done. And that's kind of the things we learn as time goes on, that maybe what we've done in the past isn't as -- done as well as it should. Not that the intentions were wrong, not that it was something that we shouldn't have done at all, but we just didn't go about it in the right way.

So I would think that when these projects come through and ask for release of this information to send it forward with agreeing to that release but reminding the Board that we still need to have a policy in place to establish the rational nexus between the demands equally to all is something that should be considered if we're going to do any of these in the future.

So I would agree with Brad, we can make that point as part of the stipulation but at the same time agree to let this project move forward in that regard with the issue that they requested.

Anybody have any other questions of Bruce at this time?

COMMISSIONER BROUGHAM: One global question of someone for clarification of the project master plan map. I just have a couple of questions on that before we get into some detail.

COMMISSIONER MIDNEY: While we're still on the affordable housing?

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER MIDNEY: When we get to what we actually recommend, you know, I'd suggest that we recommend taking this out but maybe putting it -- suggesting to the Affordable Housing Subcommittee that they try to come up with some sort of a balanced thing that recognizes that there is always going to be a need for people in this county who are working in low wage jobs to access housing for their families, and that if they can, you know, explore alternate means besides this of trying to accomplish that, that might be a good thing for us to suggest to the Board.

CHAIRMAN STRAIN: Actually, it would establish a much broader base in which to generate funds rather than piecemeal and individual selected, you know, step by -- different -- property owners on a more selective basis isn't the way to go, we should do it across the board if we're going to do it.

COMMISSIONER MIDNEY: Right. And it's not necessarily funds only but, you know, just sort of like broader policy and incentives too, not just disincentives.

CHAIRMAN STRAIN: I think when we get to that point in the meeting, we'll probably have something together by then. Thank you.

Okay, Phil?

COMMISSIONER BROUGHAM: Just for the future discussion here in a few minutes, Bruce, what is the definition of the R2B's, R2A's, R6's and so forth? If it's in the PUD, I fail to find it.

MR. ANDERSON: First of all, those designations were put in by WCI in 2005. And I believe the primary purpose of those was to cull out areas where there were going to be specific height limitations. And that was the way they were culled out and distinguished.

COMMISSIONER BROUGHAM: So it's sort of a geographical designation of different areas.

MR. ANDERSON: Yes, sir. Yes, sir.

CHAIRMAN STRAIN: Anybody else? Brad?

COMMISSIONER BROUGHAM: I'm not --

CHAIRMAN STRAIN: I'm sorry, you're not done?

COMMISSIONER BROUGHAM: If you moved to the left, towards Hamilton Harbor, can you explain -- I mean, I'm trying to find the true border of the project here, and I'm having a bit of difficulty. There's a -- what's that skinny little white area between the R5 and then the potential access road going out to Hamilton Harbor?

It looks -- is that part or not part of the project?

Move your pen to the right, to the right, to the right. Right.

MR. ANDERSON: Your right?

CHAIRMAN STRAIN: I think he's talking about R5.

COMMISSIONER BROUGHAM: Yes, the R -- it's just -- there's a small area to the left of R5 that is in white. And I'm trying to distinguish -- because if I take the white, then that runs all the way up towards Thomasson.

CHAIRMAN STRAIN: It's Bayshore Drive, I think.

COMMISSIONER BROUGHAM: And it's labeled Bayshore Drive. But that's not -- that specific area is Bayshore Drive, it's not a part of the project, but -- I'm not explaining myself correctly, I know that.

MR. ENGLISH: For the record, John English with Stantec.

I'm trying to find a drawing that might be a little more clear.

COMMISSIONER BROUGHAM: I mean, the project encompasses everything that's in -- outlined in bold black, correct?

MR. ENGLISH: Hopefully these lines may be a little darker.

CHAIRMAN STRAIN: I have an exhibit that might help.

COMMISSIONER EBERT: You colored yours in.

CHAIRMAN STRAIN: Pass it down and put it on the screen, it will help John explain, too.

When I do these things at home, I try to highlight them so I can read them better and know what's in and

what's out. And I think that portrays what's in, Phil.

COMMISSIONER BROUGHAM: It's heartening to know I wasn't the only one having difficulty.

MR. ENGLISH: You're referring to this piece right here?

COMMISSIONER BROUGHAM: Yes.

MR. ENGLISH: Correct. There's -- the boundary, there's the PUD area here, and it comes around here, and there's an extension here, if you will, from this side, and there's an extension, if you will, from this side. But they never touch. Bayshore separates them.

COMMISSIONER BROUGHAM: Okay. I think that helps me. I was looking for a continuity of bold lines, and I found that area by Hamilton Harbor was sort of like --

MR. ENGLISH: On a small scale it's difficult to perceive that.

COMMISSIONER BROUGHAM: Okay, fine. I'm good.

CHAIRMAN STRAIN: I apologize for not having the right crayons.

MR. ENGLISH: Here's your colored drawing back, Commissioner.

CHAIRMAN STRAIN: Actually, you could have left it up there, it does it better than yours, to be honest with you.

I'll have questions from that when we get going.

Anybody else have any questions?

COMMISSIONER SCHIFFER: I do.

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: In your road section, section A just has six-foot sidewalks, but it's the road that a bicyclist would take off of 41. So all throughout the development is nice 10-foot sidewalks which would be great for bicycling on. Why didn't you connect in your typical Section A a wider sidewalk?

MR. ENGLISH: We -- the entrances are going to be gated to the community from the surrounding public roads, Thomasson Drive and 41, and so our intention was to provide a biking -- a 10-foot wide multi use path for the residents of the community. And so --

COMMISSIONER SCHIFFER: But if they went outside the community, which hopefully they do to go shopping or something, when they came back in, so going down road section A, which is your main entrance road section, where would the bicyclist be in that road section?

MR. ENGLISH: On Section A, which is going to U.S. 41, that section had its -- of course it's a 12-foot path, I believe, up to the bridge and then it becomes two six-foot sidewalks. But we just -- our plan for the pathways were a bicyclist -- that the multi use path would be for internal for the residents to enjoy the community. If they wish to ride their bike out onto U.S. 41, I'm not sure the best way to do that. We had not got down to that level of detail.

COMMISSIONER SCHIFFER: Your answer might be they're walking their bike down the six-foot sidewalk.

MR. ENGLISH: In reality that's probably what would happen.

COMMISSIONER SCHIFFER: Or they're in the roadway.

MR. ENGLISH: Because it's going to be a gated community, and we haven't gotten down to how we would gate all those access points to that level of detail. But you're probably right, they would have to get off their bike and walk through some sort of gate, manually open a gate.

COMMISSIONER SCHIFFER: Thank you.

COMMISSIONER BROUGHAM: Mark, are we going to go page-by-page through the PUD or --

CHAIRMAN STRAIN: I was just -- no, it was just asking our questions. We didn't -- it's up -- I mean, I'm going to go through page-by-page, but I figure normally you guys don't have that many questions. So if you wanted to -- if you want to, Phil, I can walk through.

COMMISSIONER BROUGHAM: Well, I have some in the PUD we might as well get to.

CHAIRMAN STRAIN: Well, why don't we go through the -- we can take it like that. That may help in the long run.

COMMISSIONER HOMIAK: We're going to hear speakers after all that?

CHAIRMAN STRAIN: Yeah. That's when we usually do.

The first section is the statement of compliance. Unless that's a -- then there's two -- it's a II, and then the second page is a III. Does anybody have any questions on those two pages?

(No response.)

CHAIRMAN STRAIN: I do.

Bruce, I'm confused over something I read in the staff report, and I guess -- is the attorney who represents the EAC here today? I knew that answer.

I'd like to know why number two was -- what that has to do with the environment.

MR. PERRY: You knew that answer too.

CHAIRMAN STRAIN: I know that answer and it's frustrating.

MR. WILLIAMS: Steve Williams, Assistant Collier County Attorney.

You know the answer as well as I do. And if you watch those meetings on TV, you probably see what we frequently tell them, that --

CHAIRMAN STRAIN: No, like the paper, I don't watch those meetings and I don't read the paper, so --

MR. WILLIAMS: I would say it is beyond the realm of their environmental concern.

CHAIRMAN STRAIN: Okay, because the numbers that they came up with have no -- I can't figure them out, so --

COMMISSIONER MIDNEY: Mark, what are you looking at?

CHAIRMAN STRAIN: On the Roman numeral II, under statement of compliance, number 2-A. The proposed residential density of Sabal Bay used to be 1.26, now it's .85 dwelling units per acre.

Well, if you look back at the staff report, the EAC had requested that all those numbers be changed to 1.29 units per acre. And I'm not seeing the reasoning behind that. Not that I care, because it's not an environmental issue. But I thought for the record I'd clear it up. And I don't -- and so much for that.

Margaret, you're going to jump into something that doesn't need to be jumped into, but go right ahead.

MS. PERRY: I don't think I will. Again, for the record, Margaret Perry from Stantec.

What happened at the EAC was it was recognized that the calculations were changed in the statement of compliance, but the same changes weren't made in the Section 1.4. Section 1.4 relating to density still said that density of 1.26.

After the EAC meeting I received a call from Kay Deselem and Michele Mosca and said the way that we were calculating density was incorrect. The only thing -- the only acreage that should be omitted when calculating density is for commercial and industrial. We shouldn't have been eliminating the density for, say, the public facility use and for wetlands. So therefore after EAC we changed it to read to what it is today.

CHAIRMAN STRAIN: Okay. What it is today is consistent and correct; is that right?

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

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

On the Roman numeral III -- I mean, Page 3, number seven, I did receive those other documents, or I found those other documents online. I didn't find any conflict between those and this discussion, but that's the only note I had on that page.

So with that, let's move on to -- let's take a couple pages -- a section at a time. Section 1, does anybody have any questions on Section 1? Which covers two pages.

(No response.)

CHAIRMAN STRAIN: The cleanup by the applicant was to remove the references to property ownership. I believe that is warranted.

Section 2, that covers pages 2-1 through 2-10. Anybody have any questions?

Phil?

COMMISSIONER BROUGHAM: Just a comment on 2.2B. Again, it could be my old eyes, but I didn't find an Exhibit A. I find a master plan in the -- labeled master plan, but I don't find anything specific to Exhibit A. I think I know what it is, and it's commonly labeled or labeled now master plan, but --

CHAIRMAN STRAIN: The master plan by Wilson-Miller says Exhibit A, Pages 1 of 3. And there's three pages.

COMMISSIONER BROUGHAM: Where are you?

CHAIRMAN STRAIN: Very last pages of the document. Actually, just before Exhibit C.

COMMISSIONER BROUGHAM: Which document, Mark? I'm sorry.

CHAIRMAN STRAIN: The PUD. Turn to the back of the PUD. It's just before the legal description, which

is Exhibit B. You've got the master plan. The right side of the page on the master plan says Exhibit A, Page 1 of 3.

COMMISSIONER BROUGHAM: Is this it?

CHAIRMAN STRAIN: This one right here.

COMMISSIONER BROUGHAM: I'm not finding it.

COMMISSIONER AHERN: It's in the back of actual PUD. The ordinance.

CHAIRMAN STRAIN: Look under the bottom of the page, Phil, under the name Wilson-Miller.

COMMISSIONER BROUGHAM: All right, I got it. I knew it was old eyes. Go ahead.

CHAIRMAN STRAIN: Did you have anything else in that section?

COMMISSIONER BROUGHAM: No.

CHAIRMAN STRAIN: Okay. On Page 2-4, Section 2.5A, the sidewalks -- and Bruce, I want to make sure you catch this in your references. It says all privately owned roads internal to the Sabal Bay MPUD, you're proposing a change. You mean all privately and/or CDD owned; is that correct?

MR. ANDERSON: That is correct.

CHAIRMAN STRAIN: I'm still working -- number 2.11 on Page 2-6. The common area maintenance. The word is shall be provided by the CDD. Since you're going to have some sections of the roadways, mostly your collectors and arterials -- there's no arterials in this, but mostly your collector roads -- I would imagine CDD, you may have cul-de-sac roads or others that are not. I don't think you want to be bound by all the common area maintenance. By shall, I think you should substitute the word may.

MR. ANDERSON: Agreed.

CHAIRMAN STRAIN: I'm still working -- number 2.11 on Page 2-6. The common area maintenance. The word is shall be provided by the CDD. Since you're going to have some sections of the roadways, mostly your collectors and arterials -- there's no arterials in this, but mostly your collector roads -- I would imagine CDD, you may have cul-de-sac roads or others that are not. I don't think you want to be bound by all the common area maintenance. By shall, I think you should substitute the word may.

MS. ASHTON-CICKO: Actually, I think shall works okay, because it says or a property owners association.

CHAIRMAN STRAIN: Right, but then -- so if they don't do it through a property owners association they have to do a community development district.

MS. ASHTON-CICKO: Yeah, that would be the only two options.

CHAIRMAN STRAIN: The only thing I was concerned, if they opt not to go CDD, then the whole project would have to be by a property owners association.

MS. ASHTON-CICKO: Well, usually they have a master association or individuals.

CHAIRMAN STRAIN: Does that work for you?

MS. ASHTON-CICKO: I would read that to be included but --

CHAIRMAN STRAIN: I just want to make sure that one way or another it's covered and nothing's omitted. So if you're comfortable that they're both covered by the word shall, we can leave it as it is.

MS. ASHTON-CICKO: It really doesn't matter. If we're talking about roadways as far as common area, I'm not really sure --

CHAIRMAN STRAIN: Well, no, actually, see --

MS. ASHTON-CICKO: -- this is a little bit atypical the way this --

COMMISSIONER BROUGHAM: Could be broader than that --

CHAIRMAN STRAIN: It's broader than that. CDD's go beyond just roadways. They go to --

MS. ASHTON-CICKO: I know they do. But usually we don't put in the common area maintenance in our documents. This is an older PUD, as you know.

CHAIRMAN STRAIN: Well, if we don't have to change it, we don't need --

MS. ASHTON-CICKO: But may is fine with me --

CHAIRMAN STRAIN: If we don't have to change it and you guys are comfortable with it, leave it like it is then.

MR. ANDERSON: Yes, sir, that's fine.

CHAIRMAN STRAIN: I'm just trying to make it more readable.

And the last couple of pages, 2-8, number nine, your outside storage areas on Page 2-8. I understand you're now dropping 10, staff has confirmed that that is already a given. But number nine, you were going to limit that to a specific area because it's in the general requirement so it could go anywhere in the entire project. And I really think in my discussion with you, you were talking about trying to limit it to a -- was it R5?

MR. ANDERSON: Yes, that would be -- it would be limited to the R5 area.

CHAIRMAN STRAIN: So if that's the case, then we would -- I guess we -- yeah, is it -- I guess we just add the words R5 only on the end, something to that effect? That works for you?

MR. ANDERSON: Yes, sir.

CHAIRMAN STRAIN: Okay. Go ahead, Ms. --

COMMISSIONER HOMIAK: On the subject of the outside storage, will you have -- will there be walls tall enough that -- you're looking like -- it looks like you're only going with the walls and fences eight feet high? Will there be masonry walls to hide an RV or --

MR. ANDERSON: I'll ask Ms. Deselem to -- I believe the LDC would require some sort of buffering or wall?

MS. DESELEM: I'm sorry, I missed the question. What was the question again?

COMMISSIONER HOMIAK: On the outside storage, the masonry wall probably or whatever to hide what is in there.

MS. DESELEM: I don't remember the exact definitions of what the wall must be made of, but yes, there is a requirement for additional buffering.

COMMISSIONER HOMIAK: Well, everything here looks like it's not going to be higher than eight feet -- six feet, eight feet. And the perimeter walls and fences, I'm assuming that means perimeter walls of the development. That would be four-foot berm, eight-foot -- up to an eight-foot wall, that would be 12 feet. But that's not the storage?

MS. DESELEM: Right. There are special requirements for outdoor storage to be screened and buffered. And it's in a separate section of the code that's referenced in the staff report, and they would have to comply with that.

COMMISSIONER BROUGHAM: Mark, on the same item in the staff report, on Page 7, referencing the storage areas, you just say or equivalent landscaping or a combination thereof, not less than seven feet in height above ground level. And I agree with Commissioner Homiak, that if you're putting RV's in this storage area, you know, seven feet is not going to shield those RV's, if that's the intent here.

CHAIRMAN STRAIN: I just heard Kay say something, though, that the perimeter of the project will be bermed with a four-foot berm and an eight-foot wall on top of that.

Kay, is that correct? I mean, I could look it up. But I assume if you just looked it up, you'll save me the trouble.

MS. DESELEM: Let me check and verify that. I'm not certain it's actually a requirement. It's an option of the petitioner whether or not they want to do that.

COMMISSIONER HOMIAK: Two-six.

CHAIRMAN STRAIN: Okay, here's where I'm going. If you look at tract R5, it's got bounded on the north and south by the perimeter boundary. So if 2.12.B.1 applies to those two locations, then the only exposure would be to the internal roadway, which is internal to them. I'm not sure there's an issue there for -- from a perspective of anybody being affected by the mere fact that the outside boundaries have the higher and more intense walls.

COMMISSIONER HOMIAK: Okay. Well, I didn't see in here where it was --

CHAIRMAN STRAIN: And I just want Kay's confirmation -- no, I'm just -- yeah, I know you didn't, that's -- but it's only limited to that little strip R5.

But Kay, and I guess Bruce, would you acknowledge that 2.12.B.1 will apply to any storage areas built in the R5 zoning -- or the R5 tract?

MR. ANDERSON: The applicant does not wish to be required to have a berm. They're fully willing to comply with the LDC requirements to buffer this from the outside.

CHAIRMAN STRAIN: Okay, then why don't you tell me where 2.12.B.1 in your mind applies. Because you're looking at separating commercial areas from residential areas. The parcels to the north and south of that G or R5 I believe are residential. One for sure is. And the other I can't quite read it. So where do you think that applies?

And storage is not a residential use, it's more of a commercial use. So why don't you tell me where you think that applies.

MR. ENGLISH: For the record, John English for Stantec.

The intent of that request was to be able to provide a berm and a wall to screen the residential area proposed in this area from the commercial area here.

CHAIRMAN STRAIN: So the only place you intend to apply B.1 is between the purple and orange and purple and yellow.

MR. ENGLISH: Yes, sir, that was how it was conceived.

CHAIRMAN STRAIN: So what happens to the Rec/VC area in the center against the R4, which is to the

south -- or to the west?

MR. ENGLISH: This area?

CHAIRMAN STRAIN: Yeah.

MR. ENGLISH: The plan for that tract is more of a resort -- a typical community recreation facility, not an intensive commercial use, strip centers, retail. So there was no intent to build a berm or wall to screen that. There would be code required landscape buffers, of course. But we weren't going -- I don't believe the plan is to include a wall at that location.

CHAIRMAN STRAIN: That is an internal issue to your project that isn't yet developed. But I just wanted to caution you in your statement, car washes are C-4 in Collier County. That's a much more intense use than -- that's a commercial use. So I understand your reasoning, but you're saying that 2.12.B.1 was never intended to apply to all commercial uses. You're just talking about the commercial tracts.

Because if you've got commercial uses on the rec. center, I would suggest it could be -- you might be bound by 1.12.B.1. If that wasn't your intention, I think you might want to clean that language up.

And it wasn't the intention then that this word perimeter fences or walls applies to the perimeter boundary on where you're going to have the storage area?

MR. ANDERSON: Mr. Chairman, it's an option, not a requirement under Section 2.12.

CHAIRMAN STRAIN: Yeah, shall be permitted. So it means you don't have to do it, you can ask to do it. Okay.

No, I understand. I was just trying to understand where you thought it applied. Now it's limited. It's not perimeter boundary, it's strictly the internal between the commercial they're going to put in and their residential.

COMMISSIONER EBERT: I have a question with R5.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: I have a question with R5. On the R5, it looks like an entrance where the two are gated separately. It looks just like a road coming in there. This is where you plan to park these vehicles?

MR. UTTER: For the record, Pat Utter, Collier Development -- or actually, CDC Land Investments, Inc.

The roadway right-of-way width's likely to be 50 to 60 feet, and the parcel width would have, you know, an area that would be unutilized. And as long as we provide proper buffering, we were hoping to be able to use that for storage for the residents along that narrow strip.

So I think it's 330 feet -- it's 330 wide. If you take out 60 for the road right-of-way, you have a balance of land that's -- we wanted the ability, we don't know for sure, that we could store the recreational vehicles, not excluding boats there. That was the intention.

CHAIRMAN STRAIN: Okay. And Pat, while you're up there, though, the storage of those kind of vehicles is usually not the best perception site-wise. It's not an amenity for sure for the outside people. And you are bordering residential areas.

What kind of wall would you be willing to put there? And what should we be considering? And then we'll decide where to go after that.

MR. UTTER: I'm not technically familiar with the exact language of the LDC, but my understanding is it provides for guidance on the proper buffering that would be required. And I don't know if that's complete shielding or not. I don't have that reference in front of me. But we would comply with the LDC for outside storage.

CHAIRMAN STRAIN: What's your reluctance to do the more intense wall and berm that was --

MR. UTTER: There's no reluctance at all. I just don't know if it's 10 feet, 12 feet, 14 feet. I don't know what that limit would be or its -- I'm not sure what --

CHAIRMAN STRAIN: Well, if your PUD allows you to be, that section, the storage area of R5, to be subject to 2.12.B.1, then you'd be allowed to do 2.12.B.1 or you could do that there, the PUD --

MR. UTTER: My reluctance is that with the limited 330 feet wide, that a berm starts to take up a lot of room in that space. And so maybe I would rather use a 12-foot fence rather than a four-foot berm and an eight-foot wall. That's my reluctance.

It's not the height I'm concerned, but when you say berm, it's a lot of fill, it's cost, it takes up land. You have the slope that eats up usable space.

CHAIRMAN STRAIN: So if we --

MR. UTTER: So if you want to go with a 12-foot fence, I'm okay with that.

CHAIRMAN STRAIN: Or wall/berm --

COMMISSIONER HOMIAK: A fence of a wall?

CHAIRMAN STRAIN: Well, fence or --

MR. UTTER: Fence or wall. I'm not sure why -- you know, a shielded fence, something that would prevent the view from outside.

COMMISSIONER HOMIAK: Okay. I know that in my community we have a boat storage, RV storage that's a 12-foot masonry wall gated, locked up, and it's -- you can't see -- I mean, there's villas right next to it, you can't see all the stuff.

MR. UTTER: We're willing to shield it, you know, 12 feet, we're okay with that.

CHAIRMAN STRAIN: Thank you, Pat. Appreciate it.

Let's move on. We're still in section two.

On 2.16, the -- I did find out the reason why the native vegetation reduction, it's because of the LASIP canal. So just to let you know, I don't need your guy to tell me that today.

Next section is section three. It goes from 3-1 to 3-5. Anybody have any questions?

COMMISSIONER BROUGHAM: Yes.

COMMISSIONER SCHIFFER: I do, Mark.

CHAIRMAN STRAIN: Go ahead, Brad, then Phil.

COMMISSIONER SCHIFFER: Bruce, I think you might enjoy this. Three-four, your description of -- it's actually 3.4.A.4, the end of that paragraph I think it's a little too frisky where it allows 165-foot tall 10-story buildings, so -- do you see what I'm reading?

MR. ANDERSON: Yes, sir.

COMMISSIONER SCHIFFER: Shouldn't that be scratched out or -- none of your building standards have buildings over 80 feet.

CHAIRMAN STRAIN: Well, that's a little -- it's already -- if you look at footnote number five, this is a discussion that he and I had yesterday, and we were certainly going to rejuvenate it for today.

If you go to the building standards table, see the asterisk on -- see the maximum height, where it says 50 feet above FEMA elevation, five comma seven. Go to asterisk five over in the footnote.

I didn't see that until yesterday either, Brad, so --

COMMISSIONER SCHIFFER: What it's saying though is that -- well, first of all, Tract R is everything with the R in front of it, correct? There is no single R tract somewhere, is there?

MR. ANDERSON: No, it's R4. The limitation --

CHAIRMAN STRAIN: Deja vu. The same question came up yesterday. The four isn't actually crossed out, even though it looks like it is. So they're only referring to those two southern tracts surrounded by the -- down south by the preserves.

COMMISSIONER SCHIFFER: So you want the 10-story buildings down there, that's the intent?

MR. ANDERSON: We wish to retain the prior approval, yes, sir.

COMMISSIONER SCHIFFER: I don't know if I'm against it. I thought I was pointing out a scrivener issue, but it's a design.

I mean, I think maybe it could have been clearer, but -- and those would be for only multi-family. How come in the 50 feet you don't have that -- where's the footnote five coming off of your development standard?

CHAIRMAN STRAIN: If you go to go maximum height, go over under multi-family time share dwellings, you see the footnote five and footnote seven after the word elevation.

COMMISSIONER SCHIFFER: Okay, I'm down in this -- I see.

CHAIRMAN STRAIN: It's certainly hard to see, that's for sure.

COMMISSIONER SCHIFFER: Yeah. Okay, that's what they had before. I won't comment on it, I guess. Wait till they're finished.

MS. ASHTON-CICKO: While we're waiting for them, could I read in a change I have on this page?

CHAIRMAN STRAIN: Sure, go right ahead.

MS. ASHTON-CICKO: I'm just at the top where it says multi-family time share dwellings in caps on the top. Just put underneath it, paren, excludes townhouse. Because multi-family is three or more townhouses. It doesn't have a number that is specified, it's just you can't have anybody living above you. And that would clarify which

category to use.

And I've discussed it with Bruce and he's okay with that.

CHAIRMAN STRAIN: Okay.

Did you have a further question then?

COMMISSIONER SCHIFFER: The next one, Bruce. In time share you note which shall not be counted as temporary lodging. Obviously that's what it says. But why did you put that in there? It's kind of scary when you add things.

In other words, we don't have temporary housing anywhere in this development, do we? Is there anywhere in here that we -- in other words, we have a density of maximum residential units. A time share would be a residential --

MR. ANDERSON: Yes, sir.

COMMISSIONER SCHIFFER: Okay. And you put that in to actually help us clarify that --

MR. ANDERSON: Yes, sir.

COMMISSIONER SCHIFFER: Not to -- okay. Because I was afraid somewhere there's temporary housing and you're taking time shares out of that.

MR. ANDERSON: No.

COMMISSIONER SCHIFFER: Okay, good. Yeah, I'm done with that then. Thank you.

CHAIRMAN STRAIN: Okay, Phil and then Karen.

COMMISSIONER BROUGHAM: Just to comment on the 10-story building, and I understand it was previously approved. This esthetically, it bothers me to have a 10-story building sitting down there adjacent to a preserve and that skyline. Just a comment.

CHAIRMAN STRAIN: Okay, Karen?

COMMISSIONER HOMIAK: So the 80-foot ALF can go in anywhere, or do you have a specific area? I mean, you're eliminating three areas along the --

MR. ANDERSON: In Section 3 point --

COMMISSIONER HOMIAK: I'm sorry. You're eliminating just three areas over by Bayshore, R7, R5, and RB-2. So the 80-foot building can go along 41 or anywhere, that's what you're proposing?

MR. ANDERSON: Yes, ma'am.

And again, that's only for an ALF or CCRC use.

COMMISSIONER HOMIAK: And is there any chance you would eliminate any of those areas, like R3 and R8 where you have -- R8 you specifically have written in a footnote that it should be 50 feet, buildings there would be 50 feet. But that would go away with the ALF also.

MR. ANDERSON: The applicant no longer owns that parcel, and would not want to change the limitations or allowances that currently exist on that piece.

COMMISSIONER BROUGHAM: Which piece?

COMMISSIONER HOMIAK: On R8, you mean?

MR. ANDERSON: Yes, ma'am.

COMMISSIONER HOMIAK: So the building height, it's 50 feet, cannot exceed 50 feet.

MR. ANDERSON: That's correct. Yes, ma'am.

CHAIRMAN STRAIN: Now, wait a minute, though. You're not having an exception for R8 to the new language you're putting in the residential section. So all R would get the benefit of that. It may not be a decrease in their issues, it would be like an asset. It would be an up increase.

MR. ANDERSON: We can add that clarification.

CHAIRMAN STRAIN: So you're going to exclude R8 from any of this language?

MR. ANDERSON: Or simply state that R8 is limited to 50 feet.

CHAIRMAN STRAIN: Well, you'd be safer just saying R8 is exclu -- well --

COMMISSIONER HOMIAK: It's in a footnote, though, for the table, same as the 165, number seven.

CHAIRMAN STRAIN: Yeah, number seven is 50 feet for RG8. Are you changing the designation on the new plan? Yeah, it's R8, okay. Yeah, that would work.

Anybody else have any questions on section three?

(No response.)

CHAIRMAN STRAIN: Bruce, let's go back to Page 3-3 where you talked about your development standards

for yard requirements for the ALF, and then the ALF is going to be ALF/CCRC.

MR. ANDERSON: Yes, sir.

CHAIRMAN STRAIN: Those standards are for the time when it was a 50-foot building. You have a different size building now. And I believe the standards need to change to accommodate the additional height, otherwise we're still setting the standards for a 50-foot building.

And I believe that when we spoke it was the building height or half the building height that was the -- should be considered. So if you go to an 80-foot building, your front would be 40 and your rear would be 40, and I believe the side would be half the sum of the building heights.

MR. ANDERSON: Yes, sir.

CHAIRMAN STRAIN: Okay. Brad, do you want to weigh in on that since you usually pick up these things?

COMMISSIONER SCHIFFER: Well, which one is it, Mark, again, I'm sorry?

CHAIRMAN STRAIN: Three .5B, on Page 3-3. We're trying to accommodate the higher height with greater setbacks. I believe that what you're used to seeing and I thought I had been is that we use half the building height for front and rear and half the sum of building height for in between.

COMMISSIONER SCHIFFER: Or it's even half the combined building heights in between, but --

CHAIRMAN STRAIN: That's what I said, half the sum of the building heights.

COMMISSIONER SCHIFFER: Okay. Yeah.

CHAIRMAN STRAIN: And I'm -- in thinking of Karen's comment about the Tract R3, remember the issues we had in discussing the Target Store or potential Target Store on 41? Same kind of application. And I can't remember if we established fixed setbacks along 41 or we used a calculation like we're proposing here. Do you, since you were --

COMMISSIONER SCHIFFER: Well, we put a minimum on that one of 50 feet. I remember that.

CHAIRMAN STRAIN: That was about the same height, ended up about the height we're talking about here.

COMMISSIONER SCHIFFER: Yes.

CHAIRMAN STRAIN: Bruce, I think where we're heading is, we would certainly increase the standards suggested like we talked about. But if you're along 41, we would have a minimum of 50-foot setback from the 41 right-of-way.

MR. ANDERSON: That's fine. Yes, sir.

COMMISSIONER SCHIFFER: Yeah.

MR. ANDERSON: The side yards in the PUD would not change.

CHAIRMAN STRAIN: Right. Well, that's -- yeah, because it would come under -- well, the side yards in the PUD are 15 feet. You can't have 80-foot buildings with 15 feet -- 30 feet between them. You'd be looking at at least half the sum of the building heights.

How would you -- that's what you've got, a minimum distance between principal structures, ALF's, 15 feet or half the sum of the building heights, whichever is greater. That's what you call out now. And now you're saying you don't want that?

MR. ANDERSON: No. Look -- okay, half the height is fine.

CHAIRMAN STRAIN: Half the sum of the building heights?

MR. ANDERSON: Yes, sir.

CHAIRMAN STRAIN: We're going to have fun writing this one up. Kay, are you taking good notes?

MR. ANDERSON: We'll have two scribes, Kay and Margaret.

COMMISSIONER SCHIFFER: Mark, it might be easier if we just move the multi-family requirements over to the ALF.

MS. ASHTON-CICKO: Are you leaving in the language except for no setbacks shall be required from any lake easement?

CHAIRMAN STRAIN: Hold on a second. Give me a reference for that. I may have one --

MS. ASHTON-CICKO: On Page 3-3, 3.5.B. I thought those were the changes that you're making to the front, rear and in between the buildings, 80-foot buildings.

CHAIRMAN STRAIN: Yes. The only -- the setback to the lake easement, that's 20 feet back from the water already.

MS. ASHTON-CICKO: So you're going to keep that the way it is?

COMMISSIONER EBERT: So Mark, what you're saying is there already is 20 feet from the setback for maintenance purposes, which has always been.

CHAIRMAN STRAIN: Right.

COMMISSIONER EBERT: Okay. That's --

CHAIRMAN STRAIN: That's a South Florida rule. It's not going to change. All your lakes have 20 feet around them. Especially today.

Anybody else, while we're still on three? Brad, did you have anything else you wanted --

COMMISSIONER SCHIFFER: No, just to make sure -- I mean, I think all's we really have to do is add the perimeter requirement, and isn't three okay then? I mean --

CHAIRMAN STRAIN: Well, three would be -- the front would be half the building height. The side would be half the sum of the building height, the rear would be half the building height, and then we would add a 50-foot minimum for along 41.

COMMISSIONER SCHIFFER: Okay. The reason I'm -- I mean, these are really requirements for internal platting of sites, which it's their development. I don't -- it's not going to mess up the community if they got them closer, but --

CHAIRMAN STRAIN: The Table 1, Heidi had made a suggestion, one of the things that's missing from the table is whether the height that's being referred to is zoned or actual. I understand it's zoned. But then actual height isn't referenced.

Have you guys come up with an addition of actual height to be added?

MR. ANDERSON: Just add 10 feet.

CHAIRMAN STRAIN: To each one of those?

So you're going to put a new line in that just -- or are you going to just amend the footnote that says actual height?

MR. ANDERSON: Customarily I understand that it should be 15 to allow on top of the zoned height.

CHAIRMAN STRAIN: I don't think there's a customarily in that. In fact, I can show you plenty of them where the 30-foot -- where the residential houses are -- actual is 10 feet or less. Some of them are 42 feet versus 35. So -- Brad, you're the architect.

COMMISSIONER SCHIFFER: Well, you have to be careful in the multi-family, especially if you're 150 feet. What I want to actually specify is 165 feet as the actual.

CHAIRMAN STRAIN: They do that on the footnote.

COMMISSIONER SCHIFFER: Right. But be careful on anything that has an elevator or something that requires penthouses, because you could get yourself -- and it's not like it's going to enhance the look of the building if you squash the roof structure. So just, you know, you could lose floor-to-floor height and you could lose the ability to put in nice looking roof structures.

CHAIRMAN STRAIN: The first four categories, if you were to go 35 for zoned and 45 for actual, and then the last three categories go to your 15 feet, I think that would work. That would be more consistent with what we're used to seeing.

MR. ANDERSON: That would be great, thank you.

CHAIRMAN STRAIN: The asterisk number nine as a footnote, it says minimum separation between parking decks under mid-rise structures shall not be less than 60 feet.

If I'm not mistaken, this is where you have principal towers and the parking decks extend beyond the base of the principal towers, kind of like the wedding cake design. But the measurement for that bottom layer is a minimum of 60 feet. Is that --

MR. ANDERSON: Yes, sir.

CHAIRMAN STRAIN: -- what your intentions are? Okay.

What does number 11 mean? And the only reason I'm bringing it up is we have a way of measuring zoned and actual height in the code. I hate to messy the code up with new definitions. And that number 11 establishes a new definition for how zoned height is looked at.

MR. ANDERSON: Again, that was a leftover from the prior developer. My client's willing to strike it.

CHAIRMAN STRAIN: Okay, so number 11 will be struck.

COMMISSIONER SCHIFFER: Mark, I --

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER SCHIFFER: -- have a little bit of a concern. The zoned height of the building is allowed to be measured from the flood plain elevation. The actual height of a building is measured from the center line of the adjacent road. You're in flood plain zones here.

So you take your 10-story building you want to do -- well, that one's -- well, even that one's dangerous by saying 165. You could be 15 feet above the road.

So, I mean, these heights, you've got to be careful just arbitrarily picking an actual building height.

CHAIRMAN STRAIN: What is --

COMMISSIONER SCHIFFER: If the zoned building height was clearly defined, you can't go wrong, but the actual could be below the zoned building height.

CHAIRMAN STRAIN: But the actual they picked here is already in the document. I'm not asking them to change that. If you look under footnote number five, it says a maximum actual height of 165 feet and zoned height of 150.

So they've picked the 150 based on their predecessor. But I think the question is if you're going to measure from the crown of the road, how high is the 25-year road elevation set in comparison to the FEMA elevation for the residential in that area? Because your road can't go down to base, it's got to be set for a 25-year storm minimum.

So you may not be that far off from your road crown to your building height.

MR. ENGLISH: John English, for the record, Stantec.

And Mr. Chairman, you're absolutely correct. Average existing grade out there is in the vicinity of elevation five or six or seven. And the FEMA flood elevations are in the vicinity of seven to nine, so we will -- minimum road will have to be two feet above -- there won't be a tremendous difference between the road crown and finished floor in many of these cases, required.

COMMISSIONER SCHIFFER: Okay, but you're going to lose that difference in your -- it's going to be taken out of actual.

Now, the other --

MS. ASHTON-CICKO: Well, you could -- if I may, you could put in your PUD that the actual height is going to be, you know, 15 feet or whatever number over the zoned height, so that, you know, you're not mixing apples and oranges. So you're --

COMMISSIONER SCHIFFER: They are apples and oranges, that's the --

MS. ASHTON-CICKO: They are. That's why I'm saying you can correct it in your PUD, if you'd like to.

COMMISSIONER SCHIFFER: Now, when this was written, I don't know if there was the definition of actual height in the LDC at that time. So, you know, the intent is clear that you're going to go 15 feet above it. But these are two different dimensions from two different bases, so just be careful.

We could be -- and take the, for example, your description of the 10-story building is over parking levels, which could be two parking levels, and that area is eating up the actual height too then. So you're in trouble with that building, I mean, or at least you're not going to have the floor to floor heights you were hoping for.

CHAIRMAN STRAIN: Well, Brad, I hate to consider what you're asking. Are you suggesting they get these heights up to 200 feet or something like that? I mean, 165 is pretty steep for an --

COMMISSIONER SCHIFFER: No, I'm suggesting that they could find out where they may be -- you know, the actual height may be actually lower than the zoned height, which means they've got to really push the building floor to floor down. They're not going to get what they're asking for here.

I don't think they should get more than they're asking for. I mean, I was actually surprised to notice what they were asking for.

CHAIRMAN STRAIN: The fact that they already have this in their PUD, it makes it a little harder to take it away. But I wouldn't want to add more to it. It seems like we're compounding the problem then.

COMMISSIONER SCHIFFER: Except for the fact someone should research to see if the definition of actual height was in the code in 2005 when this was written.

MR. BELLOWS: For the record, Ray Bellows.

I don't know if that was in the code when this PUD was approved, but the actual definition, as you say, for building height is the vertical distance from the average center line of the adjacent roadways to the highest structure or

appurtenances without the exclusions of Section 4.02.01 of the LDC. Which that talks about air conditioned equipment rooms, so we don't count that towards the building height.

COMMISSIONER SCHIFFER: So anyway, it just -- they are apples to orange, and I don't think you have 15 feet always above the top of the building.

CHAIRMAN STRAIN: Okay.

MR. ANDERSON: My client understands that.

CHAIRMAN STRAIN: Move on to section four. Starts at 4-1 and goes through 4-5.

COMMISSIONER HOMIAK: Cherie' might need a break.

CHAIRMAN STRAIN: Cherie' never needs a break, she loves what she does. But you're right, thank you for reminding me.

Cherie', for the first time, I think I forgot you were sitting there with the break, so I apologize. And we will --

COMMISSIONER HOMIAK: She was ready 15 minutes ago.

CHAIRMAN STRAIN: That's a good point. We'll take a break now until 10:45. Okay.

(A recess was taken.)

CHAIRMAN STRAIN: Everybody, welcome back from the break. And Cherie' is refreshed, we can now move forward.

We were on section four. Does anybody have any questions on section four?

(No response.)

CHAIRMAN STRAIN: Bruce, I'm assuming the time share reference to Page 4-5, Item 32 is going to have the same disclaimer concerning the fact it's not part of the temporary lodging units?

MR. ANDERSON: That is correct, sir.

CHAIRMAN STRAIN: Okay. Even though it is in the recreational village, if you use time share there, they will be considered regular unit counts.

MR. ANDERSON: Yes, sir.

CHAIRMAN STRAIN: Page 4-4. I think my question's been answered. Yeah, it has. Okay, never mind. You cleaned up some of this when we talked earlier.

Four-five under G. Ray, in the middle of the paragraph they refer to Collier County Zoning and Land Development Review Director. Do we have a different name now? Everybody's titles have changed.

MR. BELLOWS: Well, the department director is the Department of Land Development Services.

CHAIRMAN STRAIN: I just want to make sure. We usually change those references up when we catch them in the cleanup of PUDs, so if we could just make that -- make it right.

MR. BELLOWS: It should be under the new PUDs using term the County Manager or his designee that way.

CHAIRMAN STRAIN: Okay, then why don't we --

MR. BELLOWS: As amendments go on in the future with -- or changes within the division, that will be covered.

CHAIRMAN STRAIN: There will be other -- I'll point out other ones as we go through. But we ought to clean that one up.

And then the last sentence I believe needs to be struck, otherwise I think it's a deviation. That is the architectural criteria. Okay, I see everybody nodding their head in agreement. So we'll get that clean-up issue done.

Anybody else got anything on section four?

(No response.)

CHAIRMAN STRAIN: Now, section five is the commercial office area. And because that is owned by a series of other entities, we really are not in the position to change that today. And I believe that's why there's been no changes, with the exception that the applicant has changed accessory uses and added docks and electric boats.

Where is a lake that you're going to need that on in the commercial area?

MR. ANDERSON: My client advises me that it's the Lely canal.

CHAIRMAN STRAIN: Oh, the one to the south -- oh, okay. That's interesting. How long is that canal?

MR. ANDERSON: Mile and a half.

CHAIRMAN STRAIN: Public have access to it?

MR. ANDERSON: Nope. Not from the PUD.

CHAIRMAN STRAIN: Okay. So if someone -- I didn't say I. If someone had a kayak and jumped in the water right there by that commercial parcel, they could be subject to all kinds of trouble? Okay.

COMMISSIONER HOMIAK: Yes.

CHAIRMAN STRAIN: Yes. Yes is the answer. Planning Commission Chairman arrested.

COMMISSIONER EBERT: Then why are they putting it in the commercial -- is the commercial going to be gated?

CHAIRMAN STRAIN: No, they're saying the property itself is private. So the property that that's sitting on is apparently --

COMMISSIONER EBERT: But they're going to put this equipment on commercial property.

CHAIRMAN STRAIN: What equipment?

COMMISSIONER EBERT: The boats.

CHAIRMAN STRAIN: No, no, no, they're saying they want to have as accessory use to the commercial area docks and electric boats that would go on the canal, not on the -- so maybe they may want to find a concessionaire who would lease out kayaks or canoes or little electric boats so they can paddle up and down that canal. I would imagine it's a touristy type thing they're proposing.

COMMISSIONER EBERT: Could they then put it in their own recreation area within?

CHAIRMAN STRAIN: Yes, it's already been added to that too.

COMMISSIONER SCHIFFER: Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER SCHIFFER: Could we go back to that architectural standard thing, because the more I read it the more that makes sense to keep that sentence in.

What they're addressing there is --

COMMISSIONER EBERT: What page?

COMMISSIONER SCHIFFER: It would be 4-5.

What they're addressing there is that if the architectural standards get in the way of them doing a traditional mixed use neighborhood, they want the ability to ask for variations from it.

And the sentence that we took out states that at the application time they want those, which I think they call deviations in that sentence, to be noted on that application. I mean, it probably would be anyway, but I think the intent of this paragraph is we'll use the architectural standards, but if it starts to get in the way of making a nice little mixed use traditional community there that they can get deviation from it.

CHAIRMAN STRAIN: Well, I think there's a problem with that, because in my discussions with staff yesterday when we actually discussed that, and I believe, staff, you had an -- Kay, I think it was you that may have addressed this. Can you re-address it today?

MS. DESELEM: For the record, again, Kay Deselem, Principal Planner in Zoning.

I had a discussion yesterday to make sure that I understood the issue with Carolina and Bruce together. And we looked at the LDC, that particular section citation. And for a PUD you have to get the deviations as part of a public hearing process. You're not able to come in and get administrative deviations in a PUD.

CHAIRMAN STRAIN: That's why I was suggesting --

COMMISSIONER SCHIFFER: Then the whole paragraph's a problem. I mean, or if variations from these guidelines are needed, you know, that's essentially a deviation.

MS. DESELEM: Yeah, they can't get deviations, unless they do it now, like they did in the 2005 amendment, I believe, they asked for a deviation and got for approval for something to allow gray buildings, or a different color -- gray roof, that's what it was, that was not in compliance with the LDC architectural standards. And my understanding is that's the way it's to be done, you have to call it out as part of the PUD.

CHAIRMAN STRAIN: Then the suggestion would be then to drop all of G, is that what you're saying?

COMMISSIONER SCHIFFER: Well, I think we want to use the architectural standards.

CHAIRMAN STRAIN: They are being used, they're in the code.

COMMISSIONER SCHIFFER: When you were talking with Bruce or with Carolina, in the architectural standards there is a deviation process. Would that be available?

MS. DESELEM: No. Within that deviation process it specifically excludes PUD zoned projects.

COMMISSIONER SCHIFFER: Okay. So then the only thing that would -- that is allowed in this paragraph

is up to the word LDC. Then the rest of it is just pretend? I mean --

MS. DESELEM: I wouldn't call it pretend, but yes, it seems like that could be stricken unless, like I said, if they wanted to make reference to the fact that they could get amendments through the public hearing process. But that seems redundant.

COMMISSIONER SCHIFFER: Because they always could.

MS. DESELEM: Right.

COMMISSIONER SCHIFFER: Okay. So the rest of that paragraph could be construed that they're allowed to have a deviation process different than what you described. So maybe the -- as we're taking stuff out we go all the way up to the first word, LDC.

CHAIRMAN STRAIN: Well, maybe -- well, first of all, if G wasn't here at all, would they still have to conform to the commercial development standards in that district pursuant to the code?

MS. DESELEM: Yes.

CHAIRMAN STRAIN: So then why don't we just drop G and make it simple.

MS. DESELEM: In this particular one there wasn't any strike-through/underline, they were just reiterating what was in the prior PUD document.

CHAIRMAN STRAIN: But I think the objective was to clean up those things that were maybe not quite as appropriate in the prior one as they would be known to be today.

So if that's the case, and we can clean up G just to eliminate G so there's no confusion, is that a better thing?

MS. DESELEM: That seems appropriate to me, but I'm sure Bruce may want to chime in and give you his opinion.

CHAIRMAN STRAIN: He's saying whatever you say is okay with him.

MS. DESELEM: I like him. I always have liked him.

MR. ANDERSON: Go ahead and strike G.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: Because you will have to use the architectural standards anyway, on the record. Thank you.

MR. ANDERSON: Yes, sir.

CHAIRMAN STRAIN: Okay. Now, let's go back to five and see if there's any other questions in five. Five is the commercial section. And that's the one that is primarily sold and you guys are leaving in the docks and electric boats, correct?

MR. ANDERSON: Yes, sir.

CHAIRMAN STRAIN: During your presentation, I just made a note, you said that the only area that was going to have those is the recreation center, so now it will be two areas, the recreation center and the commercial area.

MR. ANDERSON: Thank you.

CHAIRMAN STRAIN: Well, I just caught it because I remember it was found in two places. I wasn't sure you meant that.

Section six, does anybody have any --

COMMISSIONER BROUGHAM: Yes.

CHAIRMAN STRAIN: Go ahead, Phil.

COMMISSIONER BROUGHAM: Six dot four A four. I just can't envision a 75-foot high viewing platform adjacent to a preserve.

MR. ANDERSON: It would be above the tree canopies. You'd be able to view -- I understand that an example exists in Myakka State Park that's quite popular. And it's to enhance the experience within the preserve areas, so you could see more.

COMMISSIONER BROUGHAM: How in the heck do you get up there? Just out of curiosity.

COMMISSIONER SCHIFFER: Steps.

COMMISSIONER BROUGHAM: Okay, never mind.

CHAIRMAN STRAIN: How do you do a handicap ramp up 75 feet?

MR. ANDERSON: We'll work that out at the time of SDP.

CHAIRMAN STRAIN: I'm just curious.

COMMISSIONER SCHIFFER: Get a waiver from the state.

CHAIRMAN STRAIN: Diane, did you have something you wanted to add?

COMMISSIONER EBERT: Well, I hate pushing all this off to the SDP, because there are errors in a lot of SDPs, and that's never brought back to us. So if you're planning something, I would prefer it --

CHAIRMAN STRAIN: Well, I think your reference to errors, I know you've had some experiences, but they've mostly been older PUDs. I find that stuff coming through now has been -- with the tighter staff we have, it's been much more carefully looked at. So I have a lot of confidence the SDP can handle it.

But I share the comment that 75 feet, until someone had told me that there was one already there, and I just started thinking of how much space that would take up. In itself it won't, but when you put a handicap ramp on it, you're going to be -- if you have to put one. I don't even know if the guidelines require one. But we'll see where that goes.

Anybody else on six?

(No response.)

CHAIRMAN STRAIN: The only thing I have is 6.4.A.3. Development standards says from lake zero feet. You mean from lake maintenance easement zero feet, right?

COMMISSIONER EBERT: Yes. See, that's what bothered me on the other one too.

MR. ANDERSON: Yes.

CHAIRMAN STRAIN: Section seven, anybody have any questions on --

COMMISSIONER BROUGHAM: Just one.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER BROUGHAM: Excuse me, I'm in section eight. Sorry.

CHAIRMAN STRAIN: Okay. Section eight. Phil, go ahead.

COMMISSIONER BROUGHAM: On 8.6.B. Why did you delete the analysis portion, last portion of that paragraph?

MR. ANDERSON: It's an engineering question.

MR. ENGLISH: For the record, John English.

That was eliminated because this project already had -- the Harper analysis is an analysis that is used through the South Florida Water Management District permitting process. This property already has an approved ERP. And we're not changing the land uses, so a Harper analysis would not be technically required.

We did do a Harper comparison when we did the Water Management District permit anyway, but it does not seem appropriate to be left in the PUD.

COMMISSIONER BROUGHAM: So the removal of the golf course in terms of a land use doesn't have a material effect on pollutant loading?

MR. ENGLISH: It was improved by removing it.

COMMISSIONER BROUGHAM: Okay.

CHAIRMAN STRAIN: Okay, anybody else on section eight?

COMMISSIONER BROUGHAM: Same. I'm sorry.

CHAIRMAN STRAIN: Go ahead, Phil.

COMMISSIONER BROUGHAM: Eight point seven, same question on 8.7.B and C, just in terms of the rationale for deletion of the management plan for the preserves.

CHAIRMAN STRAIN: Sure. Summer, welcome.

MS. ARAQUE: Summer Araque, Environmental Planning. That's because it's redundant. It's already a requirement of the LDC. That's actually at your direction.

CHAIRMAN STRAIN: And I notice that quite a bit of this PUD, because it's the old style, has redundancy throughout it. Some of it's been attempted to be cleaned up but not all of it. So what we can clean up, I'm glad we are. Some of it just didn't warrant it at this stage.

COMMISSIONER BROUGHAM: Thank you.

MS. ARAQUE: And I'm here if you have any other questions.

CHAIRMAN STRAIN: Oh, we'll have some.

Anybody else on section eight?

COMMISSIONER BROUGHAM: One more, 8.7.C.1. In the additions to that paragraph it says about halfway down, for so long as LASIP permit requires water quality, blah, blah, blah. And I guess my comment there is

it's -- it comes across as a very indefinitely period.

I mean, is there -- for so long as the LASIP permit requires water quality monitoring. So you're saying as long as -- I'm going to read back -- that's exactly what you're saying then. So there's no expiration on the LASIP permit requirement?

MR. ENGLISH: Our understanding is that it's an ongoing monitoring program that may be subject to change. That's the county's permit for the LASIP canal system. And what we're basically stating there is simply as long as they're doing water quality monitoring, we will acquire a copy of that and provide it.

COMMISSIONER BROUGHAM: So there's no time limits, it's just as long as it's in --

MR. ENGLISH: I won't tell you I know exactly -- I could tell you exactly what the conditions were, but it was indefinite as far as I recall.

COMMISSIONER BROUGHAM: That's fine, thank you.

COMMISSIONER EBERT: Jerry, could you?

MR. KURTZ: Jerry Kurtz for the record. I can add a little bit of information. We -- the water quality monitoring requirement for LASIP is, upon completion of the whole project we need to monitor the discharge for five years. Completion isn't going to be till 2015, a couple more years away. But we chose to start monitoring a couple years ago.

So we're already monitoring. And we'll monitor up to the point of completion and then five years beyond that. And we more than likely will continue to monitor even beyond that period.

COMMISSIONER BROUGHAM: Okay, thanks, Jerry.

CHAIRMAN STRAIN: Okay, anybody else on section eight?

COMMISSIONER BROUGHAM: One more, Mark.

CHAIRMAN STRAIN: Sure.

COMMISSIONER BROUGHAM: Well, that's a long paragraph. Eight point eight E, last sentence. If the final design contract is not approved by the BCC by January 1, 2015, this requirement shall --

CHAIRMAN STRAIN: Since this has been written, I believe that this whole paragraph is going to be -- going to go away. And there's been a separate private agreement arranged between the developer and the Bayshore or the CRA, so that it's no longer an issue. And I believe it's satisfactory to the Transportation Department as well.

COMMISSIONER BROUGHAM: So this paragraph is proposed to be deleted?

CHAIRMAN STRAIN: Yes. Is that correct, John?

MR. PODCZERWINSKY: For the record, yes. John Podczerwinsky, Transportation Planning Department. Eight point E is being deferred to a private agreement.

CHAIRMAN STRAIN: Thank you, John.

Okay, Phil, do you have anything else?

COMMISSIONER BROUGHAM: I'm exhausted.

CHAIRMAN STRAIN: You're exhausted. Let's start on Page 8-2. Section 8.3.C, just need to reference the right entity there, Ray, just like we did the last one. This one says CDES Administrator.

COMMISSIONER BROUGHAM: Mark, as long as we're doing that, way back on 2.4 -- item 2.7, just change that reference to Community Development and Environmental Services Administrator as well. I was going to bring that up at the end, but --

CHAIRMAN STRAIN: Or whatever it has to be changed to --

COMMISSIONER BROUGHAM: Whatever it has to be changed to.

CHAIRMAN STRAIN: Okay. Oh, 8.5.D. Now, there was a piece involving this in the staff report that the owners object to. And I believe that's a legitimate objection. This one is again requiring utility and access easements for wells and all that.

Heidi, is there a basis in our code for an exaction for land of this nature without compensation to the owner of the property?

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

CHAIRMAN STRAIN: I'm on page 8-2 under Section 8.5.D.

MS. ASHTON-CICKO: Well, this is a commitment that was agreed to in the prior PUD. The only change here is to underline owners. So, without going back and researching what was in existence on that day, I really can't answer that question except to say it was a commitment previously made.

CHAIRMAN STRAIN: Do you know if any -- there's ever been a study to prove a rational nexus between these needs and projects and then an established value for the property so that the compensation can be provided to be fair to the owners of these properties, or is this just another exaction with no compensation?

MS. ASHTON-CICKO: Well, give me a second to read it.

CHAIRMAN STRAIN: I mean, we made mistakes in the past. We're trying to correct them. We started that today. And if this is another mistake, it needs to be corrected.

MS. ASHTON-CICKO: Well, this language says that they'll reserve -- they're reserving easements, that, you know, they're not actually conveying. So I don't know what was intended. I really can't tell you. But a reservation is different from an actual conveyance. So it's ambiguous.

CHAIRMAN STRAIN: So the fact that they're reserving still provides the right for compensation, so it's not

--

MS. ASHTON-CICKO: No, not through a reservation. They have to set aside an area. If the Utilities Department wants it, then they'd have to negotiate those terms at a future date. I can't tell you it was intended, but this is how I read it.

CHAIRMAN STRAIN: From the applicant's perspective, have you guys -- is that your understanding at the time this was done?

Because if you did that intentionally, that's fine. But it doesn't say you're not going to be able to be compensated for the land that you have to give up. Is that your understanding of this?

MR. ANDERSON: We would certainly be open to compensation.

CHAIRMAN STRAIN: Well, I know that, Bruce. I'm trying to -- my objective is to make sure that the rules we have are based on a solid foundation and they're applied equally to all.

Again, to go around and ask for exactions on big projects or little projects, if there's a basis in our code to provide that, then that's fine. I don't know of any, but from based on the County Attorney's interpretation, this isn't yet an exaction, they're asking you to reserve an area, but the means of compensation have not yet been worked out, which provides the ability for you guys to either establish some credits or something else in regards to what's being asked here.

Under that basis, do you have any objection to it?

MR. ANDERSON: No, sir.

CHAIRMAN STRAIN: Then I would suggest we leave the existing language as is and not entertain the new language that was trying to be a stronger position for the Utility Department.

I guess the Utility Department wants these on a lot of projects. I think if it's warranted, that's fine. But they need to go through a process to get there.

MR. ANDERSON: I agree.

CHAIRMAN STRAIN: The Page 8-4 on the top of the page, there's a paren -- number two, it's called the Avalon outfall canal system. In the middle it says to place an 80-foot-wide drainage easement to be purchased by Collier County.

Has the Collier County purchased that or how has the pricing of that been established for purchase?

MR. UTTER: Pat Utter for the record, with the applicant. The agreements through the LASIP permitting -- actually, the contribution and companion agreements define -- we had to obtain an appraisal. They've actually approved the appraisal. So the only question is the exact square footage of the easement.

So the value has already been determined and agreed upon by the county. And when the canal is completed a description will be created and then it will just be multiplied by the number of square feet.

CHAIRMAN STRAIN: Okay, thank you.

As we move forward on Page 8-6 -- actually, 8-5, it's under C, that paragraph would be better read if we just start the word or that sentence -- start the word where it says -- where the word owners is underlined. Owners agree to the following. Drop the reference to the agencies and committees they agree that are part of it. Actually, it's Collier County that has accepted the conditions of Rookery Bay and The Conservancy as part of this PUD. We don't need to reiterate it there. So just start out owners agree to the following. Anybody see any problem with that?

(No response.)

CHAIRMAN STRAIN: Then we get on the next page, and number one, I wanted to -- and Jerry kind of alluded to where I was going with some of this in regards to the water quality. It says the report will be provided to

Rookery Bay National Estuary Reserve. Wouldn't that be really going to Collier County?

And then if the county wants to or the Rookery Bay wants it as a document from the county they could obtain it that way?

How do we monitor whether or not these are going through to the Rookery Bay, and how do they know when they're coming down to them?

Wouldn't it be better just as the county being the central focal point for all this information and be disbursed from there?

Summer, it looks like --

MS. ARAQUE: Summer Araque, Environmental Planning. I think in regards to your first question, I don't know if this kind of makes things more complicated. But the reason that staff preferred for that language to be in there was so that it was clear as to why it was in there.

Because if they came in for another PUD amendment in the future, if that -- if they wanted changes to that language or if that was requested to be removed, we know who to go to and we know why this was in there. That's why we have that in there. Because in 10 years we wouldn't know why that was put in there.

CHAIRMAN STRAIN: Well, we should be putting things in there because they're warranted, not because any particular group or anybody asked for it. It would be like if someone from the public came in and said I don't like the setback on this particular use, I want it to be 35 feet. So then we have to put that Mrs. Smith says the setback should be 35 feet?

I'm not sure I follow that line of reasoning. I think we should base our reasoning on what our codes provide and the uniqueness of a PUD. The PUD is a unique document, they're allowed to have some flexibility. If that flexibility meets the test of the public's scrutiny then I would suggest we add it for that reason, not because an agency wants it there.

I mean, I have great respect for The Conservancy, but putting them into a public zoning document doesn't seem to be the right way to go. I'd rather we did it on the reasons that we believe are right, whether they introduced them or anybody else.

MS. ARAQUE: Well, the agreement that was had was in there from the previous PUD document. So I don't know if you want to discuss that with the --

CHAIRMAN STRAIN: Well, first of all you just said earlier you were cleaning things up that --

MS. ARAQUE: Right, exactly. But we wanted to make it clear that the reason -- that there's a reason that this is in there. And it's because of certain parties. So that's about all I have to say.

CHAIRMAN STRAIN: Do you think these are legitimate requests? Do you think that the owner agreeing to these things, these are things that the county should enforce, that the county thought were correct? Are you supportive of it or are you against it?

MS. ARAQUE: I didn't really get into that discussion with them, because this was already in the PUD and there wasn't -- really, that discussion was had between The Conservancy and the applicant. So maybe you might want to ask the applicant?

CHAIRMAN STRAIN: I'm just concerned about how we're going to -- we're putting outside language into a document and we're trying to disclaim, I guess, authorship of that language because we, what?

I mean, either we like it and it's the right thing to do and then that means Collier County is in charge of it, or we -- I mean, I don't know why we would be referring to other agencies and other people.

MS. ARAQUE: If you give me a minute.

CHAIRMAN STRAIN: Give you a minute? Okay.

The next one I would have, number three, the developer/owner shall allow The Conservancy to review and comment on the draft master declaration document pertaining to any provisions that will address language to protect and sustain the environmental integrity of the development's preserves.

I'm just wondering how that works from a zoning perspective too. Where is that a -- how is that a zoning issue to be in a PUD?

And if it isn't, I suggest it be struck out. Not that I'm against The Conservancy's involvement, but zoning is zoning, and we need to stick to it and not bring in outside elements that aren't pertaining to Collier County zoning. Nick?

MR. CASALANGUIDA: I'm having heartburn too. As I look at this, it says under three, the developer or the

owner shall allow The Conservancy to review and comment. Anybody can comment on any declaration.

Sustain environment to the development's preserves. I mean, we have a preserve management plan, it's public, anybody can pull those documents up and look at them. So I don't know why one entity that's private would have the right to review this in a PUD document. And nothing against The Conservancy, they've been great working with us in all the projects we've had lately. But I agree with you, Mr. Chairman, I don't think it belongs in the PUD.

CHAIRMAN STRAIN: What I worry about, this opens the door to a lot of other possibilities besides The Conservancy. I mean, if they can be mentioned in a document to be a specific party to something, then we are looking at every kind of organization that may want to chime in. And I'm not sure that's appropriate in a zoning document.

MR. CASALANGUIDA: I don't think it is, sir.

CHAIRMAN STRAIN: Well, I would suggest that this section, one, two and three, especially, be looked at to be rewritten in a more neutral and zoning compatibility term than private preferences.

MR. CASALANGUIDA: Commissioner I agree again, and they've worked well with us, but I don't think it belongs in the documents.

CHAIRMAN STRAIN: And I think you can come up with some better language. I'm not too concerned about that language, knowing the concern that you just heard here.

Nicole, do you have any comments on this? I think you understand or maybe you don't understand where we're coming from? Or if you don't, since you represent The Conservancy?

MS. JOHNSON: For the record, Nicole Johnson, here on behalf of The Conservancy.

This language was really an outgrowth of commitments from a legal settlement agreement with the applicant from the Hamilton Harbor Marina. And so these are, I guess, points that we wanted to make sure -- when a PUD comes forward, I think it's helpful for staff to understand that there are obligations for other entities through settlement agreements and such that these other entities at least have to be notified to have the ability to review a document before it moves forward through the county process.

Now, in this case they don't have to have our consent or agreement, but we do have to be notified. So that's -- yeah, that's, you know, both of our understandings, that this came out of that legal settlement. If it's taken out of this, then it's going to be -- we're going to have to have it put into some legal MOU or some sort of binding contract that I think would need to be an exhibit to the PUD so that it isn't lost in the shuffle.

So I -- yeah, I think it really needs to stay in here so that everyone knows that through a legal settlement agreement for Hamilton Harbor we do have the ability to take a look and review. Yes, everyone through the public hearing process has that ability also, but we --

CHAIRMAN STRAIN: Nicole, take it a step further, then. You're saying that if I were to go into a title review of this property and find any legal settlements out there, we'd have to reference all that in a PUD?

I mean, doesn't the legal document stand on its own, and it's up to the entities part of that document to monitor it on its own? And if it is, why are we dragging the county into it then?

It's a document -- if it's legal, and whatever the case the judge decided and you're part of that case, you have rights based on that case. Why are we put in the position of having to see that it's enforced?

MS. JOHNSON: Well, as part of the review process, I think we felt that having it in here then gave county staff the notification that this was in place and this needed to happen.

CHAIRMAN STRAIN: Melissa?

COMMISSIONER AHERN: Is it the county's obligation to notify you or the owner's?

MS. JOHNSON: It would be the owner's obligation.

CHAIRMAN STRAIN: Yeah, if they don't, then don't you have recourse against them based on the fact that you have an agreement that you basically won on to some extent? I'm just, again, why is the county in this position?

MS. JOHNSON: Well, we do. But this -- I mean, this is a PUD between the county and the owner. And so if some of the owner obligations are contained in the commitments, I just don't see why that's a problem.

CHAIRMAN STRAIN: This is the zoning document between the owner and the county.

MS. JOHNSON: Right.

CHAIRMAN STRAIN: I'm not sure you reviewing a private declaration has anything to do with the zoning or the whole settlement agreement that you apparently have with them. But I certainly would like to ask the County Attorney to take a look at it and come back to us with a response at the next meeting if --

MS. ASHTON-CICKO: Actually, I can respond now. You know, I've said before my preference is not to put these private agreements in PUD documents. I think it's fully appropriate as part of the back-up documentation that you might review that a copy of the agreement be in there and placed in the record. But I'm not in favor of putting private commitments in PUD documents.

CHAIRMAN STRAIN: I would just as soon we clean this up in that regard. And that if by the next meeting you want to include a copy of that in the record so it goes forward with this PUD -- in the record, not as an attachment, I have no problem with that, Nicole. And it gets on record and it further emphasizes your ability to have it there.

But I just don't like -- I think this will muddy the waters with not only your agency but many others that would come down the road and ask for the same thing based on precedents like this. And I think that's wrong in a zoning document, so.

And based on the County Attorney's comments, I think if staff were to proceed along that line, we could review it on the consent. Is that -- I think you've got mostly nods okay.

Pat?

MR. UTTER: Pat Utter for the record, with the applicant. Just to clarify. The Rookery Bay commitments are not included in any type of settlement agreement. Those were just we felt like it was important to work with Rookery Bay. So those specific call-outs were not part of any legal settlement agreement.

CHAIRMAN STRAIN: Is Rookery Bay a government agency?

MR. UTTER: They are.

CHAIRMAN STRAIN: Then I don't have a problem with them being in here.

MR. UTTER: All right. So I just -- I want to make sure that was clarified. So you're saying we can leave in the Rookery Bay comments because they're a --

CHAIRMAN STRAIN: They're another government agency, just like Fish and Wildlife is referred, the Corps of Engineers, South Florida Water Management District. But I think we need to draw the line with private entities, non-government owned, coming into play.

MR. UTTER: Okay. I just wanted to clarify that. But our Conservancy agreement, what it states is that any time we apply for changes within Sabal Bay to change the land uses, we have to provide notice to them.

CHAIRMAN STRAIN: I think there's other agreements out there that, not just on your project, but many projects.

MR. UTTER: No, I'm not contesting your point, I'm just saying that it's a very -- it's a notification requirement only. And that based on our discussions privately, we've agreed to certain terms. But that's -- I understand your concern, that may set precedent.

CHAIRMAN STRAIN: Okay, thank you.

MS. ASHTON-CICKO: If you want to leave some form of the language in, we can clean it up so it's a notification to the Rookery Bay with a copy to The Conservancy, that it's the owner's idea.

CHAIRMAN STRAIN: I think you're on the same page as we are, and if you could just come back with a clean-up at the consent, that would work.

On the bottom of that page it references the developer will include in the design of the backbone surface water management system four additional BMPs. Why four?

Is there a reason you selected just four? Or was there seven and you dropped three?

MR. UTTER: No, again, this was a -- we were working with The Conservancy trying to replace prior language that was based on a rule that was never adopted. So it -- what this describes is the -- our ERP design for water quality treatment. And John English could probably better describe that. But that's what this is, this is a description of our ERP water quality treatment plan. And The Conservancy asked us to include that in this document.

CHAIRMAN STRAIN: Okay, I don't have a problem including it in the document. But I'm just concerned about the difference between BMPs and then four BMPs. So why did you single out to the point where you had to specify four additional BMPs? How does that reference to all BMPs?

MR. ENGLISH: For the record, John English on behalf of the applicant.

The -- they were actually enumerated four because the prior language enumerated there were five -- BMPs had to be drawn from five sections of what was the old Water Management District basin rule guideline, which is now abandoned, nobody uses.

So we did have a different version, and after -- of a rewrite of that, based on what we are providing today. And when we met with The Conservancy, they requested that we enumerate them. So that's why we did it this way.

We did note at the end that after describing those things, that it should be noted that it's the purview of the Water Management District to review and approve such items, which we have done.

CHAIRMAN STRAIN: I don't have a problem with them being added in this language. If you had said based on our agreement with The Conservancy, I would have had a problem with that, but just adding them I think that's the way that we should interact with the private sector.

I just want to make sure that there's nothing missing by saying that you only have to adhere to the four of them out of whatever number there may be. Because it said four additional BMPs, and that's what struck -- I mean, mostly it's either you're going to abide by the best management practices or you're not. In this case you're only abiding by four of them. And I just couldn't figure out why, what didn't you like about the rest.

MR. ENGLISH: Well, really, we abide by all the rules of the various agencies that govern stormwater design. We're adding these best management practices as enhancements, if you will, above and beyond that.

CHAIRMAN STRAIN: Okay. And the last -- let's see if I have anything else through eight.

Oh, on 8-10, Item 8.9.A, just for the record, and I think I found out what this is, there was a sentence added to the timing of when the playgrounds will be put in, but then there was some old language left in there that says the playgrounds will meet the ASTM design guidelines.

From what I understand from Kay, the only thing that is is that they will be built to the safety standards of ASTM. Is that --

MR. UTTER: That's quality and safety.

CHAIRMAN STRAIN: Okay. As long as everybody understands that, I'm fine with it.

The next section we have is the master plan and the legal description. Let's say Exhibits A, B -- let's go through the exhibits. Anybody have any issues on Exhibits A, B, C, and C (sic)?

(No response.)

CHAIRMAN STRAIN: The deviation number ten, you refer to privately owned roadways in the middle. I think you need to put privately owned/CDD roadways so that applies to those as well.

That wraps up the PUD. Does anybody have any questions on the PUD?

(No response.)

CHAIRMAN STRAIN: We have back-up documentation. Do you have any questions of the applicant on the back-up documentation?

(No response.)

CHAIRMAN STRAIN: Just one comment I wanted to make to the County Attorney's office. The ad for this project says the Sabal Bay MPUD -- well, first of all is being changed to provide for a new site plan which eliminates the 18 hole golf course and allows for more lakes.

The ad goes on with other details that I've been able to verify. The part of it that says allows for more lakes, I guess by the words allows for means that by taking out the golf course they can put more lakes in, but they don't have to, because there's no quantitative analysis of how many lakes were there in the first PUD versus how many are in the second.

And I just wanted to make sure that from an advertising viewpoint, since it allows for it, we didn't have to get into such an analysis.

MS. ASHTON-CICKO: No, I'm satisfied that the ad is sufficient.

CHAIRMAN STRAIN: Okay. And other than what I've got questions on staff, that's the remainder I have at the basis of the applicant's presentation through this point in time.

Does anybody else have anything before we get to staff report?

(No response.)

CHAIRMAN STRAIN: Bruce?

MR. ANDERSON: I have one clarification to make. At the beginning of my presentation I made a reference to a new connection to Danford Street. It should be to Bay Street.

CHAIRMAN STRAIN: Okay.

MR. ANDERSON: Thank you.

CHAIRMAN STRAIN: Thank you, sir.

Okay, Kay, you want to -- are you -- I think it's your staff report, so --

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

You do have the staff report that was prepared for this hearing. It's last revised 11/30/11. And we also have other staff members here, as you've heard from already. We have Mike Bosi that can address any Comp. Plan issues; Summer Araque, who has already identified and responded to questions about environmental issues. John Podczerwinsky is here to address transportation issues; and Jerry Kurtz as you know is here and he can respond to questions about the LASIP program. David Jackson was here and I didn't turn around to see if he's still here, but he was here, so -- no need for me to belabor the presentation, you've gone into great detail on what we have in front of us.

So suffice to say the staff report is on the record. Staff is recommending that it be found consistent with the Growth Management Plan. And we believe that it is compatible and we are recommending approval of the PUD amendment application as you have amended it today.

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

(No response.)

CHAIRMAN STRAIN: Kay, let's -- no, no, you're not going to get away that easy.

I'm sorry. Let's start on Page 8. Something I caught when I reread this thing last night. Up on top it talks about the 80-foot ACLF/CCRC. By the way, do you staff have any objection to adding the acronym CCRC after the words ALF?

MS. DESELEM: No, sir, not at all.

CHAIRMAN STRAIN: With the caveat that continuing care retirement use structures would not be abutting any external residential uses. And the caveat is, note however, that these uses are not permitted uses in B -- I mean, R2-B, R5 or R7.

Well, if you look at the plan in front of us, R4, at least the northern piece of R4, is abutting the RSF-3. Did you take that into consideration when you made that statement?

MS. DESELEM: Excuse me a minute, I'm looking at the plan to see exactly where you're talking about.

CHAIRMAN STRAIN: If you look at the colored plan, see the turquoise R4's in the south part of the site?

MS. DESELEM: Oh, okay.

CHAIRMAN STRAIN: That large triangular piece of R4 abuts the RSF-3 immediately to the west. Your statement, though, says it would not be abutting any external residential uses, with the caveat that it wouldn't apply to R2-B, which is that green area, R5 -- okay.

MS. DESELEM: I therefore stand corrected.

CHAIRMAN STRAIN: But, so -- now, does that change your perspective any?

MS. DESELEM: I think that it may be appropriate to increase the setback like we did for that use today.

CHAIRMAN STRAIN: Well, they also have a minimum perimeter setback of 75 feet anyway, which would be against that residential use.

MS. DESELEM: Correct.

CHAIRMAN STRAIN: As long as that's taken into your consideration, that's what I was trying to find out.

On Page 12 of 22, Deviation 12, petitioner's rationale. You talk about the justification of the rip-rap and how you intend to use it at a 36 inches height. Can you provide an example of how this is and where this is going to occur?

Not you -- I mean, Kay, I guess this was part of your deviation analysis, but if you want to turn to the applicant for that, I don't mind a bit.

MS. DESELEM: That's what I would prefer to do.

CHAIRMAN STRAIN: It was under your staff report, that's the reason I brought it up now.

MS. DESELEM: If I may.

CHAIRMAN STRAIN: Yeah, that's fine.

MR. ENGLISH: For the record, John English on behalf of the applicant.

The reason for the request for the deviation is two to one rip-rap slopes are allowed by the Land Development Code but with a limited height. And we have several locations where we have roadways that are -- the alignment takes them through preserve on both sides.

And in some cases, for instance, this case here, there's a potential roadway connection -- is bordered by preserve on both sides. They had a limited corridor. In an effort to try to get a roadway and any necessary utilities through there, we wanted to afford ourselves the opportunity to potentially use rip-rap to slightly higher height to avoid having to do more costly methods of getting the roadway through that corridor, such as retaining walls.

There's other cases that, for instance over here on the road that connects to the intersection of Hamilton Harbor, and there are some internal roadways that might -- there will be certainly conservation areas internal to some of these development areas where we will have similar situations.

CHAIRMAN STRAIN: Let's back up then. Because when you started it out, it made sense. You said that you needed it where there's wetlands or preserve areas to minimize the impact on those, and I think that's great. But the way it's written, it could be used anywhere in the project. Now you just said it could be used on internal conservation areas to the various tracts; is that a fair statement?

Did you just mean -- I mean, is that what you said?

MR. ENGLISH: Well, the intent was to be able to -- those are the two obvious uses. There are other areas internal that will have conservation area that roadway may run by that we might need to use that.

CHAIRMAN STRAIN: Show me. Because there's none shown on here. Internal means internal to the unit, to the parcels, correct?

Where would -- there's no internal -- there is no internal conservation areas, they're all external to the parcels.

MR. ENGLISH: Mr. Chairman, there are actually -- in actuality we are conserving some areas inside, some of these parcels that are not called out as preserve on the master plan.

CHAIRMAN STRAIN: Whoa, that backs up. Are they counted in the acreage that you're asking for but they're not shown on the master plan?

MR. ENGLISH: I'm not sure --

CHAIRMAN STRAIN: Well, I guess Kay, in your analysis of the acreage of the preserves, was it including acreage that's not shown on this master plan?

MS. DESELEM: No, sir, what is shown there and what is depicted as preserves is what we reviewed as preserves. However, I don't know that that precludes the applicant from providing more in other places. It just wouldn't be, you know, preserved per the zoning.

But if they want to set aside some area that they want to internally call preserve or conservation or whatever, they could do that.

CHAIRMAN STRAIN: I understand that. What I'm concerned about is, is that the acreage that they show and calculate that's supposed to be portrayed on this master plan is met. Acreage equals what's portrayed. If they're going to add some in addition to that acreage, that's fine, but if it isn't portrayed on this plan, we need -- then it's included -- but it's part of the acreage they want to preserve, we need to see it.

That's what I was worried about when he made his statement.

MS. DESELEM: My understanding that what's required is shown as preserve, and that's what we have analyzed and reviewed.

CHAIRMAN STRAIN: Okay. Now, back to the question of the road rip-rap. You're looking at putting in some internal conservation areas that can be of any dimension or width that you want to build them to because they're not part of the required preserve.

In those areas you want to have a change in the -- they want the deviation to apply to those areas as well, but those are self-imposed areas. So how are they legitimately applied to those then?

MR. ENGLISH: Legitimately, if we have areas that we would like to preserve, then any tool that we could implement to where it makes sense -- and mind, we're not asking for carte blanche height use of rip-rap for slope stabilization, we're just adding another foot to basically what the Land Development Code allows.

But yes, if there are areas within the future development areas that we find a way to preserve but we need to get a road through there, we would like to have that tool to help us minimize any impacts to those areas.

CHAIRMAN STRAIN: Okay, so all areas in which Deviation 12 would apply would be areas where there are preserves along roadways.

MR. ENGLISH: That is correct.

CHAIRMAN STRAIN: Can we add that note to Deviation 12?

MR. ENGLISH: That would be fine.

CHAIRMAN STRAIN: Kay, if you could just remember to do that.

COMMISSIONER EBERT: Going to add which note or notes?

CHAIRMAN STRAIN: We're going to have a note to Deviation 12 to reference the fact that this is to be used in areas where roadways adjoin preserves on one side or more.

I think that's all I had.

Kay, that's great. Thank you.

MS. DESELEM: Thank you.

CHAIRMAN STRAIN: Anybody else?

(No response.)

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

MR. BELLOWS: Yes, we have two speakers. The first one is Gary Stumbo, to be followed by Nicole Johnson.

CHAIRMAN STRAIN: Okay, just use any speaker you wish to, and state your name. And you may have to spell it first for the court reporter.

MR. STUMBO: My name is Gary Stumbo, S-T-U-M-B-O. And I live on Holly Avenue at the end of Bayshore.

And I only have a couple questions about since I got The Conservancy on one side of me and the Rookery Bay all around me, what they're going to do with my part of the land. It's 46 properties -- 56 properties on that piece of property.

CHAIRMAN STRAIN: Sir, first of all, could you pull the mic. a little closer to you. It's getting a little hard to hear you. Maybe you could work with the gentleman to your right, who could try to find out where your property is so we can see if there's anything that involves your property.

COMMISSIONER BROUGHAM: Turn that upside down, Ray.

MR. STUMBO: No, wrong way. It's going Bayshore that way.

COMMISSIONER HOMIAK: You had it the right way.

COMMISSIONER BROUGHAM: Couldn't read it, though.

MR. STUMBO: I'm not really worried about --

CHAIRMAN STRAIN: Sir, just to -- he's directing his comments to Ray.

MR. STUMBO: Can you move that over where I can see where it's on the old map? That right there. Yes, sir. Okay.

Now, you see where we are enclosed by everything around us?

CHAIRMAN STRAIN: Right, except you have access through Bayshore.

MR. STUMBO: And -- right. And Bayshore stops at the end of Holly Avenue.

CHAIRMAN STRAIN: Okay.

MR. STUMBO: And the way the map shows it, it shows it's going right on past out in the woods and back to the back property up there. I don't know what they may say, but you don't show roads, you don't show maps, you don't show anything.

And then they want to change some laws about roads, private roads, and I don't understand that. I'm not a lawyer. And they want to put roads in that I don't see on there. And one of them's going to -- the way the map looks to me is going to run down my property line here and go across the street. But there's no road showing. But they own the property on both sides. But it was my understand, if you're going to go to 41 and want to go that way, you've got to have roads.

CHAIRMAN STRAIN: Well, the roads that these gentlemen or the applicant is putting in aren't roads that would be on your property. They would be on their property. So they won't be impacting your property with a road because it's not theirs to do, they can't go into your property.

MR. STUMBO: I understand that. But they go beside mine with another road. What does that involve then? Because now they want to move the turtles that's right across the street from me where they can put a road through there, where they can have that road going from their property across Bayshore -- I mean -- yes, Bayshore.

CHAIRMAN STRAIN: Pat, do you want to try to help out?

MR. UTTER: For the record, Pat Utter, with the applicant.

I think what he's asking -- there's two questions. The first question -- let me see if I can refer -- can I borrow

the mic. The area -- there's an area we do not own. Let's see if I can point it out. Oh, it's -- this area. We do not own this white area.

So the -- right. This is Holly Avenue, which he's referring to. There's a number of platted lots on this street. But this white area we do not own. There is a county right-of-way that extends Bayshore beyond its pavement. And it's not in existence, but the right-of-way does exist. The county does own right-of-way beyond the end of the pavement at Holly off of our property.

And we're not intending to do anything with the property we don't own.

CHAIRMAN STRAIN: Right. That's kind of where I was trying to explain.

MR. UTTER: But there is an access point crossing Bayshore just to the north of Holly, the platted subdivision of Holly, if you want to call it that, that will cross and run -- it will parallel Holly some distance behind it.

CHAIRMAN STRAIN: And that property, though, that --

MR. UTTER: We do own the property on both sides. We would be crossing Bayshore.

CHAIRMAN STRAIN: And all that would be on your property.

MR. UTTER: The new roadway would be on our property, yes.

CHAIRMAN STRAIN: I hope that gets to your question, sir.

MR. STUMBO: If the road's going to be down my property line where they only have enough room to make the road go through it.

CHAIRMAN STRAIN: Whatever they put up there on their property, they would have to provide a buffer between theirs and yours, something that would protect your --

MR. STUMBO: Okay, I understand that.

CHAIRMAN STRAIN: That's part of our code.

MR. STUMBO: That's what they want to move the turtles for.

CHAIRMAN STRAIN: Maybe, I'm not familiar with the turtle issue, so --

MR. STUMBO: Okay, thank you, sir.

CHAIRMAN STRAIN: Thank you, sir, appreciate your time today in waiting.

COMMISSIONER SCHIFFER: Mark?

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: I have a question for him but -- question for Ray. Ray, all that land, and obviously his starts out, I guess his is zoned VR. What is that, just out of curiosity?

CHAIRMAN STRAIN: Village Residential, I believe.

COMMISSIONER SCHIFFER: What is that?

CHAIRMAN STRAIN: It's a special overlay that some areas have. If it's VR.

COMMISSIONER SCHIFFER: Yeah, it says VR.

MR. BELLOWS: Let's see if I can zoom in a little bit better on there so we can see it. The property over here is zoned VR. This is zoned RSF-3.

COMMISSIONER SCHIFFER: So one side, the western side of Holly is VR, the -- or just that piece for his little --

MR. BELLOWS: Village Residential under the orange.

COMMISSIONER SCHIFFER: But he brings up a question, since it wasn't shown in the environmental information. Is that land all subdivided with dedicated roadways and everything?

CHAIRMAN STRAIN: The lands in the VR?

COMMISSIONER SCHIFFER: In the RSF-3, all that land, what is going on in there? I mean --

CHAIRMAN STRAIN: We have to pull plat maps up and take a look at it.

Sir, staff's going to be answering that question.

MR. STUMBO: I know. But my understanding is off down Bayshore and going, turning into Holly, that's my street and it's dead end. How I understand by years ago, that is what they call a hurricane evacuation route. So it's kind of like a state road -- and I don't know, you know. That's what it was zoned as.

Holly Avenue is a part of that road for hurricanes. And we are in a row area.

COMMISSIONER SCHIFFER: But Ray, my point is that if -- on these when you give us data, these are platted subdivisions through there, shouldn't -- I mean, I'd be curious to know that.

MS. DESELEM: This is -- for the record, Kay Deselem. This is an exhibit from the application. And from

this it appears that that Holly Lane, Road, Avenue is the only area that is at least developed. Now, some others might be platted, but they're not developed.

COMMISSIONER SCHIFFER: But I think if we do have approved subdivisions adjoining properties we're looking at, it would be kind of nice to know that. We obviously -- north of that we do.

COMMISSIONER EBERT: Yeah.

CHAIRMAN STRAIN: Okay. Is that it, Brad?

COMMISSIONER SCHIFFER: That's it, thanks.

CHAIRMAN STRAIN: Next speaker?

MS. JOHNSON: For the record, Nicole Johnson, here on behalf of The Conservancy.

When the applicant, and at that time WCI also, started putting together the development proposal for Sabal Bay in that 2004, 2005 time frame, it was through the previously mentioned Hamilton Harbor settlement that The Conservancy really got a seat at the table to discuss concerns and issues.

And we had a lot of concerns about this property. A lot of wetland impacts, but also a lot of important upland scrub areas. So we worked with both WCI and CDC to take a look at how do you minimize the impacts to the important wetland areas, what wetlands could be sacrificed in order to protect some of those very unique scrub areas to protect gopher tortoise, and it was through that process that we did get a series of negotiated concessions from the applicant for things such as the BMPs that you were asking John about.

We felt that if you were going to have such impacts so close to Rookery Bay and important wetland areas, you needed to go above and beyond what the Water Management District standards were for water quality treatment. And that was one of the reasons why we requested that those BMPs be specified in there. We were concerned that if it said just BMPs that they might choose one. And so we felt that the four and the description of the four really got to the intent of what we had negotiated back in 2005 and was a suitable replacement for the language that they wanted to delete in that environmental section.

So in looking, you kind of threw me for a loop. Since it wasn't language proposed for change, I didn't know that that was going to come up. But in looking at the two areas that you had requested be deleted, these are actually additional concessions that The Conservancy and the applicant agreed to above and beyond what was in any settlement. So if it's taken out of this, then we just need to find a way to memorialize that in a way that is equally as binding as the PUD document.

I'm sure that we'll be able to do that, we will work on that. But we want to make sure that we don't lose these, because these are more than what the general public could do. This is talking about being part of the conservation easement, the general public isn't part of that. Draft comments on the master declaration document, that isn't something that the public is allowed to do, I don't believe.

So we just need to, if we take them out, put them somewhere so we don't lose them. And we will work on that.

CHAIRMAN STRAIN: Well, I would suggest you get with the County Attorney's Office, and those areas that are outside the settlement agreement but have been added as agreements with the developer to be provided as a, I don't want to term it as a concession to you all, because that's not fair, as something that they're going to additionally do to entice this project's approval. That is different than the way this is worded.

And if you want to -- if they've agreed to provide access to the master declaration, it can't be just to you. This is a zoning document, so I would think that it's a public document. And I would think that if you're going to have that access afforded you through a public document, then everybody should have it.

So those are what my concerns are. We need to be fair to everyone equally in the zoning aspects of this project. So it shouldn't be written just to favor one entity over any other in regards to add-on entities like yours.

So with that in mind, I think if you want to work with the County Attorney, we'll be pretty flexible in what comes back to us, but I would like to see the future going forward to be more in line with zoning codes and ordinances and public agencies rather than any private. And that is for the protection of all of us. Your agency may do a good job on this behalf, but if we have to open it up to you, we have to open it to all, and not everybody may do an equally good job, so --

MS. JOHNSON: Absolutely. I think there shouldn't be a problem in having everyone work something out on that.

CHAIRMAN STRAIN: Well, we'll look forward to the resolution at the consent then.

MS. JOHNSON: Just one other follow up on the RLSA issue that you talked about before. We said up to \$90,000. You don't have to spend it all if you don't need to. So just --

CHAIRMAN STRAIN: I think I need to drive out there so you guys have to buy a new truck for me and things like that -- that won't work?

That's up to 90,000. That's good --

MS. JOHNSON: Up to --

CHAIRMAN STRAIN: I think that was good of your organization to offer that. And I think that unbiased look at it would be a very helpful thing for the community as a whole, all of Collier County. So that was a good move on your part. Nothing to do with this application, but thank you.

COMMISSIONER EBERT: Nicole, you were going to bring up one other thing?

MS. JOHNSON: Well, one other issue that -- it isn't something that's required, but I do think that in the context of living the master mobility plan for the past year or so --

CHAIRMAN STRAIN: Is this part of this project's --

MS. JOHNSON: It is.

CHAIRMAN STRAIN: Okay.

MS. JOHNSON: Connectivity. And this is a PUD that has a commercial component. Granted, the commercial component has already to a great extent been constructed and has been in place for many years. But you have where the Publix and Foxboro is located in this area, and you don't have any internal vehicular connectivity between the residential and the commercial.

And if we're talking about having PUDs be truly connected, you need something more than just a pedestrian or bicycle pathway. And it was discussed in the master mobility plan that it can be a burden to try to go in and retrofit that type of connectivity in already developed PUDs, but here you have something that has not yet been developed.

So if you could design the roadway to allow that internal connectivity. And I know it's something Pat and I have discussed, they really don't want to do that. But I just -- I bring it up as perhaps an opportunity lost, because this is exactly what we think the master mobility plan should be about. So I just bring that up to your attention.

CHAIRMAN STRAIN: You mean you don't think that people living within this development can get to the commercial? I don't see -- I mean, every road there gets you to --

MS. JOHNSON: They have to go out onto Thomasson or 41.

CHAIRMAN STRAIN: Of course, that's what the roads are for.

MS. JOHNSON: But if you had a back entrance into the commercial areas, then you wouldn't have to put those cars on the main roads.

CHAIRMAN STRAIN: How would you get a back entrance? Like, take the R2 in the center, what are you proposing that one do?

MS. JOHNSON: There would need to be a road constructed, maybe an easement through the R1 so that someone that lived here could come in, go to a back entrance to get to Publix without having to go out to the main roads.

CHAIRMAN STRAIN: What about the road to -- that road that dips down between P8 and P6, what's wrong with using that road as a public --

MS. JOHNSON: That's Thomasson --

CHAIRMAN STRAIN: Well, yeah.

MS. JOHNSON: -- that's one of the main roads. If you're looking at internally connecting the PUD, you don't have connectivity between these two. And that's what we've been discussing in the master mobility plan. So I bring it up as something that I know they're not obligated to do, but I see it as an opportunity lost.

CHAIRMAN STRAIN: Well, you know, Nicole, I would think that from a conservation viewpoint the less roads the better, and we ought to use the roads we have to the maximum extent possible.

And if you've got a road going -- if your project -- inside your project you have a road like Thomasson, why wouldn't you use it to get to other parts of your project? I don't understand the -- I just don't understand why you wouldn't expect that to be -- why you would want a second road on top of the one that's already there.

MS. JOHNSON: It's in a residential area. You're not putting a road -- I'm not suggesting the road go through any preserve areas but through the currently designated residential area, so that you don't send traffic onto the outer main roads.

CHAIRMAN STRAIN: That's 41. How is Thomasson an outer main road? It's enclosed within the project.

MS. JOHNSON: Well, it is, but it's a connector road that gets you from Rattlesnake down to botanical gardens and other projects and developments in that area. Yes, it is inside the PUD, but it is not an internal PUD road in that it's cutting through and going to different areas. So I just bring it up as we saw it as a potential opportunity lost.

CHAIRMAN STRAIN: Thank you. Anybody have any questions?
Karen?

COMMISSIONER HOMIAK: I just -- I agree with Nicole. I think she's absolutely correct. I mean, that's just the way -- Lakewood there's many communities that can get over to King's Lake Shopping Center. Kings Lake, Queens Park, Lakewood, Glade, everybody can get -- they don't have to get out on a road. This is exactly what the master mobility plan was about. And I think she's absolutely right. And this is an opportunity lost if it's not done.

CHAIRMAN STRAIN: Okay.

COMMISSIONER EBERT: I agree.

CHAIRMAN STRAIN: Any other speakers, Ray?

MR. BELLOWS: Yes, one gentleman has -- he hasn't filled a slip out but he wants to talk --

CHAIRMAN STRAIN: Anybody that hasn't filled a slip out is more than welcome to speak. One at a time.
So, Phil?

Were you sworn in?

MR. LITOW: My name is Philip Litow and I'm a resident of Danford Street.

THE COURT REPORTER: Could you spell your last name for me.

MR. LITOW: L-I-T-O-W.

THE COURT REPORTER: Were you sworn in?

MR. LITOW: No.

(Speaker was duly sworn.)

MR. LITOW: I wanted to question this entrance onto Hamilton Avenue through Section R7. I do not understand really the necessity for it. And I just feel that it is more likely to put additional traffic onto Hamilton Avenue where it's not necessary for traffic to go there.

Supposedly it is to -- we were told at a previous public meeting that it was just to make it easier for the people living within the development to hook up with Hamilton Harbor. I don't know why we need to have a special exit onto a public street for that, a separate one.

And why can't, if that is necessary, since these two entities seem to have some sort of a connection, why they can't just make a connection right there without actually emptying onto the public street and thereby increasing traffic, which I think is more likely to be used by the residents of R7 just to do shopping in the area, rather than I can't imagine there are too many people on R7 who are going to be members of Hamilton Harbor. And I don't know how that can be predicted.

That is my question.

CHAIRMAN STRAIN: Okay, well, we'll try to get answers. Thank you, Phil.

Does the traffic engineer for the applicant, is he here?

Good morning, Reed. Yeah, still morning.

MR. JARVI: Good morning. Reed Jarvi, Omega Consulting.

We did do the analysis, and I will tell you that this is one of the minor changes, or one of the changes from the previous analysis that was done for WCI that did not have this connection.

There would be an amount of traffic from that orange one, R7 is it, that more than likely would use Hamilton Harbor. At the same time, we think that having the access to Hamilton Harbor basically through the development would provide access that would get people off of Thomasson that would use the internal connections to go to Hamilton Harbor at the same time.

So there's an amount that would be added and probably an amount that would be subtracted from Hamilton Harbor -- excuse me, Hamilton Avenue from this PUD versus the last one. They have not -- it's not been delineated because there really isn't any way to do that.

CHAIRMAN STRAIN: I believe that on Hamilton Street at the very end where you enter into your Hamilton Harbor, you have a gated access there; is that right?

MR. JARVI: That's correct.

CHAIRMAN STRAIN: And this particular correction is going north of that gated access?

MR. ENGLISH: Correct.

CHAIRMAN STRAIN: If you were to move that connection to go south of the gated access, and then people coming in and out of Hamilton Harbor would simply have to use that gated access, is that -- how does that cause --

MR. JARVI: I think there's issues that John has --

MR. ENGLISH: For the record, John English on behalf of the applicant.

Mr. Chairman, the Hamilton Harbor project which already exists has preserve along that edge that the only way -- we are connecting at intersection of Bay and Hamilton to try to -- we looked at trying to go into Hamilton Harbor directly, and there is preserve there that is in conservation easement.

CHAIRMAN STRAIN: Well, there's preserve all the way through from where tract seven ends north, so what is the difference?

MR. ENGLISH: Yes. But that's within our PUD, they're not recorded conservation easements. We've gone through and were able to mitigate for those impacts and craft conservation easements, whereas the Hamilton Harbor preserves exist.

CHAIRMAN STRAIN: So you're saying the ones in Hamilton Harbor along that roadway are recorded easements.

MR. ENGLISH: Yes, sir.

CHAIRMAN STRAIN: Can you provide those to us on consent? Okay. And some detail of that area so we can see and verify what you're telling us through visuals that we can see.

MR. ENGLISH: Yes, sir.

CHAIRMAN STRAIN: I want to move this project forward today in some manner. But if something regarding that issue on consent is inconsistent with what is being portrayed, I certainly want to reserve the right to further discuss it, so -- Brad?

COMMISSIONER SCHIFFER: Is Hamilton Harbor gated, that roadway?

MR. ENGLISH: Yes, the entrance to Hamilton Harbor is gated.

COMMISSIONER SCHIFFER: Would you be coming in with what Mark's talking about behind the gate or ahead of the gate?

MR. ENGLISH: We'd be coming outside of the gate at the intersection.

COMMISSIONER SCHIFFER: On the public side of the gate. The way it is now, if you came in lower, would it be behind the gate?

MR. UTTER: Pat Utter, for the record, with the applicant.

I think this is -- the primary goal for us is to accommodate potential members to Hamilton Harbor. But there's a secondary, if you live in R7, we also think those residents should have access to Bayview Park as well as -- I mean, there's another public park there that we think it's important that they have connectivity through, as well as a more direct route of transportation.

And we're talking a very small -- we're not -- we're not -- there's not a lot of density in this particular area. This is a very small area.

COMMISSIONER SCHIFFER: So if you put it behind the gate, that would really cause a problem, all the residents would have to be able to go through that gate if they use it for anything other than Hamilton --

MR. UTTER: If they're behind the gate then they have -- then we've lost our security. If, let's say they're not a member of Hamilton Harbor, and I would assume that some may and some may not. So if you live in R7 you may not choose to join. But if you have a direct interconnection behind the gate, you would have free access to Hamilton Harbor, which provides a security issue for us.

COMMISSIONER SCHIFFER: That's about what I'm imagining, so --

MR. UTTER: But the distance that somebody travels on a public road is a matter of less than 100 feet to get between the two properties. So it's a very -- it's not that we're adding traffic under a long stretch of road, it's generally an intersection.

COMMISSIONER SCHIFFER: Just for curiosity, where R7 and R5 is with Bayshore or maybe some other name, what is that going to be, double gated?

MR. UTTER: It'd be a double gated, probably like a card access system of some type.

COMMISSIONER SCHIFFER: Got it, thanks.

CHAIRMAN STRAIN: By the way, for the Planning Commission, I was trying to get this one finished up before we broke for lunch. Cherie', is that going to work for you? We shouldn't be too much longer. And we'll just take a little late lunch, especially the applicant's attorney has a, I guess, hearing or something that he has to leave for at 1:00. So I would rather get this done while everybody's present. So as long as nobody objects, we'll continue on.

John, Podczerwinsky, John Pod. By the way, I met your mother yesterday. Nice lady. I even said good things about her to you -- to her about you, I should say.

MR. PODCZERWINSKY: Commissioner Strain, I'm glad we got that on the record that she's a nice lady.

CHAIRMAN STRAIN: Yes, she is. Does a good job over there too.

How much traffic. First of all, is the Hamilton Road or Drive or whatever it is, is that capable of handling the projected traffic from what might come out of the area that's being connected here?

MR. PODCZERWINSKY: Yes, sir. The traffic that's shown distributed here and we agreed with in the methodology meetings with the applicant's traffic engineer was shown to be relatively negligible. It's less than a percent.

MS. ASHTON-CICKO: Mr. Chair, I was approached by this gentleman here who has requested if you're -- let him speak, but I just wanted you to be aware of it --

CHAIRMAN STRAIN: Yeah, give me a minute. Yes, that's fine, thank you. I did catch him coming up, thank you.

Okay, so you don't believe -- the projections aren't very much for that roadway?

MR. PODCZERWINSKY: That's correct.

CHAIRMAN STRAIN: I think there's a lot of logic in connecting this project to that roadway, because it does allow the -- if you look at the project, it's long. And if you relegate that to a dead end on tract seven, everybody's going to have to move eastward to get out, and I'm not sure that's the best condition. Most of the people in the eastern part of the project wouldn't go that direction, wouldn't be any incentive to, it would be just a longer drive, when they've got Thomasson right within the project to connect to, so --

MR. PODCZERWINSKY: Yes.

CHAIRMAN STRAIN: I think the results are going to be negligible on that roadway. I would have to agree with transportation's predictions. Thank you, John.

We'll ask for the next speaker. Sir, please identify yourself for the record. Were you sworn in?

MR. NELSON: No, I wasn't.

CHAIRMAN STRAIN: Okay, you'll have to be sworn in first, and this young lady will take care of that. (Speaker was duly sworn.)

MR. NELSON: Robert Nelson. I'm an abutting landowner. My property is on, again, surrounded by on three sides by this project, and that's probably a good thing.

I'm just curious, how is that going to affect -- can anybody tell me how that's going to affect these small lots on, for instance, Andrews Avenue, right where -- yeah, where those two little pieces go across Bayshore. The thinnest piece is at the southern side. And I'm just curious as to what can I expect. I haven't built there yet, but I am thinking about it.

CHAIRMAN STRAIN: I don't know your particular lot, but this will authorize construction to go in that development around there with new homes and -- a lot like, you know, any developing neighborhood. So you're going to have a neighborhood closer to you that may not be a neighborhood right now, maybe trees.

And there's going to be mostly residential. In fact, along you will be mostly residential. That little strip in the middle could potentially have some storage of RV's or things like that, but those would be shielded by walls.

I'm not sure what you mean by affect. It's not going to be anything -- no one's going to be touching your property.

MR. NELSON: No, no, I understand that.

Now that puts another wrinkle in it. Which thin piece is going to be --

CHAIRMAN STRAIN: The yellow piece would have some storage, could have like outdoor storage on it. The orange piece would be residential.

MR. NELSON: So there's going to be a 12-foot wall then.

CHAIRMAN STRAIN: There'll either a wall or berm/wall combination to provide 12-foot in height.

MR. NELSON: Okay, at the end of that little group of house lots there.

CHAIRMAN STRAIN: I don't know about the house lots. It will be along the perimeter boundary of the yellow parcel.

MR. NELSON: Yes, well that's the end of -- you're probably aware that there's a -- one, two, three, four streets there with some minimum size house lots. And there are some houses there.

CHAIRMAN STRAIN: That's why we were concerned about making sure there was a wall and a buffer put in, so that anything on that property would be shielded from your view.

MR. NELSON: I guess I appreciate that.

The last ramification I'm wondering then, will those houses and the condominiums that are going to be built, or the highrises, are they going to -- is it possible to affect the building lot size down the road? I mean, now that I own that, am I grandfathered in if you folks decide to expand the size of a minimum size building lot?

CHAIRMAN STRAIN: Whatever your zoning is today is your zoning. There's no attempt to change that. I don't know what zoning you are. It might be residential three. Whatever your lot sizes are, if they were platted at that lot size, we're not making any changes in that regard here today.

MR. NELSON: Okay, because I'm familiar with some zoning, not this one, but some zoning groups changing the size, minimum size. These are minimum size, changing the minimum lot size so all of a sudden a person couldn't build on a lot he bought several years ago to build but didn't get to it, and then the size, the lot size changed.

CHAIRMAN STRAIN: Well, when we break for lunch, you might want to get that gentleman's business card. He can be very specific to your lot and tell you exactly what to expect. We can't do that as well, because we don't have all the data in front of us. But he's got a wealth of information.

MR. BELLOWS: I'll be glad to help you after the meeting.

MR. NELSON: Thank you very much.

CHAIRMAN STRAIN: Thank you, sir.

Is there anybody else that would like to speak on this matter?

(No response.)

CHAIRMAN STRAIN: If not, Bruce, do you have any closing comments --

MR. ANDERSON: I just want to make a clarification. That 12-foot wall or combination with the berm in that area would only be if there's outside storage there.

CHAIRMAN STRAIN: Correct. Yeah, that's -- I think I referred to it when the storage was mentioned. But if there's no storage, there wouldn't be a wall. No, I understand that.

Okay, we'll close the public hearing and turn to the Commission for discussion.

I've made some notes as we've gone along, we've actually talked about a lot of changes, and I understand staff and Margaret has, both of them have made notes so that hopefully you guys can get together by consent and get all that ironed out.

County attorney is going to clear up a section of the PUD.

I've made five separate notes other than all the little things we worked on. One is that part of our recommendation to the Board, in agreement with staff's recommendation and the request to remove the affordable housing requirements is to standardize the policy, look to standardize policies on how to handle affordable housing in the future.

Second would be storage area, if it were to go in, the parcel, I think it's R5, would be required to have a 12-foot or a wall with a berm combination to equal 12-foot in height.

Third one is that the building heights that we discussed, and staff will come back with those, we discussed alternate building heights for the ALF and CCRC.

The fourth one is the clean-up of the private settlement language on Page 8-6, which is what the County Attorney's going to work on in conjunction with The Conservancy and the applicant.

And then an additional note to deviation number 12 concerning its use and the roads that have a preserve area at least on one side of them.

Is there anybody else that have any other issues?

Paul and then Brad.

COMMISSIONER MIDNEY: We were talking about the affordable housing that we suggested should be through the affordable housing subcommittee to help draft that.

CHAIRMAN STRAIN: Yeah, we could add that to the -- but I'm just wondering if the Board may -- the Board may want to make their own decision on how the policy is developed. We might just want to suggest that they work on a policy.

COMMISSIONER MIDNEY: That's my sug -- well --

CHAIRMAN STRAIN: You want to add the -- to tell them a specific group to work on? That might be a little --

COMMISSIONER MIDNEY: Well, since they're already working on -- yeah.

CHAIRMAN STRAIN: Well, I mean --

COMMISSIONER MIDNEY: I don't know.

CHAIRMAN STRAIN: It's more --

COMMISSIONER SCHIFFER: Well, I think it would be a good aside that staff in their presentation point out that that was a recommendation that there be a consistent policy.

CHAIRMAN STRAIN: Does that work for you, Paul?

COMMISSIONER MIDNEY: Uh-huh.

COMMISSIONER SCHIFFER: But I would like to talk about that same thing. You know, they've been paying in the commercial areas, they've been paying this already, the 50 cents a foot? They haven't? They were ignoring it anyway?

MR. UTTER: Pat Utter for the record. No, the -- if you read that -- I think it's Section B, it's the original commercial areas were already previously determined under a PDA agreement and the zoning that WCI created. So it only encumbered, I think, CO-3, which is the remaining 12-acre commercial piece. So no monies have been paid towards the affordable housing as of yet.

CHAIRMAN STRAIN: I do recall that conversation at the time this came through. He's right.

COMMISSIONER SCHIFFER: You're right, it does exclude one and two.

The other question of fairness would be to these other people with PUDs that this has been put in. For awhile there it was a pretty common thing, and a lot of people with PUDs just came up and accepted it and entered it on their own.

So, I mean, is it fair to them that we're taking it out? Does that mean they have to come in to open it up. I mean, it's not a simple issue. And you don't want to go back and point out like our conversation almost did that it was wrong to do it in the first place. The reason we take it out is not because it was put in wrong, nobody ever should think that.

But -- and the argument is taking it out now, giving the illusion that we don't have an affordable housing problem to me is wrong also.

But anyway, were you going to say something, Ray or --

MR. BELLOWS: I was just going to reiterate that for those PUD's that have that language, they would have to, until some other policy is set, would have to come in and amend the PUD like this applicant to remove that language.

But as part of this and other projects, I'm sure we can recommend the Board look at the policy, and I believe, I think that's what Nick said earlier, that they are looking at that.

COMMISSIONER SCHIFFER: But in a sense of fairness, a lot of communities are being developed, or were developed or were approved, maybe they're not being developed, accepting this, and assuming that, you know, it's something that they wanted to do. Is it unfair to them to take this out of this one? That's my question.

And again, the Commissioners will take it out.

CHAIRMAN STRAIN: Okay, anybody else have any comments or questions?

(No response.)

CHAIRMAN STRAIN: Is there a motion?

Melissa?

COMMISSIONER AHERN: I'll make a motion.

COMMISSIONER HOMIAK: I just have one thing. I can't support this if there's going to be a 80 or 95-foot buildings along 41 in that R3 tract. That's just --

CHAIRMAN STRAIN: Well, it's no different than other buildings we've approved along 41, so -- but I mean, that's up to you. We just got done with a Target along 41, same height. Actually, this setback is --

COMMISSIONER HOMIAK: Not me.

CHAIRMAN STRAIN: Okay. I'm just saying the Planning Commission. You may not have been here at the time. The Planning Commission, in cooperation with the developer, provided a setback on that 41 access. I think it was less than this one. This one's a -- but that's up to you.

COMMISSIONER HOMIAK: It's at 80 feet, 95 feet?

CHAIRMAN STRAIN: It was 75 feet, I believe. Remember the height of that Target?

COMMISSIONER SCHIFFER: Yeah, it was similar height. And we did push this thing 75 feet back from the property line. The roadway and everything else is obviously further back. There may even be drainage structures, so --

CHAIRMAN STRAIN: Quite a ways back.

COMMISSIONER HOMIAK: I'll still.

COMMISSIONER SCHIFFER: Did anybody second that?

CHAIRMAN STRAIN: No, but if you want to second it --

COMMISSIONER SCHIFFER: I'll gladly second it.

CHAIRMAN STRAIN: Motion made by Melissa. Melissa, do you want to finish? Did you finish your motion? Go ahead.

COMMISSIONER AHERN: I'll make a motion that we forward PUDA-PL2011-47 to the BCC with a recommendation of approval with the stipulations you listed.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER SCHIFFER: Second.

CHAIRMAN STRAIN: Brad seconded it. Any further discussion.

Bruce?

MR. ANDERSON: One question. Commissioner Homiak. Would it make any difference to you if we increase the setback from 41?

COMMISSIONER HOMIAK: The setback is now what, 40?

MR. ANDERSON: Fifty.

COMMISSIONER SCHIFFER: Seventy-five.

CHAIRMAN STRAIN: Seventy-five feet. Your perimeter setback for these --

COMMISSIONER HOMIAK: I don't have that in here.

COMMISSIONER SCHIFFER: It was one of the stipulations.

CHAIRMAN STRAIN: Yeah, that was one of the things we walked through.

Bruce, did you not understand that?

MR. ANDERSON: Seventy-five is fine.

CHAIRMAN STRAIN: I thought that's one of the clarifications we made to the 41. I mean, I can go back through and find it in our notes, but --

COMMISSIONER SCHIFFER: We did add that.

CHAIRMAN STRAIN: So what you're suggesting to Ms. Homiak is what?

MR. ANDERSON: It was 75 along the R4. My notes have 50-foot setback from --

CHAIRMAN STRAIN: You're right. Yes, it was 75 along the R4. It says with minimum U.S. 41 at 50 feet. So if we go to 75 feet, would that satisfy you, Ms. Homiak?

Or was it 1,000 feet, 2,000 feet, what would you think --

COMMISSIONER EBERT: Yeah, 2,000. She just doesn't want to --

COMMISSIONER HOMIAK: No, I mean, that's up to you. I don't want to see that happen.

CHAIRMAN STRAIN: Bruce, I'm content with the 50 feet that we all agreed to earlier then. Anybody else?

COMMISSIONER SCHIFFER: Well, my confusion is I thought we were going to -- along the perimeter of the property everything was going to be 75 feet.

The ALF did not have that in the chart, so I thought we added that to that description, what was like 4-B or something.

First of all, I think in design-wise putting all ALFs, for the people living in it, 50 feet away from the roadway or the road's not a good place for them to be living. So we --

CHAIRMAN STRAIN: Well, if we got to debate -- if we want to go back and amend our recommendations,

we need to do it before we vote on this. So if 50 feet isn't what everybody is looking for and they want to go to a greater depth, then someone needs to say something.

Brad, are you looking at what --

COMMISSIONER SCHIFFER: Well, first of all, I think the confusing thing is the development standards is able -- and in this case for the ALF they went, go back to see a paragraph. So I think in terms --

MR. ANDERSON: My client is willing to live with 75-foot setback for the ALF along 41.

COMMISSIONER SCHIFFER: Which essentially means 75-foot setback for everything on the property line.

MR. ANDERSON: Along the property line.

COMMISSIONER SCHIFFER: That's all, the perimeter of the development.

MR. ANDERSON: Perimeter, yes.

COMMISSIONER SCHIFFER: That's, I think, the best we can do.

CHAIRMAN STRAIN: Let's word that again. He's saying everything is the 75-foot setback.

MR. UTTER: From the perimeter, not between internal parcels.

COMMISSIONER SCHIFFER: Right.

CHAIRMAN STRAIN: No, I know that, from the perimeter. So along 41 he's not saying just the ALF, he's saying everything.

You need to be on record. You're going to have to get up to use --

MR. UTTER: I'm sorry, Pat Utter for the record.

Thought we were referring specifically to the ALF. He mentioned the ALF paragraph, so that's -- relative to the ALF because of the potential height that we've requested, we would be willing to adopt the 75-foot setback from the perimeter of the property line. But that's only for ALF or CCR, not for other uses.

COMMISSIONER SCHIFFER: Okay.

MR. UTTER: Because that would apply to the commercial and residential and all kinds of uses.

COMMISSIONER SCHIFFER: No, I stretched it too far. I was wrong.

CHAIRMAN STRAIN: So we're looking at 75 feet for the ALF/CCR along the perimeter.

COMMISSIONER SCHIFFER: Right. Which is Tracts R3 if we want --

MR. UTTER: There was a clarification. If you look at R -- the tract along 41 becomes narrow in an area. In an ALF many times there are multiple buildings with different heights. If you look at it, most of them, there will be certain towers that may be 80-foot, but then a lot of their subsequent facilities are one and two stories, and so the 75-foot setback only applies to the 80-foot buildings, that we would be requesting.

COMMISSIONER SCHIFFER: Then we get vague, because what does it mean to a 79-foot or a --

MR. UTTER: Or, I mean, it could be --

CHAIRMAN STRAIN: Pat, why don't we say the setback is equal to the height of the building, setback along 41. That way you do a 50-foot building, you could have 50 feet. And that's pretty close to where you're going. That would resolve the discrepancy he's going to head to.

MR. UTTER: I agree, something simple.

CHAIRMAN STRAIN: Does that work?

COMMISSIONER SCHIFFER: That's perfect, yeah, that works.

MR. UTTER: That works for me.

CHAIRMAN STRAIN: So staff, do you understand it? What will happen is the setback along 41 for the ALF facilities would be equal to whatever that facility's height is. If they put a two-story building in, it's a two-story setback. If they put an 80-foot building in, it's 80-foot setback. It's pretty simple.

Okay, does that work for everybody?

COMMISSIONER SCHIFFER: Yes, just be careful that if a building has a three story part and then a four story part you don't -- I mean, I just think the height of any structure --

MR. UTTER: It's going to be measured to the -- I mean, if -- a building would be defined by the outside perimeter and then it would be the ultimate height.

COMMISSIONER SCHIFFER: Okay. But be careful, because you could have a portion that's tall and a portion that's short, and you don't want to pull the portion that's short back necessarily.

So I just think that, you know, I mean, there are communities that do angles for setbacks and this would have

been a good example.

MR. UTTER: Like a wedding cake, you're saying.

COMMISSIONER SCHIFFER: Well, don't use that word.

CHAIRMAN STRAIN: Okay, so the height along U.S. 41 for the ALF/CCRC would be equal to the -- the setback will be equal to the height.

MR. UTTER: For that use only.

CHAIRMAN STRAIN: For that use only, right.

COMMISSIONER AHERN: I will amend my motion.

CHAIRMAN STRAIN: Brad, will you --

COMMISSIONER SCHIFFER: Second's great.

CHAIRMAN STRAIN: Any further discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER VONAIR: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Motion carries 8-1.

Okay, with that we'll take a break. We'll come back at 1:20 for lunch -- after lunch and then resume at that time. Thank you.

(A lunch recess was taken.)

CHAIRMAN STRAIN: Okay, everybody, welcome back from lunch. We will resume where we left off on the agenda.

***The next item up is PUDZ-PL2011-2115. And it's the Community School of Naples CFPUD. It's on 13275 Livingston Road.

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

(Speakers were duly sworn.)

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

COMMISSIONER KLEIN: I had a phone call from counsel.

CHAIRMAN STRAIN: Okay, anybody else?

(No response.)

CHAIRMAN STRAIN: I did talk -- I met -- well, we talked on the phone, Rich and I talked on the phone. I had three or four issues, and I believe you're going to be addressing those during your discussion, so -- okay, Rich, it's all yours.

MR. YOVANOVICH: Good afternoon. For the record, Rich Yovanovich, on behalf of the petitioner. With me today is Bobby Sullivan, he's one of the trustees of the Community School; Patrick Vanasse with RWA, who's the professional planner on the project; and Chris Wright, with RWA, who's the professional engineer on the project.

On the visualizer is an aerial of the Community School campus, which is outlined in yellow. As you can see, it's roughly a 77-acre site. The primary access is off of Osceola Trail, which is -- sorry, 73 acres, my mistake. The primary access is off of Osceola Trail and off of Livingston Road. There is also another access point off of Pine Ridge Road.

But the campus has been built over a many year period, starting in the Eighties and up until today. The original zoning for the property, and it started from the south to the north, with this being the earliest portion of development and then the upper school, and field house came along most recently. And I'll highlight some of those dates for you.

But the project was originally developed under agricultural zoning with a provisional use, and that terminology changed to a conditional use, for a private school. And at that time the height in agricultural was 35 feet zoned height. And the provisional use, conditional use also authorized the Planning Director to vary the height requirements for the buildings at the time.

Around the year 2000, the property was -- some additional lands were acquired and the holdings at the time were rezoned to community facility, because that was the standard zoning district that basically allowed private schools and the types of uses that the campus was anticipated to be developed with.

And when that happened, the zoned height became 30 feet. And then again a few years later additional lands were acquired where the ball fields basically are now and added -- and that property was also rezoned to CF, community facility. And again, 30 feet was the required height.

Around the year 2005, the upper school and the field house were built. And I'll point those out on the aerial. The upper school is this building right here, and the field house is this building right here. Those were both built pursuant to an approved Site Development Plan.

Recently we were coming through to do a planned addition to the upper school and basically wanted to basically build what's already there, and it was determined at that time that lo and behold, the upper school was built at a zoned height of around 33 feet and not 30 feet, as authorized in the community facility zoning district.

As soon as we learned that, we said well, what do we do? We have an extension that we want to build. Do we build the expansion at 30 feet, but that doesn't address the 33-foot issue that we know we have. So we immediately started this process, which was to rezone the entire property to a CFPUD, community facility PUD, with basically the same uses that are allowed under today's CF zoning, and the same development standards that are allowed under CF zoning and the Land Development Code, except for changing the height to address the buildings that exist today and the planned expansion.

So we're before you today requesting the Community Facility PUD with a zoned height of 45 feet, and that really is the zoned height that applies to the media center building. And the media center building is this building right in the middle. And that is a building that has an odd roof. It's almost like a church steeple type roof. So it's -- and one of the earliest buildings built as part of the campus under the old agricultural zoning.

So that's where we came up with the 45 feet. And I've got a table of all the existing buildings, but the zoned height would be 45 feet. The actual height of that tallest building with the church steeple is 75 feet, six inches, I believe, so we would ask for 71 feet to play safe in case we're a little off on that. So the actual height in this PUD would be 71 feet.

We are asking for a few deviations that basically address the campus that exists today. And I'll put the master plan up. And I'll try to walk you through the four deviations. And if I get anything wrong, Patrick will correct me.

CHAIRMAN STRAIN: During that process, Richard, could you tell us why you have four and staff has three. Explain that as you go through.

MR. YOVANOVICH: You, know, and I'm afraid I apologize, I didn't get to ask. But we did ask for four deviations. They're all related to landscaping. It may have been that we added one in relation to staff comments, and when he was preparing the report, there may have been three at one time and we added one to address something that came up during the review.

CHAIRMAN STRAIN: Or it was so bad that he decided not to even take it under consideration.

MR. YOVANOVICH: I don't think that was the case, but anyway -- whoops.

Deviation one really applies to the buffer along Osceola Trail. And you can see the one here and another one up in this area. We're asking to reduce the width of the landscape buffer along Osceola trail from the 20 feet to 15 feet. And that was actually constructed as part of Osceola Trail and under -- we worked with the school district in conveying Osceola Trail to the school district. And it's nearest our ball field, so that didn't seem to be a big issue and a big need for a buffer from the road since it was next to our ball fields.

The second deviation also applies to that area, and it applies to the two lakes that are right here. And what we're asking for is -- and Heidi has got some language that I'm going to read into the record. But we're asking for the deviation there as well to allow the buffer to encroach into the lake area. And one of those lakes was actually conveyed to the school district as part of the road agreement we had with them. And the other one's an existing lake. So the lakes as they exist encroach into the landscape buffer, so we're asking for a deviation there.

And Heidi has got some language that she submitted to me that I'm going to read into the record, and we'd

like to modify. And this is also the one that I think we had an incorrect reference, correct, Patrick, to the site.

The correct cite of the LDC should be 4.03.08.B.1, B as in boy, one not C-1. And then Heidi would like to add a new sentence at the end and it reads, in accordance with Sections 22-112 and 22-120 of the Code of Laws and Ordinances, the County Manager or his designee has approved this deviation.

So I think that ties better together, since this is really a deviation that applies also to the Code of Ordinances and not just the Land Development Code I think is the reason we're adding that sentence.

Deviation number three deals with the required vegetated buffer along the development's boundary. And that is in this area right here, which is -- again, that's a lake that we conveyed to the school district. And instead of having the buffer come on this side of the lake, the buffer goes along the road frontage. So that's what deviation three is intended to address.

And then finally deviation number four, and we have a continuation of the master plan up here, okay, this is along Pine Ridge Road. We have an entrance road along Pine Ridge Road that's been there since the initial campus was built and you can see the number four right there. In that one area we don't have any buffer. And since the road is already there, we're asking from a deviation to not put a buffer in there. So that should be the four deviations. Did I get them all right?

MR. VANASSE: For the record, Patrick Vanasse.

Regarding deviation number four, it's important to note that when the road was built the land was zoned ag. for the Community School, and so was the adjacent property. The required buffer for two ag. parcels is zero, no buffer. So that's why the road was built that way.

Also, on the --

CHAIRMAN STRAIN: Which road are you talking about, Pine Ridge or --

MR. YOVANOVICH: The entrance off of Pine Ridge Road.

CHAIRMAN STRAIN: The internal road you're talking about?

MR. VANASSE: Yeah, where the number four is, right at that point.

CHAIRMAN STRAIN: It's a driveway, then.

MR. YOVANOVICH: Yes.

MR. VANASSE: Yes, the drive.

CHAIRMAN STRAIN: So in the process of a conditional use you weren't required to put a buffer in there?

MR. YOVANOVICH: At the time the two abutting zoning categories were both ag., no buffer.

And then just to clarify the lake -- if I can just point here -- this lake over here, the buffer was installed prior to the conveyance and the lake being built. So when the buffer was put in, that was part of the Community School. Then it was approved under an SDP. And later it was conveyed to the school board for the roadway for water management.

And what we're asking is that that existing buffer be considered the buffer to the project, even if it's not on the Community School property.

CHAIRMAN STRAIN: Okay. But now you're asking for a buffer on someone else's property?

MR. YOVANOVICH: When the school board bought the property, the buffer already exists. So what ended up happening, in order for the school board to get the land that is now Osceola Trail, there was an exchange of property between the school board and the Community School. And when that exchange occurred, they got not only Osceola Trail but they also got that, where it says L, lake, they got that with the buffer in it already.

CHAIRMAN STRAIN: Do you have a document allowing you to represent the school in this decision, to ask for this deviation?

MR. VANASSE: Essentially we're --

MR. YOVANOVICH: What we're saying is don't require us to have a buffer, use the buffer that's already existing in the road. So essentially you can either say we'll ask for a deviation to not provide a buffer at all in that location or allow the buffer that exists in the lake to serve as our buffer.

CHAIRMAN STRAIN: The only thing I'd like to ask the County Attorney's Office in regard to this issue, honestly I didn't pick up the fact that you were doing this on that parcel till you mentioned it, Pat, so I appreciate it.

Heidi, on that particular parcel that is part of the school board's property and not this project's property, they want a deviation to allow the buffer that's on the school board property to act as their buffer. How do we do that?

I mean, what if the school board were to change the buffer or to do anything that changes then -- I don't see

the need for them to have a buffer in that location at all, myself. I'd rather they just completely didn't ask for a buffer to be eliminated from around that lake --

MR. YOVANOVICH: Why don't we rephrase that deviation to say in that area we're not required to have a buffer.

CHAIRMAN STRAIN: I think that's smarter. Because you've got a lake that's giving you quite a bit of a setback from the road. And I don't like the idea of getting into someone else's buffer to protect your property, because you have no control over it. What if they stop irrigating it, what if they do other things?

MR. YOVANOVICH: That works for us.

CHAIRMAN STRAIN: So what deviation number was that we're messing with now?

MR. YOVANOVICH: That was number three.

CHAIRMAN STRAIN: You're going to reword that so that the buffer -- basically you're asking for permission to -- relief from the requirement for the buffer along the north side of that area cut out for the lake.

MR. YOVANOVICH: Right, yes.

CHAIRMAN STRAIN: I think that's better, unless somebody else has a concern over it.

Tom?

MR. EASTMAN: I agree with you, Mr. Chairman, it's better to just eliminate the requirement for a buffer through that section rather than burden the school district parcel with maintaining their buffer.

CHAIRMAN STRAIN: You mean you don't like that idea, huh?

MR. EASTMAN: I don't. And I appreciate the change very much, thanks.

I have an additional question. In the bargain for exchange, the Community School did receive some additional lands. Are those reflected within the property boundary?

MR. YOVANOVICH: No, we're not asking to change any of the zoning on that spoon piece, Tom. We're leaving it as it is, RSF-3.

COMMISSIONER EBERT: Where is that?

MR. YOVANOVICH: It's actually to the north -- I'm sorry, the west of our boundary, adjacent to the school district's complex, which is -- in that area you have Osceola Elementary School, the administration building, and Barron Collier, that's kind of their entire complex over there.

COMMISSIONER SCHIFFER: Rich, could you point to that.

MR. YOVANOVICH: On the aerial?

It would be in this area.

CHAIRMAN STRAIN: Had you finished with your presentation?

MR. YOVANOVICH: And Commissioner, you had a comment, I think it was note number three on the master plan and whether or not we needed a deviation or not.

CHAIRMAN STRAIN: No, the generalities of that question bothered me. It said the lake maintenance -- this is on the PUD master plan. It's on note number three. Lake maintenance easements are generally consistent with the LDC. Why aren't they consistent with the LDC?

MR. YOVANOVICH: Well, in that particular area, the LDC actually defers to the rules of the South Florida Water Management District. And the South Florida Water Management generally requires 20-foot lake maintenance easements.

In this particular case we have a permit that doesn't require us on some of those internal lakes to have that 20-foot lake maintenance easement, because there's sufficient access to those internal lakes and we already have improvements that exist within that 20-foot area.

So the note is to let you know there are certain areas where we don't meet the Water Management District's 20-foot rule but they've approved a permit with those improvements in them.

CHAIRMAN STRAIN: Wait a minute. You said that the Water Management District allows -- the easement is generally consistent. They allow a general consistency with the 20-foot requirement for the easement, and that our rules allow us to accept South Florida's rules. So if the LDC is right, then the lake maintenance easements are consistent with the LDC section, because they defer to the South Florida Water Management District; is that correct?

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: Okay, then why do you have the word generally in there? We are consistent. I just

don't --

MR. YOVANOVICH: I understand where you --

CHAIRMAN STRAIN: That could be taken a lot of different ways and way out of the context that you intend it to be used.

MR. YOVANOVICH: What we wanted people to know is, look, everybody -- usually you'll have a 20-foot wide lake maintenance easement. Everybody's used to that. We just wanted you to know that there are instances where we don't have that 20 feet. The Water Management District is okay with that. We just wanted to make sure the county knew that and we were -- you weren't assuming there was going to be a 20-foot wide lake maintenance around those existing lakes. It was an informational note, not a deviation.

CHAIRMAN STRAIN: If county staff doesn't know those things, I would say shame on county staff. They should know those situations. My experience with them is they do. So I really don't like the word generally. It opens up too many Pandora's boxes of where you could go with that, unintentional. Unless you want to lay out every specific location where you have a change so that we can get it noted, then it's not generally, it's consistent with this plan.

MR. YOVANOVICH: So we probably don't even need the note.

CHAIRMAN STRAIN: Good, that makes life a lot simpler.

MR. YOVANOVICH: As long as we're all on the same page.

CHAIRMAN STRAIN: Okay. I don't think anybody is upset with what you're saying.

MR. YOVANOVICH: No, I know. And it was just a disclosure, we wanted people to know.

CHAIRMAN STRAIN: Richard, it's one thing having it on there, but where it could go 10 years from now, who knows. I would just as soon keep it clean. So we're going to drop that note on -- drop note three on the master plan.

MR. YOVANOVICH: And I think, Mr. Chairman, that is the -- your staff's recommending approval and we're requesting that the Planning Commission transmit to the Board of County Commissioners a recommendation of approval of our CFPUD.

Now, we handed out to you the survey, and we handed out to you some revisions to the master plan which were in response to some comments from staff. And let me -- if -- I'll take you through them real quick. On the master plan change up in the --

CHAIRMAN STRAIN: I'm trying to -- yes, I was just going to ask him what we're talking about here.

So the master plan we have in our packet is not the one you're asking for approval on today. The one you just

MR. YOVANOVICH: I just gave you -- the only change is we've added -- they asked us to change the name of it.

CHAIRMAN STRAIN: Use the mic.

MR. YOVANOVICH: They asked us to change it to a CFPUD, which we made that change. And we were asked to include a preserve table as to what's the required preserve and what's the amount of the preserve that we are providing on the master plan. Which we've added, Mr. Chairman, right here.

We are providing more preserve than is required under the Land Development Code, and we've shown that on the master plan.

CHAIRMAN STRAIN: What was the first correction you said you did?

MR. YOVANOVICH: We changed the -- we had labeled it -- we had RPUD originally, and it should have been a CFPUD on the title of the master plan.

CHAIRMAN STRAIN: Mine says CFPUD on mine, but maybe Page two of three? So does Melissa's, so does Karen's. So I think we've got that change already in our packet. But we don't have the table for the preserve requirements shown in the packet, so that --

MR. YOVANOVICH: Right, you don't have that. And -- okay.

CHAIRMAN STRAIN: It's only the preserve table that we're --

MR. YOVANOVICH: Right. And I just took as true to the comment that we needed to change the RPUD reference. So we must have made a change somewhere to do that, and maybe it's not in your documents.

With that, I think we've addressed -- we had our NIM and only one person showed up and had no objections.

COMMISSIONER EBERT: It was a quick NIM.

MR. YOVANOVICH: It was actually informal. She said you don't need to do one, because we had met with her as we were waiting for others to show up, so --

CHAIRMAN STRAIN: Okay, does anybody have any questions of the applicant?
Go ahead, Diane.

COMMISSIONER EBERT: I do. How many students does the school hold?

MR. YOVANOVICH: And I need to introduce somebody who showed up, John Zeller, who is the head of the school. So we have --

CHAIRMAN STRAIN: You're going to repeat what he said for the record because we can't have a record from the audience.

No, sir, you need to -- Rich, you know the rules.

MR. YOVANOVICH: I know. We currently have 714 students.

CHAIRMAN STRAIN: Thank you, sir.

COMMISSIONER EBERT: I have a question on that, because in reading, there was -- it was 600 and something. I'll have to try and find it.

MR. YOVANOVICH: We -- actually our TIS was approved at 850. So there's room for expansion. We have not asked to have more than 850 students. We have 714 right now. But the analysis was done based upon 850.

COMMISSIONER EBERT: Originally when this is done or now to this date?

MR. YOVANOVICH: When it was originally approved and as we're moving forward today, the traffic analysis has been based upon 850 students.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: Anything else, Diane?

COMMISSIONER EBERT: Yes. You said that there was a mistake in the SDP?

MR. YOVANOVICH: No, actually, what had happened was as we were going through the SDP process, the SDP that allowed the construction of the upper school said 30 feet. But the building that was actually approved when it went through the building permit review process was approved at 33 feet, and got built at 33 feet.

As we were coming through to do the expansion, someone looked at the expansion building permit plans and said you're asking for a building that's taller than the CF zoning. And we went, oops, and realized that the existing building, the existing upper school, nobody caught in reviewing the plans, both sides nobody caught that it was actually taller than the CF zoning district. So we're fixing it. We're fixing the issue.

And if you look at -- let me just put the aerial back up again real quick.

From a perspective of driving down Livingston Road, here's the upper school. And that's got to be 300 or so feet I would think from anybody driving by on Livingston Road. So from a perspective of driving up or down Livingston Road, I don't think you'll notice anything. And even at the 45 feet that we're asking to cover all the buildings. And the beauty of this request is it's what you see is what you get. People have been living with this 33-foot building since 2005.

COMMISSIONER EBERT: Then why does it say that research indicated that other existing buildings on the campus also exceed the maximum building height?

MR. YOVANOVICH: Right. And as I was going through the process I was talking about the early campus was built when it was ag. zoning, which would allow 35 feet. And it also gave the planning manager the ability to go taller than 35 feet. And that's the LMA building that I was telling you about. That is taller than 30 feet today under the existing zoning. So we're trying to fix that so we have a campus that is 100 percent consistent with the CF zoning that's on the property. Because that building would be a legal nonconforming building because of the change from the original ag. zoning to CF zoning. So we're just trying to make sure we've covered all the buildings and that they're all legal buildings and not legal nonconforming buildings.

MR. CASALANGUIDA: No such thing --

COMMISSIONER EBERT: Then you mention --

MR. CASALANGUIDA: -- just nonconforming by definition of the code.

COMMISSIONER EBERT: Then you mention something about going 71 feet?

MR. YOVANOVICH: And that is to the -- again, the LMA building looks like a church steeple. The top of that steeple is 70 feet, six inches. So we're asking for actual height of 71 feet. Because as you know, the CF zoning district, actually, straight zoning doesn't contain max heights, it just contains zoned heights. And PUDs have added a

max height. So we're adding that to the PUD to address what PUDs have customarily required.

CHAIRMAN STRAIN: Anything else, Diane?

COMMISSIONER EBERT: Not at this point.

CHAIRMAN STRAIN: Phil?

COMMISSIONER BROUGHAM: Just so I understand, the tallest -- what you just said cleared up one of my questions. So in the CF zoning there is no, quote, maximum height. Because I was going to pick up on the 70-some feet. And this is in the staff report, so -- but I just want a clarification.

Your proposed new building is proposed to be 32 feet, 33 feet?

MR. YOVANOVICH: I believe --

COMMISSIONER BROUGHAM: In that vicinity, okay.

MR. YOVANOVICH: Yes. The zoned height would be 32, 33 feet.

COMMISSIONER BROUGHAM: Because on Page 2 in the staff report in the first paragraph it says except for the maximum zoned building height, which is proposed as 45 feet. That's what sort of tilted me in understanding.

MR. YOVANOVICH: And what that is, is all the standards in the PUD are consistent with the standards in the existing CF zoning district but for the height. Zoned height under straight CF zoning is 30 feet. We're asking for 45 feet, because that will make all of the buildings consistent with the zoned height. And that zoned height will be 45 feet.

COMMISSIONER BROUGHAM: Just one further comment I have is that you might want to, for those that may have not watched yesterday in the BCC meeting, can you just quickly summarize what you're going forward with as far as the conditional building permit better --

MR. YOVANOVICH: Right. This is a real project. I mean, we're ready to go, we're chomping at the bit to build this expansion, which is roughly a 25,000 square foot expansion. We were already in the building permit review process when this error was discovered.

We went to the Board of County Commissioners yesterday and said please let us get started on our building. So what they did was they agreed to issue us a phased building permit that would allow us to start construction of the building as we're going through this PUD process. But we can't go taller than 30 feet until the PUD is formally adopted to allow us to go above that. And that's what was -- the board consented to the building official issuing us that type of a permit yesterday so we can stay on track so we can be open in the fall.

COMMISSIONER BROUGHAM: I just wanted to get it on the record for this.

COMMISSIONER EBERT: Yes, because I remember Mr. Coyle saying no more than 30 feet --

MR. YOVANOVICH: Until we get the PUD --

COMMISSIONER EBERT: -- and that's when you stopped and said, okay, we won't.

MR. YOVANOVICH: And we had said that in our correspondence, we were never going above 30 feet until the PUD was done.

COMMISSIONER BROUGHAM: That's all I have, Mark.

CHAIRMAN STRAIN: Anybody else have anything?

(No response.)

CHAIRMAN STRAIN: Thank you, Rich.

Staff report?

MR. REISCHL: Thank you, Mr. Chairman. Fred Reischl with Land Development Services.

The summary that Rich gave was correct. This was discovered during the SDP review and this is basically a corrective measure to bring all the buildings that are too high into compliance. A cure, basically.

CHAIRMAN STRAIN: But you're assuming a cure is needed for all buildings when in actuality the buildings were constructed over different times with different zonings in place. So I wouldn't characterize it as a cure for all buildings. It's a cure for maybe one or two buildings that may have questions about them. Because you have agreements dating back to 1994 that allowed administrative changes for some of the heights. Plus you had different zoning districts that allowed heights to be higher than what they are today.

So I think in all that there really aren't as many errors as possible, because a lot of it is grandfathered in under previous approvals.

MR. REISCHL: Right. And the LMA building is basically the one that was permitted as higher than the ag. maximum, and when the zoning changed to CF, that became nonconforming.

CHAIRMAN STRAIN: I just don't want it to appear as a mischaracterization that all of a sudden they've been doing a whole bunch of things there that are wrong. They have not.

MR. REISCHL: Correct.

CHAIRMAN STRAIN: They were consistent most of the time. There was one error apparently, then another submittal that got caught up. And it was good that it did, and I've got to give the staff credit for catching it. So we're getting it corrected now.

And in return they're coming in trying to do the whole thing in one shot under a better system. So I think it's a far vast improvement to what they had before and it clears up a lot of confusion, so --

MR. REISCHL: On the site plan, it was two different things on the site plan, too, because the engineering plans said 30 feet, the architectural plans said the 32 feet. So there was even confusion that way.

CHAIRMAN STRAIN: Fred, why did -- what's the situation with the four versus three deviations? And have you reviewed all four and do you concur with all four?

MR. REISCHL: Yes. And that was, I guess I can call it a rookie error, just count as rookie.

CHAIRMAN STRAIN: You're not a rookie. You've been around this county more than most people.

MR. CASALANGUIDA: No, he doesn't get that.

CHAIRMAN STRAIN: Golly.

MR. REISCHL: As I was writing the staff report, because we did agree to make sure that we got as quickly as possible to the Planning Commission, that I was doing the deviations from memory, and the fourth deviation that I did not include was the one with the ag. to ag. buffer. And I did not include that, and we support that.

CHAIRMAN STRAIN: That's what I wanted to make sure for the record, that you reviewed all four and you support all four. Even with the changes and modifications suggested today?

MR. REISCHL: Yes, I have those down.

CHAIRMAN STRAIN: Any questions of the staff?

(No response.)

CHAIRMAN STRAIN: Okay, thank you.

Is there any public speakers, Ray?

MR. BELLOWS: No one has registered.

CHAIRMAN STRAIN: Anybody in the public wishing to speak on this item?

(No response.)

CHAIRMAN STRAIN: Okay, Rich, do you have any rebuttal to nothing?

MR. YOVANOVICH: No.

CHAIRMAN STRAIN: Good.

MR. YOVANOVICH: I'm actually hoping that these changes are so minor that I don't have to come back for the consent agenda. But we'll see what you say.

CHAIRMAN STRAIN: I don't like you getting into that habit. Are you under a time crunch for the consent?

MR. YOVANOVICH: I just need to make sure we get to the BCC at the end of January --

CHAIRMAN STRAIN: You'd be first up on January 5th.

MR. YOVANOVICH: Right, I know that. I just need to make sure we're not -- it's not going to affect the schedule for January, then we're good.

CHAIRMAN STRAIN: I don't like to get into the habit of waiving consent. There are special circumstances, but --

MR. YOVANOVICH: I don't have a problem with that. I just want to confirm we're still on schedule.

MR. CASALANGUIDA: This is simple. I don't see a problem.

CHAIRMAN STRAIN: Okay. I guess we'll close the public hearing. And I had four comments and stipulations that we had talked about.

One is actual height will be stated at 71 feet.

That lake buffer easement -- I mean, lake buffer in the north will be modified to -- the deviation request will be modified to eliminate that buffer need where the lake is that's owned by the school board, for this project at least.

They're going to drop note three on the master plan and they're going to add a preserve table to the master plan.

Does anybody have anything else?

(No response.)

CHAIRMAN STRAIN: Is there a motion?

COMMISSIONER AHERN: I'll make a motion.

COMMISSIONER KLEIN: Second.

CHAIRMAN STRAIN: Melissa made a motion to --

COMMISSIONER AHERN: To move PUDZ-PL2011-2115 forward to the BCC with a recommendation of approval with the four stipulations you read.

COMMISSIONER KLEIN: Second.

CHAIRMAN STRAIN: And motion seconded by Barry.

Discussion?

(No response.)

CHAIRMAN STRAIN: Staff, were there any staff recommendations? I can't recall.

MR. REISCHL: (shakes head negatively.)

CHAIRMAN STRAIN: Okay. Then with that we'll call for the vote. All those in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER VONAIR: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0. Thank you very much. Appreciate it.

***Now the consent item that we have. The item for consent that's up next is a recommendation to accept the master mobility plan Phase II report with our previous voting to make sure the language is consistent with what we acknowledged to staff.

So with that in mind, I just need to make sure we've taken a look at it, and anybody has any questions, that we can get them on the table for further discussion.

I'll wait till all you get your -- Nick, if I'm understanding it correctly, we have review done in blue and we have highlighting done in yellow and blue. Can you tell us the differences in the meaning of the colors?

MR. CASALANGUIDA: Debbie prepared that. I'll let her explain.

MS. ARMSTRONG: Can you tell me what report you're referring to.

CHAIRMAN STRAIN: Well, everything is in either blue or yellow and blue. You have some verbiage that is written just in blue text and you have some verbiage that is in blue text but highlighted with yellow. Why the difference?

MS. ARMSTRONG: I don't believe that that was meant to happen.

CHAIRMAN STRAIN: Whoa, you did it a lot of places.

MS. ARMSTRONG: Are you talking about throughout the report or just in Section 5 that I handed you?

CHAIRMAN STRAIN: Just in the section you -- just the Objective section.

MS. ARMSTRONG: That's incorrect --

CHAIRMAN STRAIN: Well, look on the first Page 5-1.

MR. CASALANGUIDA: I have nothing in -- it's either blue --

CHAIRMAN STRAIN: I'm the only one that's got -- no, everybody here has got highlighted. See the highlighting?

MS. ARMSTRONG: I do see the highlighting.

CHAIRMAN STRAIN: Some of it's highlighted in yellow with blue writing underlined below it and underneath the yellow, and the other's just blue writing with underlined. I'm just wondering what the significance is

in the two.

MR. CASALANGUIDA: Let me do this. If I could swap with one of you and just give you this. This is the clean version with nothing in it. I'll just compare the two side by side just to make sure there's nothing strange.

CHAIRMAN STRAIN: Why do we always have these things.

COMMISSIONER HOMIAK: I thought we were the yellow.

COMMISSIONER EBERT: Yeah, I thought we were the yellow and their comments were in the orange.

CHAIRMAN STRAIN: Oh, you've got orange, oh, okay. I know, I'm just teasing.

COMMISSIONER EBERT: I know.

COMMISSIONER BROUGHAM: It's in the mind of -- the eye of the beholder.

MR. CASALANGUIDA: Okay, Debbie's saying it's the track changes which you have.

MS. ARMSTRONG: Okay. All right, now I know why. The track changes, the yellow are the CCPC comments, and the other ones were comments we received from the public, stakeholders and --

CHAIRMAN STRAIN: Gotcha.

MS. ARMSTRONG: Sorry about that.

CHAIRMAN STRAIN: No, no problem. And the orange is additional comments that you're submitting for discussion.

MS. ARMSTRONG: Exactly.

CHAIRMAN STRAIN: Gotcha.

COMMISSIONER EBERT: Mark, before we start, may I ask Mr. Casalanguida a couple of questions?

CHAIRMAN STRAIN: Sure, absolutely.

MR. CASALANGUIDA: Go ahead.

CHAIRMAN STRAIN: He loves questions.

COMMISSIONER EBERT: I know he does.

The funding for this, how much was it and where did it come from?

MR. CASALANGUIDA: Came from a Department of Energy grant. And I think Deb can probably dig up the funding. But I think we covered this before. Roughly 300 and some thousand dollars in one and then we received a little bit more.

MS. ARMSTRONG: Right. The whole county --

CHAIRMAN STRAIN: You've got to use the -- you can't do that from --

MR. CASALANGUIDA: I don't have that exact number in front of me. I don't have the contract in front of me. It was all --

COMMISSIONER EBERT: I thought --

CHAIRMAN STRAIN: You want the grant?

MR. CASALANGUIDA: Commissioner -- Chairman, if you have it.

CHAIRMAN STRAIN: Yeah.

MR. CASALANGUIDA: Yeah.

CHAIRMAN STRAIN: I'll tell you what it is, \$473,476.

MR. CASALANGUIDA: Total.

CHAIRMAN STRAIN: Total.

COMMISSIONER EBERT: I heard it was 700 and something.

So this is part of the stimulus package from 2009?

MR. CASALANGUIDA: Department of Energy grant.

COMMISSIONER EBERT: Okay. And may I ask Ms. Armstrong, how long have you been working on this? You started on this when? This is --

MS. ARMSTRONG: I started with Transportation Planning in September of last year. But the project started before that.

COMMISSIONER EBERT: So this has been going on for quite a while already.

MR. CASALANGUIDA: Yes, ma'am, since 2009.

CHAIRMAN STRAIN: Okay, Nick, did you have anything you wanted to throw in or just --

MR. CASALANGUIDA: This was no changes, we've accepted all the changes in the included that you have. So on Page 5-1 there is nothing I wanted to add unless you have --

CHAIRMAN STRAIN: We don't need to go page-by-page. I don't think we should have that many questions of the Commissioners --

MR. CASALANGUIDA: No. I think there's one, talking about the objective with regard to the Estates. We had recommended on Page 5-3, staff recommends the composition to be designated at the time the advisory board or task force is established by the BCC.

Originally you had said of only the Golden Gate Estates residents, and there was a vote, I believe, of 7-1 or 6-1. Staff was going to put in the language that said that we were recommending including other people. And I think through discussions, I think this solves the issue. We recommend putting that as the language, that it's determined at the time the BCC appoints it.

CHAIRMAN STRAIN: So the Planning Commission language can't change at today's meeting because it was voted on prior to this, this is just consent. But your recommendation in contrast to the Planning Commission's vote was that you're going to recommend the compromise -- the designations of the task force members or the board members be allocated at the time the Board actually forms the committee. Is that a fair statement?

MR. CASALANGUIDA: That's a fair statement, sir.

CHAIRMAN STRAIN: And I think that's -- either way it goes, then, I think it works for the Estates residents.

MR. CASALANGUIDA: Okay, very good.

Okay. And I think there was one other section.

CHAIRMAN STRAIN: You have two other orange areas. Page 5-7 is one.

MR. CASALANGUIDA: The statement below B. The CCPC approved this objective 7-0 as written above.

THE COURT REPORTER: Say that again.

MR. CASALANGUIDA: The CCPC approved this objective 7-0, as written above. CCPC also requested item B below, state consider constructing the bridges. Staff recommends promote constructing the bridges.

CHAIRMAN STRAIN: Okay, but in this particular case, under B you inserted your request instead of ours, where in the previous one that you disagreed with, ours was in the language referred to and yours was in the orange bracket as being considered. I think you got them reversed here.

MR. CASALANGUIDA: Gotcha. We'll fix that.

CHAIRMAN STRAIN: That was probably Bob's fault.

And the next change you had is on 5-10.

MR. CASALANGUIDA: Yes, sir. On 5-10, the CCPC recommended removing those A and B below. And we recommend, staff recommends the BCC consider keeping A, explore countywide habitat conservation plan HCP that specifies impact fees towards a regional mitigation program.

And B, consider tying mitigation to the basin or impact here where the project is located.

So we struck it out as you recommended, but we're going to insert that language and staff's recommendation.

CHAIRMAN STRAIN: What you guys insert is up to you as long as the Planning Commission's vote remains intact. And I think it did.

MR. CASALANGUIDA: It did, sir. And that's it, sir.

CHAIRMAN STRAIN: This is a consent item. So it's not a matter of voting anew, it's just a matter of concurring that the issues raised or issues provided to us are consistent with what our previous vote was.

Anybody have any problems?

COMMISSIONER EBERT: No. I do have a couple of questions.

CHAIRMAN STRAIN: You weren't even here last time.

COMMISSIONER EBERT: I know. I was not here, I was home sick. But I was ready for it and I was turning the pages as you were having your meeting.

COMMISSIONER BROUGHAM: Shame on you, Mark.

COMMISSIONER EBERT: Let me tell you, from the other side of the television, it's quite different than being on this side.

One thing I did notice, there was nothing in there about -- you did mention the CAT. But there was no route structure or anything like that.

I was here Tuesday, and Michele Arnold was also here. We went out and got one of these. We are lacking -- Collier County is really lacking in their bus routes.

MR. CASALANGUIDA: I agree. But I think as part of the mobility plan, a lot of it is to enhance and tie into the bus routes. So there's a lot in here that talks about growing with the CAT system, TOD Development, putting bus stops in, including routes that tie into pathways or connecting into roadway facilities and infrastructure that's there.

COMMISSIONER EBERT: That's just what we were talking about in the last PUD. Uh-huh.

CHAIRMAN STRAIN: Okay.

COMMISSIONER EBERT: And how do you figure -- one other question was how do you figure people per household?

Because I was reading the 2007 and then I went to the 2080.

MR. CASALANGUIDA: Comp. Planning I guess has worked out, there's an average that's done. And I know they're not here, so I'm going to have to -- I'm fumbling to get the --

CHAIRMAN STRAIN: They use the Census Bureau statistics after they're done every 10 years. And then they have a computation based on the rooftops built currently. The last census that I recall was 2.39. It may have changed slightly, but that's what it used to be.

MR. CASALANGUIDA: And there were students per household and then there was obviously the Ave Maria discussion that said for "X" amount, so --

CHAIRMAN STRAIN: Different --

COMMISSIONER EBERT: So it's about two people per household, is what you're going by.

CHAIRMAN STRAIN: No, it's a bit more than that --

MR. CASALANGUIDA: No, there's a two point something factor per household. It's 2.3 or -- I don't know the exact number off the top of my head. But we use the standardized approved number, ma'am.

COMMISSIONER EBERT: Okay, thank you.

CHAIRMAN STRAIN: Is there a motion to approve this item on consent?

Mr. Midney?

COMMISSIONER MIDNEY: I make the motion to approve it on consent.

CHAIRMAN STRAIN: Okay, is there a second?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Ms. Homiak.

Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

Motion carries --

COMMISSIONER EBERT: Wait, I abstained.

CHAIRMAN STRAIN: Motion carries 8-0 with one abstention. And I'm assuming your abstention is because you weren't here during the vote.

COMMISSIONER EBERT: That's correct.

COMMISSIONER SCHIFFER: Mark, I have a question.

CHAIRMAN STRAIN: Go ahead, Brad.

THE COURT REPORTER: Mr. Vonair was not there.

COMMISSIONER VONAIR: I wasn't here either.

CHAIRMAN STRAIN: Oh, so I'm sorry, there's -- thank you for that correction. It's 7-0 with two abstentions.

I forgot Mr. Vonair wasn't here. Seems like he's been here all along.

COMMISSIONER SCHIFFER: I have a question for Nick. Other communities got this grant also, right, to

do the same thing?

MR. CASALANGUIDA: Some did. We're hearing throughout the state. We're actually getting contacted by Clearwater and a couple of other places that are doing the same thing we are.

COMMISSIONER SCHIFFER: Is there a way you could link to us their reports, just for --

MR. CASALANGUIDA: Sure. When we come out, I'd be happy to.

COMMISSIONER SCHIFFER: Are we one of the first ones out?

MR. CASALANGUIDA: I wouldn't say we're one of the first ones. We've looked at other -- and maybe in the State of Florida we might be the first one. But Steve's working on other ones in the State, and there are certainly other ones in the nation, if not the region. Canada had a couple of really good plans that we kind of looked at as well too.

So I think a lot of communities that went through the growth that we did, especially out west, are doing the same thing during this, what I would call down period.

COMMISSIONER SCHIFFER: It would be good if you become aware of them to send us links or --

MR. CASALANGUIDA: Sure. If I could take a moment to thank you for your participation. This has been great. I think the fact at the last meeting the people that showed up and provided comment. This really became a community centric plan. And your participation as well helped a lot. So Happy Holidays from staff and appreciate what you've done.

CHAIRMAN STRAIN: Thank you, Nick. Okay, we're going to wrap up the meeting. I wanted to kind of follow along that last statement of Nick's. This is the end of the year and our last meeting this year, and the holidays are approaching. So there's some special thank yous.

And Cherie', you're top of the list, you and Terry. Thank you guys for all you've done for us. And the treats that you did bring every meeting, that's a good habit to get into. Melissa's eating them right and left. The girl doesn't get any food unless she comes here.

And Kady across the hall, thank you for all you do with the television. It helps out a lot, because you're on top of it constantly. So we appreciate that.

The records office, we want to thank you for the coffee supply. Without it some of us may be sleeping. So even though you think we might be sometimes, we aren't, so, but thank you.

And especially thank you, Nick and Ray and the entire county staff. You guys have done an excellent job this year. Every year it seems to get better, and this year has been a fantastic year. And I wholeheartedly support what staff has been doing. Your product quality is excellent. It's gotten so much better.

And Diane, you alluded to errors in SDPs. There were. But I'll tell you what, they're far less. In fact, the Community School is an example of what's being caught, and things that may not have been caught as much in the past.

So we've got a much better outcome with the team that's in place. I want to thank the Comprehensive Planning Department for their assistance in all the things, the EAR, and everything they work with. And Mike Bosi's doing an excellent job.

And John, thank you. Your mother says you're a nice guy. On top of that you do a good job. So thank you, John, we appreciate your patience.

And then last is Heidi and Jeff. I can't think of a better time we've had working with the County Attorney's Office as we do now. Jeff is doing an excellent job. And Heidi, your coordination with CDES and this Board has been fantastic.

So with that, I want to wish you all a very Merry Christmas and a Happy New Year. And again, thank you very much.

MS. ASHTON-CICKO: Can I just say something real quick?

CHAIRMAN STRAIN: Yes, you can.

MS. ASHTON-CICKO: I just want to say Happy Holidays to everybody. It's been a pleasure working with you. And I also want to say for all the small children that might be watching on TV, to avoid the confusion we had last year with my son, Mr. Strain is Santa's cousin --

CHAIRMAN STRAIN: Thank you for that clarification. I'd have a heck of a time giving out all those presents.

Go ahead, Diane.

COMMISSIONER EBERT: And well, Tuesday's BCC meeting we had two people here who have been here for 10 years.

CHAIRMAN STRAIN: Who? Brad and Paul.

COMMISSIONER EBERT: No, Mark and Paul. And it was -- it's just really great. And then Phil also got an award for five years on --

COMMISSIONER BROUGHAM: Floodplain management planning --

COMMISSIONER EBERT: Floodplain management. So a very active board we have.

CHAIRMAN STRAIN: Everything's been doing good. So everybody appreciates it. So thank you all.

MR. BELLOWS: From staff, I'd like to also thank the Planning Commission. This has been a great Planning Commission and look forward with our new Commissioner joining today.

CHAIRMAN STRAIN: We have a good year coming up.

With that, I know there's no old or new business. The public comment, we just finished it, so motion to adjourn, Melissa?

COMMISSIONER AHERN: So moved.

CHAIRMAN STRAIN: Thank you. Ms. Homiak, do you second it?

COMMISSIONER HOMIAK: Yes.

CHAIRMAN STRAIN: All in favor? We're out of here. Thank you all.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 2:09 p.m.

COLLIER COUNTY PLANNING COMMISSION

MARK P. STRAIN, Chairman

ATTEST:

DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 1-19-12, as presented or as corrected .

TRANSCRIPT PREPARED ON BEHALF OF GREGORY COURT REPORTING SERVICE, INC.
BY CHERIE' NOTTINGHAM