

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida  
February 16, 2012

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 (Absent)  
Melissa Ahern  
Phillip Brougham  
Diane Ebert  
Karen Homiak  
Barry Klein  
Paul Midney (Absent)  
Brad Schiffer  
Bill Vonair

ALSO PRESENT:

Heidi Ashton-Cicko, Assistant County Attorney  
Ray Bellows, Zoning Manager  
Thomas Eastman, Real Property Director, CC School District

ACTING CHAIRWOMAN AHERN: Good morning, everyone. If we could call the meeting to order and rise for the Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

ACTING CHAIRWOMAN AHERN: Roll call.

COMMISSIONER HOMIAK: Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER HOMIAK: Mr. Vonair?

COMMISSIONER VONAIR: Present.

COMMISSIONER HOMIAK: Mr. Schiffer?

COMMISSIONER SCHIFFER: I'm here.

COMMISSIONER HOMIAK: Mr. Midney is absent.

Ms. Ahern?

ACTING CHAIRWOMAN AHERN: Here.

COMMISSIONER HOMIAK: Mr. Strain is absent.

Ms. Homiak is here.

Ms. Ebert?

COMMISSIONER EBERT: Here.

COMMISSIONER HOMIAK: Mr. Klein?

COMMISSIONER KLEIN: Here.

COMMISSIONER HOMIAK: And Mr. Brougham?

COMMISSIONER BROUGHAM: Present.

ACTING CHAIRWOMAN AHERN: We have several addendas to the agenda. We are going to hear advertised hearing Item B first, and they're going to come back on the consent. So if there's any changes, they can make those changes while we hear the EAR.

Also, Item C, PDI-PL2012-159, The Dunes PUD application for an insubstantial change to the PUD development master plan has been continued to the March 1st meeting.

And there's also a clarification on the address. It's listed as 11495 Vanderbilt Beach Drive, and the correct address is Vanderbilt Drive.

Item D, BDE-PL2010-979, Vanderbilt Partners, boat dock extension also has also been continued to the March 1st meeting.

Does anyone else have any changes?

(No response.)

COMMISSIONER KLEIN: You might want to get little closer to the mic.

ACTING CHAIRWOMAN AHERN: That's the idea. Okay.

We have a full agenda it looks like for March 1st. Does anyone plan on not attending?

(No response.)

ACTING CHAIRWOMAN AHERN: So we'll have a quorum.

\*\*\*And we need to approve the minutes from two meetings. January 5th meeting, if we could get a motion to approve.

COMMISSIONER BROUGHAM: Motion to approve.

COMMISSIONER VONAIR: Second.

ACTING CHAIRWOMAN AHERN: Motion and second.

All in favor?

COMMISSIONER SCHIFFER: Aye.

ACTING CHAIRWOMAN AHERN: Aye.

COMMISSIONER VONAIR: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

ACTING CHAIRWOMAN AHERN: And approval of the --

COMMISSIONER HOMIAK: I'll have to abstain from -- I wasn't here at that meeting so I'm going to abstain from that.

ACTING CHAIRWOMAN AHERN: Okay six approved, one abstained.

And the minutes from the January 19th meeting?

COMMISSIONER HOMIAK: Motion to approve.

COMMISSIONER KLEIN: Second.

COMMISSIONER EBERT: I'll second.

ACTING CHAIRWOMAN AHERN: All in favor?

COMMISSIONER SCHIFFER: Aye.

ACTING CHAIRWOMAN AHERN: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER VONAIR: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

ACTING CHAIRWOMAN AHERN: \*\*\*Okay, BCC recaps. Ray?

MR. BELLOWS: Yes, on February 14th, the Board of County Commissioners heard the PUD amendment for Orange Tree. That was approved by the Board by a vote of 4-1 with Commissioner Henning opposed, and that approval was subject to the Collier County Planning Commission recommendations.

They also heard the ST permit for the Gordon River Park. And I don't have the vote on that, but I believe it was 5-0, though.

ACTING CHAIRWOMAN AHERN: Oh, great.

\*\*\*Okay, chairman's report. Since he is out, we will not have that.

\*\*\*So we'll move right into the public hearings. And again, we're going to start with PUDA-PL2011-343, Tuscany Reserve.

Bruce?

(Speakers were duly sworn.)

MS. ASHTON-CICKO: Madam Chair, would you like to go over any disclosures that any board members may have since the last meeting?

COMMISSIONER VONAIR: None.

COMMISSIONER SCHIFFER: None.

COMMISSIONER EBERT: I just talked with Mr. Anderson.

ACTING CHAIRWOMAN AHERN: Anyone else?

COMMISSIONER BROUGHAM: I don't have any.

COMMISSIONER KLEIN: Me neither.

ACTING CHAIRWOMAN AHERN: Thank you.

MR. ANDERSON: Good morning, Madam Chairman, Commissioners. My name is Bruce Anderson from the Roetzel and Andress Law Firm on behalf of the applicant.

And in your agenda packet I believe you have a strike-through and highlight version of the changes which were made since your prior hearing on this matter. Is yours color-coded or is it simply black-and-white?

ACTING CHAIRWOMAN AHERN: Black-and-white.

MR. ANDERSON: Okay. I'm going to ask Mr. Arnold to pass out to you a color-coded version that shows what was originally proposed, what was changed as a result of the Planning Commission, and he will walk you through those, the most important ones. Some of them were simply changes to Land Development Code references. And there were three additional changes that are reflected in what he just passed out that were made yesterday afternoon after speaking with Ms. Ashton.

MR. ARNOLD: Good morning. I'm Wayne Arnold with Grady Minor and Associates.

And I've got a couple of different suggestions on how we might approach this. I've got the document -- as you remember, we were sent away with probably five to seven items that we needed to clean up. One was to go back and look at how we referenced the old Land Development Code citations, which reflected changes on a lot of different pages. There were probably changes that reflected the development standards table, how we were dealing with these villa type lots, we added some landscape language, we changed the deviation and moved something from a definition to the deviation. And then as Bruce indicated, we had some further discussions with Ms. Ashton to discuss some

minor modifications.

So I don't know if you want me to walk through page-by-page and just look at the changes any make sure everybody's fine, or do you want me to go to the handful of pages where we have the more substantive changes?

ACTING CHAIRWOMAN AHERN: The one that you just handed out are all of the changes except the three items Bruce mentioned --

MR. ARNOLD: Correct.

ACTING CHAIRWOMAN AHERN: -- are the same as the document we're receiving.

MR. ANDERSON: Yes. And the changes that have been made since your last meeting are actually shown in green on the version that you have, just to point you in the right direction.

ACTING CHAIRWOMAN AHERN: Okay.

MR. ARNOLD: But I will defer to the chairwoman.

ACTING CHAIRWOMAN AHERN: Does the Board have a preference? Do you want to go through each item, or is everybody comfortable with what they reviewed in the package we received?

COMMISSIONER VONAIR: I'm comfortable.

COMMISSIONER BROUGHAM: I think we should highlight, you know, the additional items and the substantive changes that were made since our last review, and then I'm good with that.

ACTING CHAIRWOMAN AHERN: Does everybody agree?

COMMISSIONER EBERT: Yes.

MR. ARNOLD: So I take that I can skip the ones where simply we made some --

ACTING CHAIRWOMAN AHERN: Yes.

MR. ARNOLD: -- LDC reference changes, and I'll go to the more meaty items.

COMMISSIONER BROUGHAM: Acknowledging that you did do that, though. That's a good move.

MR. ARNOLD: Yes, we did. And just for clarification --

COMMISSIONER BROUGHAM: Otherwise you wouldn't have had a vote here.

MR. ARNOLD: Thank you.

In some cases there was a direct correlation, so those are referenced specifically, just so you understand that. In some cases it made more sense to just reference simply Land Development Code. So some were dumbed down, some were a true conversion.

And I think you'll see when I get to one of the more meaty page changes how that was handled.

Probably, if you would turn to Page 3-2 of your document, that starts the residential development standards discussion. And if you go to item F -- E and F, I guess, for instance, that's where we had this discussion about zero lot line now becoming a variable lot line product.

ACTING CHAIRWOMAN AHERN: Wayne, can we put this on the overhead too so everyone --

MR. ARNOLD: Sure.

MS. ASHTON-CICKO: Did you want to show them the change on Page 2.1 that you added to address their concerns from the last hearing?

MR. ARNOLD: That was the on -- okay, thank you, Heidi, you're right. Let me go back to that.

This was to Section 2.1 of the PUD. It's on Page 2-1 -- Section 2.2, excuse me. There was a reference to some of the older improvements that have been completed, and we were contemplating whether to use December 31st of 2011. We've added language that really talks about -- it says where development approvals have been granted prior to the effective date of the 2012 PUD amendment and approved under prior LDC and PUD provisions, these approvals and any improvements shall be deemed conforming.

So there's some inserted language that you'll see in your version to help clarify that. And I think that the county attorney's office is happy with that language.

Thank you, Heidi.

Back to Page 3-2 that is on the visualizer. We modified Item E to change zero to variable. And then in Item F, this is where we clarified how we could mix product type. So we've said that within the same platted development tract we can have single-family product variations, but the larger separation between any of those product types has to be used.

Hopefully that clarifies it. Because there was concern about how they orient themselves when we have different development standards. So we're going to use the larger of the two building separations.

ACTING CHAIRWOMAN AHERN: Does anyone have any questions on that?

COMMISSIONER SCHIFFER: Well, just a question.

Wayne, if they're against two platted developments, what would be the setback of the buildings in those two developments, the adjoining developments?

MR. ARNOLD: Well, if they're two separate development tracks, I think we're going to have to institute separate landscape buffer tracks. So I think our -- the setback is always going to be measured from the platted track line. So you're going to have I think it's a minimum 10-foot landscape buffer anyway. So I think we take care of the separation and setback issue, if you would have the same product type on two different platted tracks.

COMMISSIONER SCHIFFER: Or different product types.

So what if one had a greater setback than the other, would the buffer be the prevailing setback or would the greater of the two?

MR. ARNOLD: I think on a different development track, Mr. Schiffer, I think it's going to defer to the actual setback for the product type in the table.

But I think we're not going to have an issue of narrower separation because of the landscape buffer track requirement. I think it takes care of itself with the development standards that we have.

COMMISSIONER SCHIFFER: Okay.

ACTING CHAIRWOMAN AHERN: Anyone else?

MR. ARNOLD: On the next page, 3-3 is the development table. And we've made couple of modifications. And I need to explain a couple that don't show up as true changes because they're carried forward later in the document.

But this is where we revised the zero lot line product to become a variable lot line product. And if you look at the note immediately below the table, we've added some language that addressed the discussion of who would review one of these conceptual exhibits. And if you remember, we had a discussion about the variable lot line and the villa product that we've talked about would have to come through a conceptual plan process prior to getting the building permit so everybody could see the product orientation, how they're going to be arranged on-site, will reflect building setbacks, building separations, so that we don't end up with the guy in the middle that ends up with a non-buildable lot.

So we'll have planned the track in advance, it'll get submitted. So that's the language that we've tried to add to do that. And that's one of the modifications we made yesterday afternoon late. We added a phrase where it talked about the conceptual exhibits showing typical building configurations, but now it also needs to include building setbacks and building separations for clarification. I think that was a good suggestion from County Attorney's Office.

The other thing that came up was a question on the building height. And if you go down to footnote number two, there was sort of a different definition of building height that had been used and we explained that that was because we had essentially basement units near the village center and the lake. So for clarification, we decided that it was confusing but we hated to abandon the definition, so we've now made it applicable only to the village center where we had that issue. And hopefully that meets everybody's concern.

The last item footnote, number -- I'm sorry, number six, footnote six, there have been modifications. And this again dealt with the variable lot line where we reference that the site setback can be variable. And then there was the language above that added clarification. So that's why that one has been shortened a little.

And on footnote number eight, that was the one where we talked about villas. And that's the definition. If you remember, we also had language on there about modifying the street widths and things like that. I'll get to that in a moment, but we've added a deviation, as was suggested, to clarify that.

ACTING CHAIRWOMAN AHERN: Does anyone have any questions on this page?

COMMISSIONER SCHIFFER: Before we leave residential, Wayne, there was a concern. Some of the neighbors in the older part that was developed already that didn't want new product up against them that may not meet the setbacks or may not even be the scale of their development. Were we going to in here put something that kind of stated that the developments north of the clubhouse is --

(Electronic interference.)

COMMISSIONER BROUGHAM: Was that an answer?

COMMISSIONER SCHIFFER: Yes or no would be fine.

But anyway, I couldn't find anything in the residential section or any other section that was kind of protecting

them from a new development alongside them.

MR. ARNOLD: I didn't insert any language. I know we had that discussion. I didn't take away from our conversation that that was a directive to work on that language. I know that Mr. Asher from the property owners team suggested to you that it's not our intent to go back on platted single-family tract right now and start inserting these other product types.

But I don't know what protection we would do. I mean, there are certain platted tracts that are going to be replatted. And I think Mr. Asher would tell you that we've looked at one of the development tracts immediately behind their sales center, for instance. It went from single-family to then we looked at a multi-family and now it's being replatted as single-family again.

So I'm not sure how we write the language that protects us from going back to replat tracts of land.

COMMISSIONER SCHIFFER: I mean, the --

MS. ASHTON-CICKO: You could apply the -- if I may, you could apply the new housing structure types to anything after a certain date, right, because you're not going to go back to what you've already done, if that's what you're concerned about.

So you could say, you know, for any -- I don't know if you want to tie it to applications or building permits issued after --

COMMISSIONER EBERT: Such and such.

MS. ASHTON-CICKO: And it could be the effective date of this ordinance that we could just plug in.

COMMISSIONER SCHIFFER: But the concern was that in the -- and I guess -- I thought we had defined it with the road system as to what that meant. But there is some areas that have homes on it that have vacant lots around them. And if they would go in and replat those vacant lots to multi-family, for instance, that would not be the character of the road when the person bought that house.

MR. ARNOLD: If I might, Mr. Anderson just reminded me that the discussion at the meeting, Mr. Asher's testimony was that the streets that have existing single-family homes existing on them were not going to be subject to mixing product types, that those would carry forward as single-family communities.

COMMISSIONER SCHIFFER: Could we put words in here that --

MR. ARNOLD: I think we probably can. If maybe we could put some minds together and try to draft some language for your consideration to deal with that.

COMMISSIONER SCHIFFER: Okay. Where do you think in this document we would deal with that? In the residential section, or --

MR. ARNOLD: I think it makes sense somewhere in the residential section. Let me give some thought to that.

COMMISSIONER SCHIFFER: So then in 3.5 you'll add a G?

MR. ANDERSON: I'll add it on the end. I'll do it here.

MR. ARNOLD: We'll draft some language right now.

The next page I would refer you to is Page 5-1. It's the first page of the village center component of the project.

And if you remember, we were trying to insert some of these personal service, small convince items into the mix. And there was a question how we track the size of this, because there is a limitation on how much acreage we can have and it's a maximum of 4.5 acres.

So we've added language that, one, bumped the number up to 210, because of your discussion on the cabana units counting as multi-family dwellings. And then in the same paragraph, 5.2, we've added a sentence at the end of what was previously submitted to you that says, the acreage of a small-scale retail office and personal uses and their supporting associated facilities must be tracked and shown on the Site Development Plan that includes said uses. Permitted uses and their related accessory uses in Section 5.3(A)(1)(2) and (3) are excluded from the acreage calculation.

Now, Mr. Anderson and I added the last sentence to make sure it was understood that the village centers really are golf clubhouse tract. And there are going to be dining facilities and a pro shop and things like that related to it. Those shouldn't count against these other personal services that we're trying to insert. So we added that for clarification. Hopefully that's clear paragraph.

The next page on 5-2, we made a modification to the discussion of the golf cabanas. And this was where we

indicated that for purposes of the density for the project the golf club cabanas would constitute a multi-family dwelling unit. Hope that's clear enough.

And the other section you have here is Page 7-4. And this is the first page you're going to see where we had some of these referring to former provisions of the code.

But the substantive change here is there was a deletion of -- I need to find my version that I had. Yeah, it's on Page 7-4. Your version I think has a new underlined section for -- and a number 11 on it, if I'm not mistaken. And it starts with, in accordance with Section 3(A)(2).

Does your version have that? No? Okay. Then it was my older version I was referring to.

If you go to Item 13, this is the deviation that was added to address the villa product and the reduction right-of-way widths and the cul-de-sac radius. It was determined by Planning Commission last meeting that it was more appropriate to deal with that as a deviation than it was to deal with that as a footnote. So that's what we've done.

COMMISSIONER BROUGHAM: You might want to point out Item 4's addition on Page 7-3, where you speak to the new commitment for buffering.

MR. ARNOLD: Oh, I apologize. That is a big one. I apologize, I skipped over that. I had it tabbed even. I overlooked it.

On -- if you go back to Page 7-3, we've added a couple of clarifications. And I'll get to the one at the top first. It's number four. Mr. Brougham had suggested that we might want to consider installing a landscape buffer along the southern boundary of this project. So we've written it in as an interim landscape buffer, because ultimately when those tracts get developed, the product type will dictate what type of buffer is actually established. So we're going to call it an interim buffer along Veterans Memorial Boulevard. We've described that it extends from our western project boundary east over to the project entrance. And we've made a commitment to install this landscape buffer no later than December 31st, 2012.

COMMISSIONER BROUGHAM: If I might? Thank you very much for that consideration of your southern neighbors.

Further clarification or question on my part.

MR. ARNOLD: Yes, sir.

COMMISSIONER BROUGHAM: That easternmost access point is just west of the cul-de-sac, if I'm reading the aerial correct?

MR. ARNOLD: Yes, uh-huh.

COMMISSIONER BROUGHAM: And so you're committing to install the temporary buffer to what point?

MR. ARNOLD: To our access point from Veterans Memorial.

And the reason we didn't carry it further east all the way to the terminus of the cul-de-sac is because there's a lake there, and it seems like the lake was a nice feature to look at and doesn't seem like it was necessary to buffer the lake.

COMMISSIONER BROUGHAM: Just so I understand, is there any material whatsoever between the cul-de-sac and the lake? I can't tell from the aerial.

COMMISSIONER EBERT: Can you put it on the aerial?

COMMISSIONER BROUGHAM: You can show this, Ray, if you'd like.

MR. ARNOLD: Sorry, I can't tell for sure.

COMMISSIONER BROUGHAM: But what you're saying is that you're proposing to put a buffer up to the western edge of that access road?

MR. ARNOLD: That's correct.

COMMISSIONER BROUGHAM: Well, thank you for that. The neighbors thank you for that.

MR. ARNOLD: Thank you.

The other change, while we're on that page, was a comment that Mr. Schiffer had made regarding fire access. And it's timely that the master plan's up there. Because we added Item 2. And it says, the developer shall provide a stabilized emergency vehicle turnaround, meeting local fire prevention code criteria, approximately midway along the cul-de-sac, as noted on the PUD master plan Note 1.

And I don't know if you studied it closely, but we added -- on the long cul-de-sac that was pointed out at the hearing, we added a notation and then a note at the bottom of the master plan that mirrors the language that's on the PUD document that requires that long cul-de-sac to have some proper turnaround.

And that doesn't mean a cul-de-sac, it could mean what's referred to as a hammerhead turn or sometimes they have other turning movements that are permissible.

ACTING CHAIRWOMAN AHERN: Does anyone have any questions so far?

COMMISSIONER EBERT: I do have a question for you.

As long as you have this on the Board, Veterans Memorial Boulevard, which used to be East-west Livingston, is that going to be a separation in the road there? Is that going to be a median in here?

MR. ARNOLD: I don't think so. I think unless the county decides to put this back on its long-term road plan, I believe it's going to remain a two-lane road with maybe an appropriate turn lane. So it could be a --

COMMISSIONER EBERT: So you don't need all this excess space there? So it is just going to be the two lanes, because the only one -- the people that are going to use it --

MR. ARNOLD: Well, I think there's room in the right-of-way condition that -- you know, as part of the PUD we're asked to turn this road over to Collier County. It becomes a county road. We currently own that portion that's going through the turnover process. But it was designed I think to accommodate a four-lane road condition.

COMMISSIONER EBERT: Okay. So you have 150 feet?

MR. ARNOLD: Yes, ma'am.

COMMISSIONER EBERT: So we're talking about the width of 150 feet?

MR. ARNOLD: Yes.

COMMISSIONER EBERT: Mr. Podczerwinsky?

MR. PODCZERWINSKY: For the record, John Podczerwinsky, Transportation Planning.

I need to swear in.

(Speaker was duly sworn.)

COMMISSIONER EBERT: Sir, this is going to be a dead end. Is there any need to have all that space in there?

MR. PODCZERWINSKY: All -- help me out, which --

COMMISSIONER EBERT: With -- well, it shows 150 -- it's going to just be a two-lane road; is that correct, and there's going to be no median in between?

MR. PODCZERWINSKY: Correct. To my understanding it will just remain as a two-lane roadway.

COMMISSIONER EBERT: Okay.

MR. PODCZERWINSKY: Does it need the full right-of-way width of 150 feet? I don't think it's required any longer. The petitioner -- it would be upon the petitioner to seek vacation of that right-of-way and they would have to go through a specific process the county has in place to do so.

COMMISSIONER EBERT: Okay, very good. Thank you.

COMMISSIONER SCHIFFER: Let me say --

ACTING CHAIRWOMAN AHERN: Go ahead.

COMMISSIONER SCHIFFER: Yeah, Diane, one thing though is way in the future they may want that right-of-way width. You know, they may be hopping over 75 there, so --

MR. PODCZERWINSKY: Commissioner, I've been corrected. That has not been conveyed to the county yet. So it's still in the ownership of the developer.

COMMISSIONER EBERT: Okay. That road is not going to go over. On the east side of I-75 they have nowhere to put it anymore because a previous developer built in the right-of-way. So -- which was going to be east-west Livingston. And that will not, if it were to come aboard, which it cannot now because of the condition on the east side of I-75.

COMMISSIONER SCHIFFER: But 50 years, 100 years.

COMMISSIONER EBERT: Knock down the other things on the other side?

COMMISSIONER SCHIFFER: Wrecking balls, it might work. Anyway.

MR. PODCZERWINSKY: Commissioner Schiffer, for clarity, it is no longer in the long-range transportation plan. Everything east of I-75 has been removed from the LRTP for this corridor.

COMMISSIONER EBERT: Thank you, Mr. Podczerwinsky.

MR. PODCZERWINSKY: It will end at I-75.

ACTING CHAIRWOMAN AHERN: Any other questions?

(No response.)



MR. ARNOLD: I think that concludes the more substantive changes that were made. Again, there were a couple of typos that were found. And I think Bruce Anderson has had a chance to craft some language to address Mr. Schiffer's comments.

MR. ANDERSON: Commissioners, at the end of paragraph -- or Section 3.5(F), we would add the following: "or along any street where there are single-family homes existing or under construction on the effective date of the 2012 PUD amendment."

MS. ASHTON-CICKO: Can you read it again? I'm not that fast.

MR. ANDERSON: Yes. Add at the end of Section 3.5(F): Or along any street where there are single-family homes existing or under construction on the effective date of the 2012 PUD amendment.

That would prohibit any mixture of single-family and multi-family in any of those areas.

ACTING CHAIRWOMAN AHERN: Brad, does that work for you?

COMMISSIONER SCHIFFER: Yeah, I'm good with that.

ACTING CHAIRWOMAN AHERN: Heidi?

MS. ASHTON-CICKO: Well, it seemed one of the concerns that the board had would be that somebody would have bought in already. And I don't think this covers someone who's bought, if there's no existing home or it's not under construction. So is there a lot that's been sold? It's not --

COMMISSIONER SCHIFFER: That's a good point.

MS. ASHTON-CICKO: Is that a concern you need to address or --

COMMISSIONER SCHIFFER: I think that's a concern, you're right.

ACTING CHAIRWOMAN AHERN: Heidi, can you reference it by deed?

MS. ASHTON-CICKO: Well, what I don't know is whether or not the developer owns all the lots except for, you know, the ones that are under -- you know, that have been sold to the end user. I don't know if there's a middle user like another house builder, you know, that might own a lot but hasn't yet sold it. So perhaps you know the answer to that question.

COMMISSIONER SCHIFFER: Can we do it by street then if we -- I mean, how many people, be it developer or private, have bought lots in there already? Is it isolated one area or all over the place or --

MR. ASHER: For the record, my name is John Asher, and I'm with Kitson Partners and KE Talis Park Properties, LLC, the property owner.

There is -- other than the streets that have existing homes on it, there is one lot that's been sold on a street that has been developed, but no vertical construction has taken place.

But in that particular case we are working with that owner and will either reacquire that lot or he will join in on the redevelopment of that street.

COMMISSIONER SCHIFFER: So what are the streets that have residential on it? I mean, we have a drawing that has some, but they unfortunately put the boundary line through the word, so -- but when you come in the gate and you make a left, what's the name of that street?

MR. ASHER: Make a left? That new name is Fairgrove.

It's going to be easier to tell you the two streets that have construction on it.

COMMISSIONER SCHIFFER: Right, that's what I'm trying to figure. It looks like three streets have construction.

MR. ASHER: The first street, it was never completed. Those are building pads for a multi-family product, but the infrastructure was never completed, and we're redeveloping that. That first street on the left closest to Livingston. So that's not an issue.

This street here is -- the name of it is Prato Way. And you can see there's seven homes there.

This street is named Pistoia Way, and there's 14 out of the 18 homes built.

COMMISSIONER SCHIFFER: So if we limited this to those two streets, is that good or -- where's the single lot you were talking about?

MR. ASHER: The single lot is on this street here. And that street is developed, but we will redevelop that in conjunction with that individual owner.

MS. ASHTON-CICKO: Does it have a street name yet?

MR. ASHER: It is platted as Firenze. F-I-R-E-N-Z-E.

COMMISSIONER SCHIFFER: Could you spell the street, the one that's got the S curve up by 75?

MR. ASHER: How do I -- it's Pistoia. P-I-S-T-O-I-A. Pistoia.

COMMISSIONER SCHIFFER: So why don't we describe this as Prato and Pistoia and that would cover it, right?

MR. ASHER: Yeah, those are platted right-of-ways and that won't be changing, so --

ACTING CHAIRWOMAN AHERN: Heidi, does that work for you?

MS. ASHTON-CICKO: So you want to change the language to the applicable streets --

COMMISSIONER SCHIFFER: Correct.

MS. ASHTON-CICKO: -- is that what the proposal is?

ACTING CHAIRWOMAN AHERN: Correct.

MS. ASHTON-CICKO: And then you want to include the Firenze Street as well?

COMMISSIONER SCHIFFER: No. That's one lot.

ACTING CHAIRWOMAN AHERN: I don't think so.

COMMISSIONER BROUGHAM: I wouldn't.

COMMISSIONER SCHIFFER: Let him battle it out. I don't see the guy in here worried about it, so --

MS. ASHTON-CICKO: Either way is acceptable. If you don't care about the one lot, I'm fine with the language that they've proposed.

COMMISSIONER SCHIFFER: So Bruce, just go with the -- can you name those two streets? And then it's crystal clear for everybody.

MR. ANDERSON: Yes. We'll say: Or along, and we'll name those two streets. We'll add that at the same place at the end.

COMMISSIONER SCHIFFER: I think that's the only thing we're adding to this, correct?

ACTING CHAIRWOMAN AHERN: I believe so.

COMMISSIONER SCHIFFER: So if Bruce could hand write that real quick, couldn't we do the consent and get him out of here?

ACTING CHAIRWOMAN AHERN: Does anyone else have any questions?

COMMISSIONER EBERT: I have a general question.

Mr. Asher, I have a question for you.

MR. ASHER: Okay.

COMMISSIONER EBERT: Are you going to change the architectural -- architecture of Tuscany Reserve?

MR. ASHER: We will broaden the architecture. It will not be limited to just the heavy Tuscan styles. We will -- Tuscan styles will still be part of the architecture but we'll broaden it and open it up to a couple of other styles.

COMMISSIONER EBERT: Okay. So that has something to do with it. Because I remember a gentleman here last time who did not want the name of Tuscany Reserve changed. And I understand where he's coming from, because it is a very nice community and people in Naples know that name, so -- that was just a question that I had, are you going to change everything so it won't even be what --

MR. ASHER: No, it will -- I mean, obviously the infrastructure is there and it's heavily themed Tuscan. But some of the entry features, the guard gate, and there's some stone walls that we'll make some modifications to and eliminate some of the stonework, and it will all tie into the architecture of the new clubhouse.

COMMISSIONER EBERT: Which has not been built yet.

MR. ASHER: It has not been built yet, but we'll start the first phase here pretty quickly.

COMMISSIONER EBERT: All right, thank you.

ACTING CHAIRWOMAN AHERN: Anyone else?

(No response.)

ACTING CHAIRWOMAN AHERN: Wayne, did you have something else?

MR. ARNOLD: I don't think I have anything else. I think those were the changes. I don't know -- I know Kay has been out of the office and we've been coordinating more directly with County Attorney's Office, so I don't know if Kay or County Attorney's Office has any other comments. But I think I covered the highlights and the meatier issues that we were asked to come back and address.

ACTING CHAIRWOMAN AHERN: Kay, do you have anything to add?

MS. DESELEM: For the record, Kay Deselem.

Yes, I'm satisfied with the changes we've made to this point.

ACTING CHAIRWOMAN AHERN: Okay.

MS. ASHTON-CICKO: I just need a clarification on your 10 on 3.5(F) with the new language. My understanding is at the end of the sentence it will read: Or along blank, which is going to be the two streets, which have existing homes or are under active constructions on the date of the 2012 PUD amendment.

But when you're talking about the "or along", are you talking about that those streets will not have the variable lot line? Is that what you're talking about? Or are you only talking about those won't have the mix of single-family and multi-family?

MR. ARNOLD: I believe the clarification was to address that we're not going to mix product types along those two streets.

ACTING CHAIRWOMAN AHERN: Correct.

MR. ARNOLD: And we did bring a laptop and a printer, so presuming you all recommend approval we'll be able to come back for consent in a short while and we can show you the exact language that we've crafted.

ACTING CHAIRWOMAN AHERN: Heidi, are you okay with that --

MS. ASHTON-CICKO: Yes.

ACTING CHAIRWOMAN AHERN: -- the language?

Brad?

COMMISSIONER SCHIFFER: Yeah, I was going to say, it's such a small thing, can't we just -- I mean, we're talking about --

ACTING CHAIRWOMAN AHERN: Can you hand write it in and put it on the overhead?

COMMISSIONER SCHIFFER: -- not even 10 words.

MR. ARNOLD: We can try that too.

COMMISSIONER BROUGHAM: Do we have speakers, Melissa?

ACTING CHAIRWOMAN AHERN: Ray, do we have any registered speakers?

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

ACTING CHAIRWOMAN AHERN: Is there anyone here who would like to speak on this item?

(No response.)

COMMISSIONER SCHIFFER: I'll make a motion.

ACTING CHAIRWOMAN AHERN: Go ahead.

COMMISSIONER SCHIFFER: I move we forward PUDA-PL2011-343, Tuscany Reserve PUD, with the modification we made today and recommend approval.

COMMISSIONER EBERT: I'll second that, but I just have one quick question and that was with the street, if you do not need the 150-foot right-of-way, you could work that out with transportation?

MR. ARNOLD: I know Mr. Anderson has been discussing that with transportation. I don't know all the details of that, but we have been communicating with them.

COMMISSIONER EBERT: Okay, just as long as it's noted. Thank you.

MR. ARNOLD: Yeah, it's noted.

COMMISSIONER EBERT: And I'll second the motion.

ACTING CHAIRWOMAN AHERN: Okay, we have a motion by Mr. Schiffer and a second. Is there any discussion?

(No response.)

ACTING CHAIRWOMAN AHERN: Okay, all in favor?

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

ACTING CHAIRWOMAN AHERN: Aye.

COMMISSIONER VONAIR: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

ACTING CHAIRWOMAN AHERN: Any opposed?

(No response.)

ACTING CHAIRWOMAN AHERN: Motion passes 7-0.

COMMISSIONER SCHIFFER: Could we -- since everything's fresh, could we just dictate those words? So as long as Heidi knows what they are, we could move into consent. I'd be comfortable with that.

MR. ARNOLD: I think Heidi has the language.

MS. ASHTON-CICKO: I have it, I just need the names of the streets. So it would be: Or along and then --

MR. ARNOLD: Prato Way. And that's P-R-A-T-O.

MS. ASHTON-CICKO: And?

MR. ARNOLD: Pistoia. And I believe that's P-I-S-T-O-I-A. And it's Way as well.

MS. ASHTON-CICKO: So it will read at the end of -- after the red language it will say: Or along Prato Way and Pistoia Way, which have existing homes or are under active construction on the date of the 2012 PUD amendment.

ACTING CHAIRWOMAN AHERN: Is everybody comfortable with that?

COMMISSIONER SCHIFFER: You need a motion?

ACTING CHAIRWOMAN AHERN: I need a motion.

COMMISSIONER SCHIFFER: Okay. I move we forward consent item PUDA-PL2011-343 as being representative of our hearing.

COMMISSIONER KLEIN: Second.

ACTING CHAIRWOMAN AHERN: We have a motion and a second.

All in favor?

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

ACTING CHAIRWOMAN AHERN: Aye.

COMMISSIONER VONAIR: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

ACTING CHAIRWOMAN AHERN: Any opposed?

(No response.)

ACTING CHAIRWOMAN AHERN: Motion carries 7-0.

MR. ARNOLD: Thank you very much. That was very helpful to us.

COMMISSIONER BROUGHAM: Thanks again for the buffer, Mr. Asher.

ACTING CHAIRWOMAN AHERN: \*\*\*Okay, we are going to move back to Item A. Mike? Corby?

MR. SCHMIDT: Yes, good morning.

We return to you with some changes as directed at your last meeting on the proposed EAR-based comprehensive plan amendments.

We provided you in an e-mail as well as deliveries a short memo explaining where we stand and where we're going with this.

And in the Exhibit A, which is an update from your last meeting, those proposed changes. We also highlighted them to draw them out in the paperwork itself to simply illustrate some of those topics or issues that were outstanding last time. One of those had to do with the county's control or authority extent over private utilities. I know there were some issues yet to be answered for the housing element and some details yet to be worked out in the CCME.

So saying that, the Exhibit A is that proposed language.

We have individuals here to address those items for you as they come up. And as clarification as to where we'd like you to go with this today, consider all those items in front of you, but then continue all action until your next meeting on March 1st where you would again consider it these, take your action and have your consent agenda as well.

MS. ASHTON-CICKO: And Corby, at the March 1st meeting you'll have the entire package, which will have all the changes. Because this version before you just has some of the changes that were like a continued discussion. So you're not seeing in the total context of what you sought last time. But when you get to see it for the actual vote at the next meeting, you'll see whatever direction you give them today all in one final package, correct?

MR. SCHMIDT: That's correct. You've got -- we'll call it Exhibit B for now -- one more exhibit, which are

those detailed last consent items that were not issues or items for today.

ACTING CHAIRWOMAN AHERN: Okay. So the Planning Commission understands, what we're looking to do is accept the policies that we've received and then we're going to continue to the next meeting.

So do you guys want to go page-by-page and ask any questions of what we have received so far?

COMMISSIONER SCHIFFER: I don't have any questions.

ACTING CHAIRWOMAN AHERN: You don't have any questions.

Does anybody have any questions?

COMMISSIONER BROUGHAM: I personally would feel more comfortable in seeing an entire document, inclusive of all proposed changes, that we could deal on at one time. I mean, to be incremental here, there's no assurance that whatever we see today is going to be in the final version in two weeks. So, I mean, that's my point of view.

MR. BOSE: And just a reminder, you've seen all those changes. These were the policies that you said bring back, there's some certain issues. These issues we've addressed within the footnotes at the end of each individual policies. At the 31st or the 1st meeting in March, every policy in every objective that is being recommended for modification will be presented in its whole, and we're going to ask to take a final action upon that.

And we'll also ask at that time -- because the 28th day of March is before the Board of County Commissioners for transmittal hearing -- that we're going to ask also, as well as the recommendation, but recommendation on consent as well.

But we will, Commissioner Brougham, provide it in that documentation the way that you've requested it.

ACTING CHAIRWOMAN AHERN: Okay. So before we accept those policies, do we have any registered speakers?

MR. SCHMIDT: One item before we go to speakers, Madam Chairman?

The item on Page 2 toward the bottom, I believe that's transportation element policy 5.1.

After the lettered items, there's a closing paragraph.

In the first sentence where it reads mitigating stipulations shall be based upon a mitigation plan prepared by the applicant and submitted as part of the traffic impact statement that addresses the project's significant impacts on all deficient roadways.

It's unnecessary to have the term deficient modifying roadways. And that's the only change we have to this document at this time, to delete the word deficient from that sentence.

MS. ASHTON-CICKO: Yeah, that change needs to be made because of some changes in the House Bill 7207 that passed in 2011. So we need to change it to just roadways. We can't force them to contribute towards deficient roadways.

ACTING CHAIRWOMAN AHERN: I understand.

Anyone have any questions on that?

(No response.)

ACTING CHAIRWOMAN AHERN: Okay, go ahead.

MR. SCHMIDT: And then one more item.

The CCME element does have some presentation items for you this morning. So before speakers, I'd ask that you hear that.

ACTING CHAIRWOMAN AHERN: Okay.

COMMISSIONER EBERT: Which -- where are we here?

MS. MOSCA: For the record, Michele Mosca, Comprehensive Planning,

Page 11 of your document.

COMMISSIONER EBERT: Thank you.

ACTING CHAIRWOMAN AHERN: And again, Michele, all of the items you're giving us will be on the final that we receive from March 1st.

MS. MOSCA: That's correct.

What I wanted to mention about Policy 10.1.6, the new renumbered policy: Staff -- environmental staff as well as comprehensive planning staff has had numerous conversations about this policy at the last meeting of the CCPC for the transmittal. The CCPC wanted us to come back with some new language.

Basically what this policy does is it represents how county staff is administering the policy right now. And

that is we're deferring to the state. We don't have a wetlands program.

So as we discuss this further leading up to this particular hearing, we're proposing instead of retaining these two policies that we delete them, because they are duplicative. And we'll leave that at the discretion of the planning body here.

I do know that The Conservancy is here to speak on these two policies, so you may want to hear from them before the recommendation is made. Thank you.

ACTING CHAIRWOMAN AHERN: Anyone have any questions for Michele?

(No response.)

ACTING CHAIRWOMAN AHERN: Public speakers? Who do we have registered?

MR. BELLOWS: Timothy Hall. To be followed by Jeremy Frantz.

MR. HALL: Good morning. For the record, my name's Tim Hall with Turrell, Hall and Associates.

I was here to comment on the same two policies that Michele was just mentioning. And if you take her advice and propose to eliminate both of them, then I guess my comments aren't required.

But with some of the new language that's added, the concerns that we had basically are that the definition that you guys are inserting for destruction of marine wetlands, meaning no net loss of function, the state permitting already requires that if you impact wetlands, you can't have any net loss of function. So this policy would never apply in that case.

The more pressing issue, though, that I had had to do with the addition of the statement of the marina, for general public use of the marina. And the reason that's a concern is because if you go back to your definitions of marina in the Land Development Code, some private residential projects can be classified as marinas. Those docks are -- what's the term there -- associated with their accessory to the residential uses, and they're not allowed to sell or rent or lease those slips outside of the development. So if this policy's in there that they have to then provide for public use of their facilities and under the Land Development Code they're not allowed to, you get into a Catch 22 of which one takes precedence.

When these policies first came into place, we spoke on them as well. And my opinion was that it should be limited to commercial marina facilities, not to those -- you know, those other ones.

And then if you get into the policy of 1.10.1.7 now where you talk about marinas or any other water-dependent or water-related uses, again, that could apply to any dock project, not just those marina facilities. And to ask a single-family owner or somebody trying to do a small dock to do a feasibility analysis seems overkill.

ACTING CHAIRWOMAN AHERN: I agree.

MS. ASHTON-CICKO: Madam Chair, the County Attorney's Office is supportive of staff's recommendation to take those two sections out. If we're going to require marina to be partially public, then it needs to be done through an incentivized program rather than as a mandate. So we would be supportive with the elimination of that.

MR. HALL: And I would support the elimination of those as well.

COMMISSIONER SCHIFFER: I have a question.

Tim, what does net loss mean? How is -- gross loss I could probably figure out, but net?

MR. HALL: Well, net loss of acreage is if you have less acres than you started with, you've lost some. Net loss of function is calculated through a mathematical program, if you will. They look at different components and they do a functional analysis.

The two most common are WRAP, which is the Wetland Rapid Assessment Procedure. And then that was recently replaced by the state with an analysis called UMAM, which is a Uniform Mitigation Assessment Methodology.

And what they do is they look at different criteria. UMAM looks at the location of the facility, the hydrology of the facility and the other functions provided there.

A lot of it is generated towards the use of those areas by wildlife and how that is. And they assign a numerical value of one to 10 for each one of those functions, how well it's met based on different parameters. And you're assigned a score. So say if your UMAM score is a .5, then that generally means that that wetland is providing 50 percent of the value that a perfect wetland would be providing.

So if you have -- if you're impacting an acre of that .5, then you've lost .5 functional value for your project. So you have to do mitigation either through purchase at a mitigation bank or through enhancement on your property to make up that functional value.

And that can be done through increases or improvements to hydrology, it can be done through removal of exotic vegetation and replanting of native vegetation, or it can be done through taking areas that are currently uplands and recreating wetlands out of them.

Does that -- it got kind of long winded there, but it's not an easy answer.

COMMISSIONER SCHIFFER: Better than I expected. Thank you.

ACTING CHAIRWOMAN AHERN: I have one more question for you.

On Policy 10.1.7, how are (sic) you processing this before in terms of the feasibility?

MR. HALL: I mean, in most cases the feasibility analysis to determine whether a project's feasible or not, an applicant's not going to build the project if it's not -- you know, if it's not economically feasible for them. So it's kind of been -- me personally, I haven't specifically had to address that problem on any of the projects that we've worked on.

ACTING CHAIRWOMAN AHERN: Okay. So it hasn't been a requirement up till now?

MR. HALL: I think it has been a requirement. I don't know that it's actually been -- it hasn't been required on projects I've worked on. I don't know about other projects.

ACTING CHAIRWOMAN AHERN: Thank you.

Does anyone have any questions for Tim?

(No response.)

ACTING CHAIRWOMAN AHERN: Okay, thank you.

MR. HALL: Thank you.

MR. BELLOWS: Final speaker, Jeremy Frantz.

MR. FRANTZ: Hi. For the record, Jeremy Frantz, representing The Conservancy of Southwest Florida.

We recognize that the policy as it is currently in the GMP is difficult for county staff to implement. However, it's really part of a broader discussion that The Conservancy has for several years been encouraging the county to have, especially since growth management oversight has been severely reduced at the state level.

The issue centers around the fact that there are many circumstances where Collier County defers authority to agencies and simply adopts the agency's determination as satisfactory for addressing county concerns and consistency issues.

For some time now we've been reminding the county of the importance of having a meaningful local role in the protection of listed species and wetlands, along with other natural resource issues.

When the county defers authority to other agencies, we lose our ability to meaningfully shape and implement local policies for community benefit. This local control and authority is especially important because many of these very agencies have, especially in recent years, seen their core roles shrinking due to budget and staffing cuts and legislative reprioritizations.

We believe that abdicating opportunities for county review is not in the county's best interest, especially since the responsibilities and scope of review for those state agencies, to which we would defer, have also been continually contracting.

We're concerned that continually deferring these opportunities for the county to ensure development occurs appropriately will result in consequences that will be difficult to reverse.

The Conservancy understands that we're not going to solve these issues today or with this amendment cycle, but please consider that this policy could play an important role in enforcing and implementing Goal 10 of the GMP.

Instead of simply deferring to the agencies regarding the appropriateness of development in our marinas, the county should take this opportunity to revise and reinforce the policies so that the county will have guidelines that are specific to the county.

Once the damage has been done by removing these policies from the GMP entirely, they will be much harder to reintroduce later. With this in mind, The Conservancy suggests that you recommend staff either continue to revise this policy either in this cycle or another so that they can have enough time to create an effective policy. Thanks.

ACTING CHAIRWOMAN AHERN: Any questions?

(No response.)

ACTING CHAIRWOMAN AHERN: Thank you.

Does anyone else want to speak on this item?

(No response.)

ACTING CHAIRWOMAN AHERN: Okay. At this point does anybody have any comments on removing the two items?

COMMISSIONER EBERT: Well, I'd like to see the changes in writing, really. But we are going to get all of that next time, right?

MR. BOSE: All the changes would be -- both of those policies would be stricken through for deletion.

ACTING CHAIRWOMAN AHERN: And again, we're not going to vote on that until March 1st at this point, so --

COMMISSIONER BROUGHAM: I -- just a comment. I mean, in hearing what Mr. Frantz just said, not having any other prior information on this, I tend to agree with where they're coming from. If we continue to eliminate our oversight in certain areas here and defer to some existing-today-might-not-be-there-tomorrow state agency, I think that we're putting the welfare of the county in many respects in others hands, and I don't feel comfortable with that.

I don't know how -- I have no specific recommendations as to how to change this policy or not, but it makes me uncomfortable to shed our responsibility and our responsibility to oversee these types of things.

COMMISSIONER EBERT: I agree.

COMMISSIONER BROUGHAM: Just my opinion.

ACTING CHAIRWOMAN AHERN: Well, I think one of the bigger issues, at least with 10.1.6, is the requirement to provide general public use of facilities.

COMMISSIONER BROUGHAM: I would agree with that point, okay, based upon private landowners adjacent to water putting in a boat dock or more shouldn't be required to provide for public use. But I think having said that, there's room in the English language to put proper words in there that would preclude that, if that's the sentiment of the commission and so forth. But just to strike the policies I think is very abrupt.

ACTING CHAIRWOMAN AHERN: Mike, did you want to ask --

MR. BOSE: I'd like to remind the Planning Commission, within this particular element on the CCME, the last goal specifically states that the county seeks not to duplicate efforts within the State or Federal permitting agencies and defers to State and Federal permitting agencies within that goal.

As Mr. Hall has described, these activities that are trying to be attained within these two policies are being implemented at the state level; therefore, this is somewhat of a duplication of efforts. And for consistency with the final goal of the CCME, we're not asking the Planning Commission to abdicate any responsibility for review but to recognize that the review is being taken place at the state level.

COMMISSIONER BROUGHAM: Okay, I hear what you said. But if we remove the policy that will require a review, how can we be assured that there is going to be a review? Never mind, I hear what you said.

ACTING CHAIRWOMAN AHERN: Currently for any projects, do you have to -- in the county's permit process, you have to provide copies of all of the federal and state permits. Is that still valid, Mike; do you know?

MR. BOSE: Steve Lenberger just acknowledged that yes, that is the case.

COMMISSIONER EBERT: I have a question.

ACTING CHAIRWOMAN AHERN: Sure.

COMMISSIONER EBERT: I have to agree with Phil, if we give this up because South Florida Water Management doesn't always follow through with theirs, Army Corps of Engineers, there are some agencies. And for this county just to say well, the state approves it, we don't have to, I believe what Phil is saying is correct, we should still look at this ourselves and protect the people of this county.

MR. BOSE: Well, and I guess you'd have to look at the policies and see what aspect it is that you're uncomfortable with deferring to the state agencies. Wetland permitting? So is it the position of the Planning Commission to advocate that we should be wetland permitting at the local level? Because that's what the policy is requesting.

COMMISSIONER EBERT: Okay. I'll stop in and speak with you.

ACTING CHAIRWOMAN AHERN: And I think also, if you're going to start changing these, then you're going to have to revise the goal as well, correct? Or remove.

MR. BOSE: There could be conflicts with that goal.

COMMISSIONER SCHIFFER: And I agree, Mike, I don't like dual reviews.

But one question is, when you read the original wording on these things and when Dave was up here, isn't the



intent of this clause solely to mean that if you're going to destroy these wetlands, you have to do it for the public good only.

I mean, it's not -- I mean, we're kind of turning this into a regulatory document, but the old wording and use of words like destroying say that, you know, you can destroy it but it has to be for the public good. It's not something that private developers can go in and destroy stuff. So essentially it's just setting a limit as to if you are going to destroy these wetlands it has to be in the benefit of the PUD. Isn't that what the original wording said? And now we're kind of blending it into a new regulatory step.

MR. LENBERGER: Steven Lenberger, Land Development Services Department.

We discussed this at the last hearing, talked about problems in implementing this language.

Basically the state handles the permitting for this. They go through public interest tests, and they require mitigation to offset the losses, as Tim was talking about. So there isn't actually destruction of wetlands. They can't do that without offsetting the impacts in mitigation.

So staff's looked at the point that they're not destroying the wetlands, they've been mitigated for.

And the impacts you see to wetlands are basically to install docks, basically a walkway to get to the dock through the mangroves or boardwalk through the mangroves, for example, to enjoy them, certainly not destroying the resource, but utilizing it.

ACTING CHAIRWOMAN AHERN: Did that answer your question?

COMMISSIONER BROUGHAM: I agree with the comments with respect to financial feasibility and so forth. I think that's going a little bit too far.

But what's the harm in leaving these policies intact? And even if a developer is required to get a state permit, what's the harm in us validating that that permit has been attained and so forth and so on and so on and having discussion on it? I don't see the point or the benefit of deleting these policies, myself.

MR. LENBERGER: Well, then you could leave in the Policy 10.1.6, just leave the first sentence, marinas and all other water dependent and water uses shall conform to all applicable regulations regarding development in marine wetlands. You could leave that statement in.

COMMISSIONER BROUGHAM: That would help me, at least for validation. And we do have the opportunity, you know, to have a discussion of substance with a proponent here.

MR. LENBERGER: Staff would be comfortable with that if you wanted to leave that first sentence in 10.1.6 and delete Policy 10.1.7.

COMMISSIONER BROUGHAM: I'm good with that.

MS. ASHTON-CICKO: Do you want to keep the definition of marine wetlands in then?

MR. LENBERGER: We would take them out, because we don't want to cause any conflicts with the state permitting program.

MS. ASHTON-CICKO: Okay.

ACTING CHAIRWOMAN AHERN: Okay, does anyone else have any questions?

COMMISSIONER BROUGHAM: Are we agreed as a commission with that change, or --

ACTING CHAIRWOMAN AHERN: Well, I think --

COMMISSIONER BROUGHAM: Are you going to bring it back?

ACTING CHAIRWOMAN AHERN: Right, they're going to bring it back at this point.

MR. BOSE: From what staff was hearing, the acceptance of CCPC related to these policies would be only on 10.1.6, that first sentence would remain, all other sentences would be stricken through? And then the entire policy of 10.1.7 which deals with the financial feasibility would be stricken through. I think that was the agreement that we had heard from the Planning Commission regarding these policies.

ACTING CHAIRWOMAN AHERN: Does anyone have any other questions?

COMMISSIONER SCHIFFER: But the financial feasibility, I could see that being important for a big marina. But for a private guy with his dock, isn't he just going to have to prove that he can pay for it? I mean, what's the financial feasibility of a guy in his backyard, he's going to pay Rocky to put it in.

So the point is that that's not a difficult thing for the guy. I think the reason it's in there is for the marina guy. In other words, we don't want you to go in and mess up the wetlands and then as it turns out the marina isn't a viable business.

MR. LENBERGER: Couple things. Again, Steven Lenberger. Sorry I'm not clear enough today.

As far as if mitigation for wetland impacts, the state requires -- I believe Tim can correct me if I'm wrong -- that it be bonded up front. So that would definitely take place. So any impacts to marine wetland and the mitigation required would be taken care of financially.

COMMISSIONER SCHIFFER: Which is a good thing, right?

MR. LENBERGER: And the state already does that through their permitting program.

COMMISSIONER BROUGHAM: And then, Brad, whether or not he ran out of money and couldn't actually build the dock, as long as he's bonded and would mitigate the wetlands destroyed, that's his problem.

MR. LENBERGER: Also too, even if someone could give us a statement that they have the financial backing to do the project, that still would be subjective to economic times which could fluctuate, obviously, and vary. So there's no really assurance there.

COMMISSIONER SCHIFFER: But do you agree it's not really a hardship on the private guy with his little dock in the backyard? I mean, the fiscal -- well, Rocky was concerned that it brings fiscal proof down to the individual homeowner in his backyard, and I don't think it does that, do you? Or it's a very easy thing to prove, I'm going to pay the bill.

MR. LENBERGER: I guess we're saying is do you really need to. I mean, the individual homeowner will either build a dock, if they have the money. If they don't, they're going to hold off until they do.

COMMISSIONER SCHIFFER: Exactly. So it's not a problem there.

ACTING CHAIRWOMAN AHERN: You're comfortable deleting it?

COMMISSIONER SCHIFFER: Actually I think what I'd rather you do is draw a box around it and let's look at it, you know, because we're not looking at -- we're just looking at one policy. It would be good to see, you know, everything else around it. So we can discuss it --

MR. BOSE: I'm not quite sure I understand what that would mean.

COMMISSIONER SCHIFFER: It means on the 1st we'll discuss it again. And, you know, give us a chance to research the whole thing.

COMMISSIONER BROUGHAM: Just highlight that 10.1.7 for more specific discussion at the next meeting.

MR. BOSE: Okay.

ACTING CHAIRWOMAN AHERN: Mike, I think even on 10.1.6, I think that's probably going to be discussed again, because I don't think everyone's in agreement with that either. So --

MR. BOSE: So what I'm hearing, we no longer have an agreement on 10.1.6 that the first sentence should remain and the rest of the policy should be deleted?

ACTING CHAIRWOMAN AHERN: Well, I think that whole thing should be deleted.

COMMISSIONER SCHIFFER: Well, maybe, but we don't have the objective for 10 anyway. Is it in here? I mean, so in other words, we -- because we have little pieces of stuff, I'd rather look at the objective and then see if these things make sense in the GMP to meet that objective. And saying somebody else is doing it, it may not be the best way to meet an objective, so --

COMMISSIONER BROUGHAM: If you could just --

ACTING CHAIRWOMAN AHERN: Does that make sense, leave them in as-is and then with the recommendation on the 1st to delete it --

MR. BOSE: So what I hear is there's no recommendation that's being provided today, we'd like to have further discussion on it on March 1st --

ACTING CHAIRWOMAN AHERN: Correct, right.

MR. BOSE: -- based upon the same context, of the entire --

ACTING CHAIRWOMAN AHERN: The entire.

MR. BOSE: And remember, you're going to receive the entire GMP. You're going to see the policies that are being proposed for modifications. But we will have the objectives that are -- the goals that are designed -- that are being related to the policies, so you'll be able to have a better context of what is trying --

COMMISSIONER BROUGHAM: And just put a big arrow there somewhere so we don't lose sight of the fact that we do want to -- further discussion.

MR. BOSE: Just to give you staff's perspective is we view this financial feasibility as an unenforceable regulation, and we felt that it was better to remove policies that were unenforceable than to leave them remain. I think

we'll try to more clearly articulate why we believe that staff has arrived at that position on the 1st, and then whatever the decision of the Planning Commission is we'll take forward.

ACTING CHAIRWOMAN AHERN: Well, and I think now knowing as well about the part where they have to bond it with the state makes a difference as well, so -- okay, any other questions?

(No response.)

ACTING CHAIRWOMAN AHERN: Do I have a motion to accept the policies contained within Exhibit A?

COMMISSIONER SCHIFFER: So moved.

ACTING CHAIRWOMAN AHERN: Do I have a second?

COMMISSIONER HOMIAK: Second.

ACTING CHAIRWOMAN AHERN: All in favor?

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

ACTING CHAIRWOMAN AHERN: Aye.

COMMISSIONER VONAIR: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

ACTING CHAIRWOMAN AHERN: Any opposed?

(No response.)

MR. BOSE: And I just ask the Planning Commission to make a motion to continue the item to the 1st so we can make the final recommendation.

COMMISSIONER EBERT: I make a motion that we continue it to the 1st of March.

COMMISSIONER KLEIN: Second.

ACTING CHAIRWOMAN AHERN: All in favor?

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

ACTING CHAIRWOMAN AHERN: Aye.

COMMISSIONER VONAIR: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

ACTING CHAIRWOMAN AHERN: Thank you, Mike.

Okay, we've already taken care of consent for Tuscany Reserve, so we've completed our advertised hearings.

\*\*\*Anyone have any old business?

(No response.)

ACTING CHAIRWOMAN AHERN: \*\*\*New business?

(No response.)

ACTING CHAIRWOMAN AHERN: \*\*\*Any public comments?

(No response.)

ACTING CHAIRWOMAN AHERN: Motion to adjourn?

COMMISSIONER EBERT: I make a motion to adjourn.

COMMISSIONER VONAIR: Second.

ACTING CHAIRWOMAN AHERN: All in favor?

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

ACTING CHAIRWOMAN AHERN: Aye.

COMMISSIONER VONAIR: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER BROUGHAM: You did it, Melissa.

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There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 10:13 a.m.

COLLIER COUNTY PLANNING COMMISSION

  
MELISSA AHERN, Vice Chairman

These minutes approved by the board on 3/15/2012 as presented  or as corrected .

Transcript prepared on behalf of Gregory Reporting Service, Inc.,  
by Cherie' R. Nottingham.