

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
April 13, 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
Melissa Ahern
Diane Ebert
Karen Homiak
Barry Klein
Brad Schiffer
Bill Vonier
Absent: Paul Midney
Philip Brougham

ALSO PRESENT:

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

April 13, 2012 "CCPC/LDC Amendments Special Meeting"

CHAIRMAN STRAIN: Okay, good morning, everyone. I mean, there's what, a couple people in the audience, but good morning to you that are here for this enlightening meeting today. This is one of our more dryer meetings, unfortunately. Not that Caroline, who's new to the county, doesn't do good work, it's just that the LDC happens to be a very tedious process to walk through.

And that's what today's meeting will be about is LDC amendments. We have a whole slew of them. But before we start, I want to welcome all of you to the Friday, April 13th meeting of the Collier County Planning Commission. Friday the 13th. So I can expect we'll have a lot of issues today.

If you'd all please rise for pledge of allegiance.

(Pledge of Allegiance was recited in unison.)

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

COMMISSIONER HOMIAK: Mr. Eastman is absent.

Mr. Vonier?

COMMISSIONER VONIER: Here.

COMMISSIONER HOMIAK: Mr. Schiffer?

COMMISSIONER SCHIFFER: I'm here.

COMMISSIONER HOMIAK: Just barely, looks like.

CHAIRMAN STRAIN: She can give the compliments, can't she?

COMMISSIONER SCHIFFER: She's actually right.

COMMISSIONER HOMIAK: Mr. Midney is not here, or not here yet.

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: And Mr. Brougham is absent today.

CHAIRMAN STRAIN: ***Okay, addenda to the agenda.

Caroline, I saw that you -- I did it without a printer around, but I saw you sent out another agenda late. Is it any different than the one you sent out a few days ago --

MS. CILEK: Yes.

CHAIRMAN STRAIN: I'm not sure which agenda we're using today, so do you have a new agenda that you sent out last night by email?

MS. CILEK: Not by email last night. There are just two updates to the agenda.

CHAIRMAN STRAIN: Can you tell me what those are?

MS. CILEK: And those updates are that we will be discussing essential services, which is 2.01.03, essential services, aviation. It's for discussion today, but we need to vote on it on Wednesday, April 25th, the evening session.

CHAIRMAN STRAIN: Okay. Well, why are we discussing it if we're going to vote on it? Why don't we just hold the whole thing --

MS. CILEK: We can.

CHAIRMAN STRAIN: -- off for that date?

MS. CILEK: It's up to you if you want to talk about it or if we just want to talk about it on Wednesday.

CHAIRMAN STRAIN: I don't know who -- if we talk about it today but we have other board members who aren't here today, there --

MS. CILEK: Then it might be off.

CHAIRMAN STRAIN: -- we're going to have to do it all over again. So let's --

MS. CILEK: That's fine.

CHAIRMAN STRAIN: -- just wait and do it at once. So strike that one till Wednesday.

MS. CILEK: Okay.

COMMISSIONER SCHIFFER: What number is that?

MS. CILEK: That is number 13.

COMMISSIONER EBERT: That's number 13.

CHAIRMAN STRAIN: 14. What agenda are you using? My agenda says 14.

COMMISSIONER EBERT: 2.01.03.

COMMISSIONER SCHIFFER: Mine says --

COMMISSIONER VONIER: Mine says 13.

COMMISSIONER EBERT: 13.

CHAIRMAN STRAIN: Oh, okay. Well, that's the other agenda.

COMMISSIONER HOMIAK: You have the wrong day.

CHAIRMAN STRAIN: I've got a series of agendas.

MS. CILEK: Yes, I'm sure. There have been several. If you need a new agenda, I can pass them out. Do you want to make sure we're all on the same one?

CHAIRMAN STRAIN: It should say the last date is 012/4/13.

MS. CILEK: Yep.

CHAIRMAN STRAIN: Okay, I've got that one.

MS. CILEK: 4-13.

CHAIRMAN STRAIN: That's the one we're working off of, that's fine.

THE COURT REPORTER: May I have your name, please?

MS. CILEK: My name is Caroline Cilek.

THE COURT REPORTER: Would you spell your last name, please?

MS. CILEK: C-I-L-E-K.

CHAIRMAN STRAIN: She's an outside consultant just here for a day. I'm just kidding.

MS. CILEK: And I'm with the county.

CHAIRMAN STRAIN: We'll really confuse Cherie'.

Ray Bellows said -- okay, is that the only change on this new --

MS. CILEK: And the second change is on the second page. And that is number 28, 10.02.03.B.3, submittal requirements for an insubstantial change SDPI and SIP. And that one is just -- needs to be redrafted. We have a lot of wordsmithing to do. So it will have the same substance, but we would like to provide you a new draft so we don't have to go through all those type of changes --

CHAIRMAN STRAIN: Okay, so number 28 will not be discussed today.

MS. CILEK: 10.02.03.B.3, right.

CHAIRMAN STRAIN: That will be for a rewrite. And the 13th will be for Wednesday night. Number 13. Okay, those are the only two changes?

MS. CILEK: Yes, sir.

COMMISSIONER SCHIFFER: Mark, I have an agenda question.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: Some of the -- in the tabs there's some things in here that are not on either day's agenda. What does that mean?

MS. CILEK: That is correct. And those will be heard at a regularly scheduled meeting May 3rd and May 17th. I believe that's the next date. So if they're not on this agenda and they're not on the one for Wednesday, that's okay, they're just going to be seen at the next CCPC meeting.

CHAIRMAN STRAIN: Now we're going to have cleanup of today's meeting. Anything we don't catch in the next two meetings, which is Wednesday night and today, we'll just clean up at our regular meetings as we move forward so we don't have to have another special day to show up for it.

MS. CILEK: Right.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: Heidi, you look like -- you look troubled.

MS. ASHTON-CICKO: Well, I think then when we have the 25th meeting we'll just continue, you know, instead of --

CHAIRMAN STRAIN: Correct.

MS. ASHTON-CICKO: -- we'll continue that meeting to those two dates.

CHAIRMAN STRAIN: Correct. And we'll keep continuing them until we use up all the time needed to finish the complete process.

MS. CILEK: Sounds good.

MS. ASHTON-CICKO: And I think item number 28, that's going to go on the 25th, correct, and you'll -- or is that just going to go --

MS. CILEK: I can have it ready by the 25th, or we can do it May 3rd. It's really --

CHAIRMAN STRAIN: Well, certain things have to go on the 25th --

MS. CILEK: Yes.

CHAIRMAN STRAIN: -- if I'm not mistaken.

Is that one, Heidi, that you're --

MS. ASHTON-CICKO: No, that's --

CHAIRMAN STRAIN: -- indicating?

MS. ASHTON-CICKO: -- that has to have the night meeting.

MS. CILEK: Right.

CHAIRMAN STRAIN: Okay. So I would suggest you limit the night meeting to only those things that are needed, because that's going to drag into hours, especially with the Bayshore, it's a lengthy one.

MS. CILEK: It is, I agree.

CHAIRMAN STRAIN: Okay. And I guess we want to move through in the order that you have them on this sheet that you passed out, which is not necessarily the order that they are in the back you gave.

MS. CILEK: That is correct. I'm sorry for that.

CHAIRMAN STRAIN: That's okay.

MS. CILEK: The book is just by chronological order.

CHAIRMAN STRAIN: Okay, so the first item up would be 1.08.02, definitions, kenneling. Is there any pre -- anything you want to discuss before we went right into it or do you want to just jump right into it?

MS. CILEK: Yes, we met with County Attorney's Office. We just have one word flip and that is on line three, Page 2.

CHAIRMAN STRAIN: I'm waiting for -- I saw Diane move down. The three of us must have something wrong, everybody's separated just by a chair.

COMMISSIONER SCHIFFER: You want us to tighten up or --

CHAIRMAN STRAIN: It doesn't matter, we're fine.

Okay, let's go.

MS. CILEK: On line three, instead of the new added language required to be licensed, we're going to remove that and keep the language that says, and establish a license to operate. Which is currently struck through. So we're just going to keep what was -- is there currently and remove what we had proposed for the new language.

CHAIRMAN STRAIN: Except for the last two lines of the cross-out. You're still going to retain the cross-out for the balance of the article, right?

MS. CILEK: Yes. It's just one sentence, and then the rest is struck through.

CHAIRMAN STRAIN: We're on 1.08.02, kenneling. It's the second tab in your book.

COMMISSIONER EBERT: Yep.

CHAIRMAN STRAIN: Okay, anybody have any issues with the change in definition?

COMMISSIONER SCHIFFER: I did. First of all, I'm glad you changed that, because all's you were saying is that it's required to be licensed, it doesn't have to have one, which is not good.

The question is, isn't this where code enforcement determines that when people have four dogs that they can't have four dogs in a residential area, because that essentially classifies them as a kennel?

MS. CILEK: What we're trying to do here is use this definition to describe those kennels that are permitted in the zoning. So we're just defining the operation itself and not the number of dogs with animals in it.

COMMISSIONER SCHIFFER: Okay, but where in the code then does it allow people to have no more than three dogs in a home?

MS. CILEK: I think the intent is to remove that from the LDC, which is regulating land development, and put that in with the animal -- the Domestic Animal Services Department.

COMMISSIONER SCHIFFER: Is it in there now?

MS. CILEK: Pardon?

COMMISSIONER SCHIFFER: Is that in there now?

MS. CILEK: They are currently going through a rewrite of their ordinance. Probably coming forward this year. And so we've been working with them to make sure that they take that into consideration as they work through their new ordinance.

COMMISSIONER SCHIFFER: So there won't be a hiatus where somebody could have 10 dogs in their house and there's no regulation to control that?

MS. CILEK: Well, that would be per someone owning 10 dogs. And this is just trying to regulate the actual business in where it can be zoned, just describing that.

COMMISSIONER SCHIFFER: But my point is this was the part of the code that people would use when they had too many dogs. They would go into there and they would say wait a minute, you can't have four dogs, that considers you to be a kennel and you're not allowed to be a kennel in a residential neighborhood.

MS. CILEK: It's not doing that.

COMMISSIONER SCHIFFER: It's not?

MS. CILEK: No, it's not going to regulate those individuals that have 10 dogs.

COMMISSIONER SCHIFFER: Anymore.

MS. CILEK: Correct, anymore.

And this was brought in an executive summary to the BCC last year, and it says August on here, but it's actually September 27th. And the intent was to strike through the number of animals in coordination with the kennel definition. So we're just kind of continuing that process forward and making it an LDC amendment.

CHAIRMAN STRAIN: But I think Brad's concern is that if you take this out of here before it's implemented in another document you'd have a period of time in which someone could theoretically have 100 dogs on a property and not be in violation, and then when the code does come into play they may be grandfathered in because they did it before the code went in. So I think his concern is valid and I think he's trying to find out how you're addressing that concern. I haven't heard the answer yet.

MS. CILEK: Right. There is no interim answer.

CHAIRMAN STRAIN: Then why would we want to change this until there is?

MS. CILEK: Well, this was the direction of the board to take this as far as an LDC amendment. However, if we need to put it on hold until the ordinance of the domestic services go in, we can do that.

CHAIRMAN STRAIN: When the board made that decision, did someone tell them that this would leave a loophole in the law for a period of time until a new agency's documentation was implemented to fill the gap?

MS. CILEK: I don't know. We'd have to look at the --

CHAIRMAN STRAIN: Okay, knowing as careful as they are in scrutinizing things lately, I doubt if they'd have wanted to set themselves up for that kind of error.

MS. CILEK: Probably not. I would --

CHAIRMAN STRAIN: So I think Brad's point is well made.

COMMISSIONER SCHIFFER: And because the only thing they achieve is a cleaner definition of a commercial kennel. And they totally pull out when residential -- you know, because obviously they have where your dog can have puppies and all the other stuff in here, and it doesn't make sense in a residential kennel, but it does make sense as a control on how many dogs a residential property can have. So I don't think we gain anything. We don't get a better definition of the commercial kennel and we just eliminate the residential threshold and essentially put ourselves in the problem of there will be a hiatus where people can have too many dogs.

MS. CILEK: That might be the case.

MS. ASHTON-CICKO: Caroline, is there someone from code who could come to perhaps the May meeting and update them, if you'd like to continue it, to see if there is something in the works?

CHAIRMAN STRAIN: Well, I definitely think we're wanting it continued. Because I think to go forward without the right information in regards to how this doesn't overlap in the other agency that may be picking it up can be --

MS. CILEK: Right.

CHAIRMAN STRAIN: -- harmful to the public in the meantime.

So why don't we just leave this one and not do anything with it and have to continue it to May 3rd.

MS. CILEK: That's okay.

Ray, do you have anything to add?

COMMISSIONER SCHIFFER: Or till the point in time when --

MR. BELLOWS: No.

COMMISSIONER SCHIFFER: -- they can state that this is covered in another ordinance.

CHAIRMAN STRAIN: And I think it would be helpful to bring the language in the other ordinance that does cover it so we know how well it's covered and the date of enactment of that ordinance and all that --

MS. CILEK: I think it's in progress. I think it's still a draft form, but we can -- Amanda Townsend who's with Domestic Animal Services, she's been in the loop, and she may be here today. I don't know if she's coming.

CHAIRMAN STRAIN: I think Barry's here. I don't know if he knows anything about dogs.

Barry, you're familiar with dogs? You may not want to get up here. Thank you.

MS. CILEK: So I will speak to code and see how they would work with this enforcement, and then also talk to Amanda and see where that draft ordinance is in reference to this.

CHAIRMAN STRAIN: Okay.

The next item is 1.08.02, definitions, omissions of rural subdivision.

Is that -- which one is that? It's the third tab back, is that fair to say?

MS. CILEK: You skip one and then --

CHAIRMAN STRAIN: Yeah, are we skipping that third tab?

MS. CILEK: Yes.

CHAIRMAN STRAIN: Okay. Let's go to the fourth tab, then.

We have four tabs labeled 1.08.02. It's the last one of those that we'll be discussing.

MS. CILEK: I do have one change.

CHAIRMAN STRAIN: Okay.

MS. CILEK: And that is on line 16 and 17. And the sentence is: This form of a rural subdivision shall not be exempt from the preliminary subdivision plat (PSP) process.

We're going to be striking that language because it is referring to a regulation, and it doesn't necessarily belong -- it does not belong in the definition section, and it is found in another location in the code. So we're not losing something.

CHAIRMAN STRAIN: Okay. That's a two-page change.

Anybody have any questions?

(No response.)

CHAIRMAN STRAIN: Caroline, in the top part of your introduction you start with origin, authors, department, then you go down to change. It says reinsert definition of rural subdivision.

It's not what you're doing. You're reasserting and modifying the definition of rural subdivision. So I would think it would be helpful just to make that clear so when someone's reading this they know it's not exactly picked up --

MS. CILEK: I can do that, definitely.

CHAIRMAN STRAIN: Okay, anybody else have anything?

(No response.)

CHAIRMAN STRAIN: If there's no problem with it, should it be best to -- I guess Heidi, do we have to make a motion on these as we go past each one or at the end of the day? What's best?

MS. ASHTON-CICKO: It's really your choice if you want to do it as you go. Whichever you think is easier for you.

CHAIRMAN STRAIN: That might be easier. Yeah, as long as you don't have a preference, we'll just do it as we go along.

MS. ASHTON-CICKO: Okay.

CHAIRMAN STRAIN: If there's no concern on this rural subdivision issue, could I have a motion to approve?

COMMISSIONER SCHIFFER: Move to approve.

COMMISSIONER VONIER: Second.

COMMISSIONER AHERN: Second.

CHAIRMAN STRAIN: Brad, seconded by Bill.

Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

Next one is 4.05.02. It's a little further in your book. And it's design standards for parking space requirements.

MS. CILEK: All right.

CHAIRMAN STRAIN: 4.05.02. Okay. That's quite a ways in the book. It's about halfway through.

4.05.02. The tab's on the -- it would be the second from the bottom tab.

MS. CILEK: Oh, they might be different.

CHAIRMAN STRAIN: That doesn't make it easy.

MS. CILEK: I use my tabs.

COMMISSIONER EBERT: Mine says about parks?

MS. CILEK: Yeah, parking, grass parking.

CHAIRMAN STRAIN: Design standards for -- it's under LDC section for parking space requirements.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: Okay.

MS. CILEK: There are a few changes to this one. And this is also why Mr. Barry Williams is here, so he can answer any questions related to Parks and Recs bringing this forward.

But the first change is on line 16/17. And we have a sentence that is a may. Applicants may consider all grass parking spaces impervious in the water management calculations.

And since that is sort of an option and not the minimum requirements of the code, we're going to strike that. So that won't be included.

COMMISSIONER AHERN: Just the may?

MS. CILEK: Just the may sentence, yeah -- no, the entire sentence.

COMMISSIONER AHERN: Oh, the entire sentence.

COMMISSIONER SCHIFFER: Say that again, where are you going to start it?

MS. CILEK: Line 16, applicants may consider all grass parking spaces impervious in the water management calculations.

MR. BELLOWS: And that's coming out.

MS. CILEK: And that is being removed.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: You say that's line 16? I've got it as line --

MS. CILEK: Line 16 and 17.

CHAIRMAN STRAIN: I've got it as line nine and 10.

COMMISSIONER HOMIAK: It's under A.

CHAIRMAN STRAIN: I've got it A. I'm looking at it, it's line -- now --

MR. BELLOWS: You must have an earlier --

COMMISSIONER VONIER: I've got it 16 and 17.

CHAIRMAN STRAIN: Okay.

COMMISSIONER EBERT: Do you have a different book, Mark?

CHAIRMAN STRAIN: I believe I do.

COMMISSIONER EBERT: I think so.

CHAIRMAN STRAIN: I have a special book that makes it more confusion as the chairman to organize the meeting.

MS. CILEK: Okay, well, let's see what --

CHAIRMAN STRAIN: It's Caroline's subtle way of putting me in my place, I guess.

MS. CILEK: We're going to go -- we're going to talk numbers, maybe not lines now.

B.2.D.

COMMISSIONER EBERT: What is it?

MS. CILEK: B. So the whole section is B. 2.D. So the last D, public parks and similar community uses, that line, we're going to insert one word. Public parks and similar public community uses. So we're inserting public.

COMMISSIONER SCHIFFER: Why is that?

CHAIRMAN STRAIN: Yeah.

MS. CILEK: Heidi can take that.

MS. ASHTON-CICKO: Actually, she's addressing the prior amendment, and these are both issues that I had raised. And the reason that I raised this is that you'll be in a situation where community uses would apply to both public and private. And the intent, when Barry went forward, was to just capture public community surfaces -- I mean, public community uses.

MS. CILEK: Right.

COMMISSIONER SCHIFFER: Is there a private community service?

MS. ASHTON-CICKO: Yeah, I mean, every PUD that has, you know, recreational facilities, it was --

COMMISSIONER SCHIFFER: I'm good.

MS. ASHTON-CICKO: -- a change, that language was added as a result of DSAC, which was --

COMMISSIONER SCHIFFER: I'm good, that's okay.

CHAIRMAN STRAIN: But why would we want to limit private any differently than we do the public? Because actually, a private area may even have less traffic than a public. It would be more beneficial for them. What difference would it make? If we feel it's good for a public community use like a park or something, why couldn't it be for a private community?

MR. BELLOWS: For the record, Ray Bellows.

One of the things that was somewhat of a concern is have more control of our maintenance in a public versus a private situation. It's easier to work with the county agency to fix what could be a problem with grass parking while there would be numerous private facilities that would be much more after code enforcement issue if those parking -- grass parking spaces degraded.

CHAIRMAN STRAIN: Yeah, with our budget crisis we have in this county, I'm not sure we're going to be the best maintainers of anything. I'm not -- I don't know why it would be fair to let the government have a benefit that the private sector couldn't benefit from as well.

MS. CILEK: That's a really good question. And in the header we describe that the county is currently going through a low impact design with manual and which will go into the LDC. And that's in this year, next year, that's something we're implementing with the watershed management plans. And so we fully intend to address looking at public use -- or private uses being able to use grass parking. Definitely is something that we want to look at. And we will be -- we just didn't want to do it in this amendment because we want to be able to do more research before we start saying that these various uses can have this much grass parking versus this much grass parking, or maybe it's --

MR. BELLOWS: Pavers and --

MS. CILEK: -- grass pavers. So we want to do our homework before we start looking into other types of development besides public parks.

CHAIRMAN STRAIN: So you didn't do your homework though then for the public parks section?

MS. CILEK: No, this is very specific. And we did work with Parks and Rec on how they are going to maintain -- what kind of use that they have at these public parks, and this was all appropriate. But before we go into the private realm, we really do want to do our low impact design manual.

CHAIRMAN STRAIN: When you do the manual, are you going to come through with LDC changes?

MS. CILEK: You bet.

CHAIRMAN STRAIN: Then if this is inappropriate for the private party at the time you do the manual, you could revert it back, right? Or revert it to whatever the manual says.

MS. CILEK: Perhaps, yeah.

CHAIRMAN STRAIN: I don't see the need for the government to have special privileges and things when I don't see the performance in the government any different than that in the private sector when they want to maintain a marketable product. I mean, any community doesn't take care of their product, they're going to have problems on top of code enforcement.

MS. CILEK: Well, it's really whether -- if Heidi's okay with keeping it as it is --

MS. ASHTON-CICKO: Well, I would change it to private recreational facilities, or recreational facilities and private developments. Because if you use community use, what is that? And then, you know, pretty much any PUD or any development that's got a clubhouse, and I'm not really sure if they already have the ability to reduce the parking already through our, what's it called, reduced parking --

MR. BELLOWS: There's administrative parking reduction.

MS. ASHTON-CICKO: Yeah. So --

CHAIRMAN STRAIN: What percentage is that, Ray, do you know?

MR. BELLOWS: On administrative parking reduction? Well, it's on a case-by-case basis. They have to submit a study that demonstrates the parking demand for that particular use and the historic parking requirements. So it's a real detailed study, but it's done on a case-by-case basis.

CHAIRMAN STRAIN: Does the county have the same right to do that study in --

MR. BELLOWS: Yes, they do.

CHAIRMAN STRAIN: Okay. So again, I mean, we're back to providing something special to the government for reasons that to me are no different than the ones we have already imposed on the private sector. Because we have code enforcement. And if it's an enforcement issue --

MS. CILEK: Then they can handle it.

CHAIRMAN STRAIN: -- they shouldn't be penalized for it. I don't -- I think we ought to make sure they're left equal. But that's just my opinion. What's this board --

COMMISSIONER AHERN: I would agree.

CHAIRMAN STRAIN: Melissa.

Anybody have a concern?

COMMISSIONER EBERT: Well, yeah. I don't -- I'm going to ask you a question about this. As far as parking lots, does this go for commercial also, like a grocery store and stuff? This is just for the park, grass spaces is what you're trying to say?

MS. CILEK: Yes.

COMMISSIONER EBERT: Okay.

COMMISSIONER SCHIFFER: Well, wait a minute, that clause --

MS. CILEK: That clause.

COMMISSIONER SCHIFFER: -- does. But the rest of the wording applies to --

MS. CILEK: There's already an existing provision in the code that allows for --

MR. BELLOWS: Churches.

MS. CILEK: -- churches and schools. And developers -- and if you look down at D, the thing ex'd out, developers providing parking lots in excess of 200 parking spaces may surface 15 percent of the required off-street parking spaces in grass.

COMMISSIONER EBERT: And you're crossing all that out?

MS. CILEK: No, it's going up into the new version. We're trying to consolidate these two, because there's two places in the code that refer to grass parking. So our goal is to consolidate. So that's being capped.

So the answer to your question, schools, houses of worship and this clause right here, which is about -- if you're putting a lot of parking in, then you can put 15 percent in.

COMMISSIONER EBERT: Okay, okay.

MS. CILEK: That doesn't change.

CHAIRMAN STRAIN: Barry?

MR. WILLIAMS: Barry Williams, Parks and Recreation Director.

I just wanted to say, unrelated to this topic, if you'll allow me this, is the Isles of Capri paddle craft park opened the other day, and your name came up frequently. I just wanted to --

CHAIRMAN STRAIN: Oh, thank you.

MR. WILLIAMS: In a favorable light, too.

CHAIRMAN STRAIN: Now that's amazing. But I appreciate that.

MR. WILLIAMS: I guess I -- you know, to offer context, you know, this came up ironically with the Gordon River Greenway. And one of the limitations that we had is there was a request from the EAC for us to develop the project so that it was more green. And that project is 90 percent preserved, so it is a very green project.

CHAIRMAN STRAIN: A lot of green.

MR. WILLIAMS: But the parking area was a concern. But we were limited by the current code that would only allow 15 percent of the parking area to be in this condition. So this is what the genesis of this was.

We also follow the low impact development and what's happening with that. And we know that that's going to affect the LDC at some point. Certainly we can wait for that, if that's the desire. I think we were just -- we were seeing this as an issue that we would like that option, you know, as we develop parks, you know, for the same reason that, you know, it's provided in the LDC, it's, you know, you develop a parking space in a park in particular and your high use typically is at night, and so, you know, you don't want to pave paradise just for that use. And so if we had that option -- you know, it also allows us, you know, when we develop the parks, to kind of see what the utilization is. You know, you might keep it green all the time. You know, Goodland is a good example of that where as we develop that facility, the entire parking area for the boat trailer is green. It's grassed. So we're flexible in this I guess is my point. I think we just wanted to -- if we had that option, you know, to exceed the 15 percent through this change in the LDC, that would be beneficial for us for those reasons, so --

CHAIRMAN STRAIN: Well, I think we ought to move forward with this, and if the low impact design comes in and we have to amend things to coordinate with that better at that time, that's fine. But in the meantime you've got the benefit of it. And I think that the more opportunity we provide the private sector with grass instead of asphalt, we're all better off for it. So I'm -- I don't know why we wouldn't leave it public parks and similar private recreational facilities may use 70 percent. Is that -- Heidi, does that language work for you?

MS. ASHTON-CICKO: You could either put public or private parks or you could put public parks and similar private recreational facilities in residential developments. I'm just trying to think of other community type uses that --

CHAIRMAN STRAIN: Well, I would rather go with residential facilities, because not all clubs in private communities are considered parks. They're considered recreational amenities. So I think if we term it that way, we open the door for the benefit of all those kind of activities. And I think that's the way we ought to be looking.

MS. ASHTON-CICKO: So did you want to go with the private recreational facilities in residential developments?

CHAIRMAN STRAIN: I like that language. Anybody else have any problems?

(No response.)

CHAIRMAN STRAIN: Anybody else have any -- is there any other issues, Caroline, in this one?

MS. CILEK: No, sir.

CHAIRMAN STRAIN: Anybody have any other questions?

COMMISSIONER SCHIFFER: I do.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: First of all, just in format of this thing, if you -- you've given it, the number two, given it the same priority as the surfacing. So what you're saying is that parking lots have to meet the following standards, and you can't meet one if you're doing two. So the question is maybe in formatting this should be a subset of one.

MS. CILEK: I think that's a good idea.

COMMISSIONER SCHIFFER: And then the other thing I would do is you see in grass parking the second line where it says grass parking may be used to satisfy, should probably be the first line in that paragraph. Just to -- if you subset one and then you say grass parking could be used in lieu of, and then you start down and bump up the A's to whatever. Because otherwise you never could meet it.

The -- in A it says that if the parking's in excess of 15 percent, it has to be considered impervious in your

water management calculation. So if it's less than 15 percent, you can consider it pervious then, right?

MS. CILEK: Oh, goodness. Okay. So if it's -- and our county engineer's here to clarify this impervious/pervious stormwater element of this. But if it's over 15 percent, I believe it's that it needs to be counted as impervious so they provide the adequate stormwater management elements so that in the future if there is any need to pave any portion of it, that that stormwater is taken care of at a deficit.

COMMISSIONER SCHIFFER: But my point is if it's less than 15, what is it?

MS. CILEK: Well, I imagine it's fine, it's just considered pervious. And that remains --

COMMISSIONER SCHIFFER: Okay, as long as that's the intent.

MS. CILEK: Yeah. Remains consistent with what we have for D, which is being crossed out and put in, which is the 15 percent too. So that's where it came from.

COMMISSIONER SCHIFFER: And having experienced the rainy Sunday morning where the church had the tow truck pulling the cars out of the paved parking lot, it is a self, you know, policing thing that happens here.

And then down in B, significant negative environmental, I know that's old words, but give me an example of what would be in the significant environmental impact of paving a parking lot. Because what this is saying, I guess it used to say, but -- it used to say that the county manager could say no, no, you can't pave that, you have to put grass.

MS. CILEK: You know, I can't really speak to that clause. I haven't really thought about it.

COMMISSIONER SCHIFFER: Okay.

Ray, have we ever pulled that on anybody, or --

MR. BELLOWS: Could you repeat the question, please?

COMMISSIONER SCHIFFER: Well, there's some phrasing in B that states paving it would be -- you know, cause a significant negative environmental impact, the county manager can make you not pave, or put it on grass.

MS. CILEK: Have we ever done that?

MR. BELLOWS: Not to my knowledge.

COMMISSIONER SCHIFFER: So is that something useful then, or -- I guess keep it in our holster just in case, but -- okay. I'm done, thanks, Mark.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: One point, Caroline. The number four, you're omitting it. And I'm assuming you're omitting it because it's addressed elsewhere in the code?

MS. CILEK: No, it is going -- and it is being addressed in 4.05.02, and it is going in A. So we worded it in A -- no, I'm sorry, C.

And then the -- so that first sentence, developers providing parking lots in excess of 200 parking spaces may surface 15 percent --

CHAIRMAN STRAIN: It's in A.

COMMISSIONER SCHIFFER: It's in A.

MS. CILEK: It's kind of in both. The first sentence, if D is in C. And then the other things are covered in A.

COMMISSIONER EBERT: We're supposed to make this much plainer, and this is not much plainer.

MS. CILEK: What -- D was very important, and it had very important information in it. And so we had to take the second half of D and put it in with the broader element of what it applies to.

CHAIRMAN STRAIN: Okay, it's just getting more confusing. I think what definitely is going to have to happen, you're going to bring this one back on May 3rd with a rewrite, cleaning everything up that we've talked about.

MS. CILEK: Definitely.

CHAIRMAN STRAIN: My only concern with four was to make sure it was covered, because we do want the driveways, handicapped spaces and access aisles to be paved.

MS. CILEK: And it is covered.

CHAIRMAN STRAIN: Right. As long as that's covered, that of the point --

COMMISSIONER SCHIFFER: We don't have a choice. I mean --

CHAIRMAN STRAIN: Right. That's what I thought.

MS. CILEK: Right.

COMMISSIONER SCHIFFER: God's bigger than us, it will come down on that one.

MS. CILEK: It's in there.

CHAIRMAN STRAIN: So that will come back on May 3rd, right?

MS. CILEK: Yes.

CHAIRMAN STRAIN: Okay. The next one is 3.05.02.D. We're moving back forward in the book.

COMMISSIONER KLEIN: Say that again?

CHAIRMAN STRAIN: 3.05.02.D. And that one is titled exemptions from requirements for vegetation protection in preservation. Scrivener's error.

Steve?

MR. LENBERGER: Good morning.

CHAIRMAN STRAIN: Good morning.

MR. LENBERGER: For the record, Stephen Lenberger, Growth Management Division.

The first amendment I have is correcting a scrivener's error to the rural fringe mixed use district of the LDC. We took a look at the language and it didn't quite look right in the LDC and so we had to go back to the comp. plan. The comp. plan has some vesting language in the Conservation Coastal Management Element which was not brought forward correctly. It was scrivener's errors. It was supposed to exempt these pre-approved development orders from the native vegetation requirements, the new stringent requirements for the rural fringe mixed use district. And there was a relettering or actually mis-lettering which we had to correct. So that's basically what we did. Basically they basically keep -- the projects that are existing keep their preserves in the same location. They're not required to have greater preserves, and they're not required to relocate them, just keep them the way they are in their previously approved development order. So we had to make sure that was clear and we were implementing the GMP correctly.

CHAIRMAN STRAIN: Anybody have any questions?

COMMISSIONER SCHIFFER: No.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: Move to approve.

CHAIRMAN STRAIN: Motion to approve by Mr. Schiffer. Is there a --

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: -- second?

By Ms. Homiak.

Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

Next item up is exemptions from requirements for vegetation mangrove permitting, 3.05.02.E. That's the next one in the tab.

MR. LENBERGER: Right, this --

CHAIRMAN STRAIN: Steve, do you want to -- give us a quick rundown.

MR. LENBERGER: Sure, I'll give you a brief overview.

There's two sections of the code being amended here. One is 3.05.02, which is exemptions from the requirements of vegetation protection and preservation. So it's exemptions. And then the other one is 3.05.05, which is criteria for removal of protected vegetation, which is where we issue permits in accordance with the criteria in that section.

And we had several questions come through with a couple different applicants regarding mangrove trimming and removal. One was trimming mangroves along a canal to maintain a waterway. And I'm looking at the code and

saying to myself, well, what applies? And I didn't feel very comfortable about that.

And so I got with Heidi and she was very helpful and she went through the statutes for mangrove trimming. And mangrove trimming is regulated by the state exclusively, unless the county has delegated that authority from the state. So we included -- we revised the language in the exemption section to make it consistent with state law, because county has not been delegated that authority -- this county has not been delegated that authority.

And we had to reword the criteria for removal as far as removing mangroves. And we did that and we also carried forth language that mangrove removal or destruction is prohibited in all preserves or areas used to fulfill the native vegetation retention requirements of the county, unless given a variance by the BCC or authorized to be removed from allowed uses within preserves, which is the permitted uses such as boardwalks or for habitat restoration as part of an approved preserve management plan pursuant to 3.05.07.H. That would be for ecological restoration of things of that nature.

And I'm glad to answer any questions. Heidi is here as well.

CHAIRMAN STRAIN: Okay, anybody?

COMMISSIONER SCHIFFER: I do.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: So on Page 2 where you're eliminating the word altered, just to be more specific so that you're comfortable trimming. In other words, if you're going to remove it or destroy it, you've got to deal with it. But just to alter it you're going to be allowed to do that; is that right?

MR. LENBERGER: I'm sorry, I can hardly hear you.

COMMISSIONER SCHIFFER: On Page 2 you have the word alter. In F you're killing the word alter and adding remove --

MR. LENBERGER: Remove or destroy.

COMMISSIONER SCHIFFER: -- or destroy.

So the intent of that is that there are some things that can be done to a mangrove.

MR. LENBERGER: They can be trimming the mangroves in accordance with DEP criteria.

COMMISSIONER SCHIFFER: Okay, that's good.

CHAIRMAN STRAIN: Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Is there a motion?

COMMISSIONER SCHIFFER: Move to approve.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Mr. Schiffer, seconded by Ms. Homiak.

Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

Next item is 3.05.02.G-1 through 7. And a series of others. That's the next one -- next tab on the sheet.

MR. LENBERGER: Let me know when you're ready.

CHAIRMAN STRAIN: I think we're good to go. It's easy to follow this one, we're in order.

MR. LENBERGER: All right. This amendment -- and I'll just refer to it as a clearing and filling amendment. The vegetation removal and site filling permit criteria, VRSP.

A couple of things initiated this amendment. One is the section of the code dealing with clearing and filling, particularly 4.06.04, is very confusing. If you read it, it's really hard to interpret it. And I had to do some interpretation for management to work through with them when we had different issues come up. So it had to be restructured.

Also too is we took a fresh look at it and realized why do we have certain things in here. You know, what do we really need. And I worked with Jeff McKenna, who was very helpful with engineering staff. And we kind of looked through all the different requirements and thinking, okay, what do we need to do here? So we took a whole fresh look at it and reworded it.

And the first part that deals with -- and everything kind of relates back to the clearing and filling section, that's why all these other sections were brought into the amendment. And one was the exemptions from requirements for vegetation protection/preservation. And there's a simple reference there we had to amend because we're restructuring 4.06.04. And that's line 14 on Page 2. Very minor correction, but we had to do that.

The criteria for removal of protected vegetation, we just -- instead of having this paragraph form we spelled it out clearly in a list form of what needs to happen for early clearing. Basically carrying through.

There were a couple changes. I met with Heidi yesterday, actually, and she had some rewording on a few of these amendments. And what I'd like to do is they're actually not too hard to follow if I put them up on the visualizer in highlight. So I'll do that. As I go along, if you don't mind.

COMMISSIONER SCHIFFER: No.

CHAIRMAN STRAIN: Go right ahead. Anything to make it easier, Steve.

MR. LENBERGER: Okay. And under the bottom of Page 3 where it says conservation easements are complete and have been approved by the county attorney's office, I didn't realize the process changed but which staff coordinates for county attorney's office in recording these conservation easements. So instead of approved by the county attorney's office, since the county attorney's office does forward the conservation easement for recording, we changed it to recorded in public records.

CHAIRMAN STRAIN: Okay. Go ahead, Diane.

COMMISSIONER EBERT: This early removal.

MR. LENBERGER: Yes.

COMMISSIONER EBERT: Certain things have to be in place now before a developer can do this; is this correct?

MR. LENBERGER: That's correct. There's two sections that deal with what has to be done. This section on 3.05.05, which is criteria of the early clearings, we just talked about. And at the end of this amendment there's an early work authorization section which also has criteria, and I'll go through that as well.

COMMISSIONER EBERT: Okay. That's very important, because of Vita Toscana where they went ahead and cleared everything and never had plans approved and we had to replan it and there was -- yeah, it's -- big developments that do this.

MR. LENBERGER: Site plans don't have to be -- well, we can go through that when we get to it.

COMMISSIONER EBERT: Okay.

MR. LENBERGER: If we go over to Page 4, it works into the 4.06.04 section. And what we did is we took a clean slate. We just crossed through everything. And that's the clearing and filling section. And we restructured it. And basically clearing and filling -- and it has guidelines here. You -- there's an exemption which we carried forward, and this is clearing and filling associated with the Site Development Plan. We added site improvement plans because we realized that there are some site improvements plans which would qualify for this, or which could qualify for this. And plat and plans and also separate vegetation removal and site fill permits which are referenced further down.

We also carried -- we also added the exclusion for the Golden Gate Estates. When this amendment was first done, it was done by a previous engineer and environmental supervisors. And there was a voice by the community that they didn't want this to apply to the Golden Gate Estates. And I recognize that, but it was never included in the amendment and I don't know why. So I made sure it was included in here that these provisions were not to apply to the Golden Gate Estates.

And if you go under that first -- under A-1, in conjunction with an SDP, SIP or PPL, we have a few changes, and I'm going to put those on the visualizer.

Basically just some wordsmithing. And what I did is since all the language is underlined, which means added

language, I just highlighted areas in there. And if it's just -- if it's highlighted and underlined it's the new language. If it's highlighted and underlined but crossed out, that's the language that we had in the amendment that you have in front of you that we're removing. And this is wordsmithing that Heidi had done with us. It's just cleaning up the language.

CHAIRMAN STRAIN: Why are we not getting it cleaned up? Why are we getting documents that the county attorney's office reviewed at the 11th hour and now we're changing on the fly at a meeting so we haven't had time to read them and incorporate the changes into our mindset when we read the whole document?

MS. ASHTON-CICKO: Because there's not time between the DSAC review and the time it gets to me --

CHAIRMAN STRAIN: Well, just schedule it.

MS. ASHTON-CICKO: -- to review it.

CHAIRMAN STRAIN: I mean, if we hear these six months from now, what difference does it make? I'd rather you reviewed them and weighed in and staff gave us a corrected document that we haven't got to change on the fly and not know what we're missing in a public meeting. It doesn't matter if we -- why are we rushing this through? I'm just curious. We do this repeatedly and I don't see the need for it. What is the --

MS. ASHTON-CICKO: Well, this is one that could be continued till May. And you can have it --

CHAIRMAN STRAIN: But Heidi, the whole basis -- staff ought to be working closely and absolutely hand-in-hand with the attorney's office. You guys need to be getting things timely and we need to be getting them after legal review, because legal review is absolutely critical.

So this is -- putting these many changes on the record to do and then expect us to make a decision is an unnecessary process when we could have gotten the final language, reviewed it and taken an action on it and been done with it today. Because right now it can't be finished today this way. Because we're going to need time to chew on this after today.

MS. ASHTON-CICKO: The only thing I could suggest is when you set the schedule that you have like a couple month window after completion of DSAC. I think that what they do is they go through very -- a lot of different versions with DSAC. And we changed our process this year so that we don't review them until they come to the CCPC. So I get what goes to the CCPC. Because frankly, it continues to change until your book goes out. And it ends up that we review it and review it and review it and we're duplicating our efforts over and over and over and it's not really being productive.

CHAIRMAN STRAIN: I support your position, Heidi, only because without a good legal review our legal defense in any challenge is basically the rug's pulled out from underneath it. So I would rather we see the time that you have adequate time to do whatever you've got to do. It's critical to the process.

MS. ASHTON-CICKO: The only way that could be accomplished is again if, you know, scheduling they have a window of maybe two or three months after the completion by DSAC, because DSAC will continue to make changes and have them go forward is the way I'm seeing, anyway. I mean, I think Chris and Caroline have done a fantastic job this year, and this does end up being very, very crazy for staff to process all the amendments when they're getting amendments from DSAC and from different staff departments and from county attorney's office, and it's not an easy task to schedule.

CHAIRMAN STRAIN: Out of fairness to this board, I mean, we'll continue with the walk-through of the changes that Steve's putting on the record now. But, I mean, from my perspective there's no way that I can see this being approved today. We're going to have to come back with the ones that are rewrites after the county attorney's office has had adequate time to review them, and whatever time it takes, we'll schedule the next meeting accordingly.

MS. CILEK: That sounds great. And I do apologize for some of these that have more than others, and we will definitely work with Steve and get you every draft for this one for the next meeting on May 3rd.

CHAIRMAN STRAIN: Okay, well, let's keep walking through this. I just --

COMMISSIONER EBERT: Mark, I agree with you, because this makes me uncomfortable.

CHAIRMAN STRAIN: Well, we're going to get it back and we'll chew on the new information Steve provides by the changes here. I'm assuming we'll get a highlighted correction sheet on the ones that we have to have rewritten, and then we'll schedule them after the county attorney's office has had time to review the changes to make sure that everything is legally sufficient.

Okay, Steve, sorry to interrupt you.

MR. LENBERGER: All right. DSAC did hear this a while back. Every time something gets amended

through different public hearings, we don't go back to the first board every time there's a change. Just so you understand that. And this went to the DSAC a while back.

MS. CILEK: And that's a separate issue. I mean, Heidi reviewed these all basically in the same time period. So whether they went to DSAC early or later, she -- I gave her a completed binder. And that's --

CHAIRMAN STRAIN: If it goes to DSAC whenever it goes, their input is recommendations to this board and the board above us. But most importantly, to both boards I think is legal coordination. So I don't care when they do the review, as long as before it gets to us Heidi has had time to do her legal review. So -- and that's the critical part.

MR. LENBERGER: Then we should maybe have a sign-off process before we move forward in the future, probably from the county attorney's office.

CHAIRMAN STRAIN: Whatever you guys work out. But I really think Heidi's input is extremely important to this process.

MR. LENBERGER: And I agree with that.

MS. ASHTON-CICKO: Well, it would have been a -- what we should have done or could have done is just distributed the new version for you to review for the next meeting. So that might be, you know, another option. So, you know --

CHAIRMAN STRAIN: Okay. Well, we'll continue plugging through it, Steve, but we'll just wait for a rewrite to actually take action on it, so --

MR. LENBERGER: Well, I mean, I could put up the language on the visualizer, but I think I'd like to just go through the gist of the reasons why this amendment is going forward, and not so much concentrate on the language tweaking which happened, okay?

CHAIRMAN STRAIN: And I think any current changes we have or recommendation, we'll give those to you today so when the rewrite comes back it has your new input and our new input as well.

Go ahead.

MS. ASHTON-CICKO: Sorry for interrupting.

You could just go through the changes and you have a version. We can photocopy it and distribute it so you can take it home, you know, later today for a future meeting.

CHAIRMAN STRAIN: Well, we already got another rewrite, so why don't we just wait and get all the rewrites together in one lump sum.

MS. ASHTON-CICKO: Okay.

CHAIRMAN STRAIN: That would be better.

Okay, your turn.

MR. LENBERGER: I could go through this whole thing, but I think it would probably be best just to turn to Page 1 and kind of give you an overview that way where it says change.

COMMISSIONER EBERT: Where are you at?

CHAIRMAN STRAIN: Page 1.

MR. LENBERGER: It says restructuring 4.06.04 for clarifications. And we changed some revegetation requirements. Revegetation requirements were that if you cleared and filled but you didn't -- if you didn't utilize the property in a certain amount of time frame, you had to remove the fill and restore with native vegetation. It didn't take into account whether the area is going to be developed anyway in the future, so we changed that to stabilization type vegetation as opposed to restoring to native habitat, because you're going to develop it anyway sometime in the future. So that's why the changes to the revegetation came about.

The second one is allow site improvement plans to qualify for early clearing and vegetation removal and site filling.

We realized that there were times when an SIP could qualify, and we wanted to add those.

COMMISSIONER EBERT: I don't have it.

MR. LENBERGER: Currently you're allowed to clear and fill up to 100 acres of vegetation per application. You can submit for another vegetation removal and site fill application --

COMMISSIONER EBERT: Sorry.

MR. LENBERGER: No problem. I don't mind pausing.

Currently you're allowed to clear and fill 100 acres at a time. And if you near capacity with clearing and

filling, you can apply for another vegetation removal and site fill permit if you meet all these criteria to clear another block of 100 acres.

But in there there's a 50-acre limitation on lot preparation. That's assuming that 50 percent would be used for other types of clearing, like infrastructure. And we really talked to Jack McKenna, really didn't need that 50 percent restriction, so we did eliminate that. There still is 100-acre limitation per application. We kept that.

So you do know if someone has an old farm field or something that's completely exotic vegetation like Brazilian pepper, there is no 100-acre restriction when you go forward with this process.

CHAIRMAN STRAIN: Okay.

MR. LENBERGER: We eliminated the removal of stockpiles after 18 months. Obviously the downturn in economy has brought back a concern. You know, do we really want to have applicants, you know, fill in their lake, clear the -- basically regrade the area and plant it with native vegetation? Which I talked to you about a moment ago. So we removed that requirement. We put in some safety parameters, revegetation, things of that nature.

We changed the bond requirements for the early work authorization. They're basically -- I think it was 2,000. When we get to it, we can take a look at it.

We wanted to allow more time to get approval of a development plan, once an EWA, early work authorization, is issued. So we extended the time frames on there.

And we also wanted to allow applicants to request another early work authorization if they need more time. That was actually a response from one of the stakeholders. And we did add that.

And I think that's pretty much it for the major reasons.

CHAIRMAN STRAIN: Thank you, Steve.

Any questions from the Planning Commission?

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: I would really like to sit and really go over this particular one. And I know the county knows why. Because I brought this up with two projects right around my area. And Mark, I really want to redo this --

CHAIRMAN STRAIN: That's what we're here for. What do you want to say?

COMMISSIONER EBERT: Well, I just -- I just want to make sure, it's for an early work. It is 100 acres rather than clearing the whole 600 acres? I mean, things have changed. There is now --

MR. LENBERGER: I don't know what the time frame is of the development you're talking about, but it's a 100-acre threshold unless it's exotics or farm field. So if you're clearing native vegetation, you're 100-acre block. When you're near capacity -- the current code says when you're near capacity, whatever that means, so we said 75 percent complete you can apply for a new application for another 100 acres. And you can do that for the entire phase of your subdivision or Site Development Plan. So it's 100-acre increments. And once you're done with your clearing and filling, then you can -- or 75 percent complete, you can apply for another 100-acre block to do that.

The early work authorization, and that's Page 8, and that's actually brought the most attention from stakeholders. And there were just a couple of good comments. And you can see all the requirements here for early work authorization, you know, what has to be done in order for the county to issue an EWA.

And if you go down here, it talks about on number 2.A, proposed vegetation removal complies with 3.05.05 -- actually, O. And that's the early clearing we were talking about in the beginning where you have to have a conservation easement in place, you have to have the clearing plan set and the preserves set where they're going to be.

So we don't -- until that happens, we can't even move forward with an early work authorization.

COMMISSIONER EBERT: So you've changed the process.

MR. LENBERGER: Well, some of this has changed. And I don't know the time frame or the history of the project you're talking about, so sorry there. And how that fell when this was first developed, this section. But what we're trying to do is to clarify it. It's very confusing. But the early work portion is this 10.01.02.

Is there any other questions?

CHAIRMAN STRAIN: Okay, any other questions?

(No response.)

CHAIRMAN STRAIN: Bill?

COMMISSIONER VONIER: Yeah, K, 2.K needs some rewrite, if you haven't done it.

MR. LENBERGER: 2.K on 10.01.02?

COMMISSIONER VONIER: Yeah.

MR. LENBERGER: Developer must clearly state his understanding -- well, we can strike his there -- understanding that all such preliminary construction activities are at their own risk.

We changed it once. Yeah, we could take a look at that.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Steve, do you -- is the intention of the vegetation removal and site filling section which starts on Page 6 and goes to 7, is that intended to apply unilaterally throughout the county? I mean, here's where I'm coming from. You have projects that are in the urban area, or urbanized area close to existing residential or within closer proximity, say, than others might be. And I think Ms. Ebert's concern is a project she ran into right next to her neighborhood up off Immokalee Road, and she's well within the urban area.

But, you know, if you look out east and you go past -- even the RLSA, the rural fringe and places like that, there is no rural development out there. And to tell them that they have -- they can only -- their time frames are limited to the same standards that are imposed in the urban area may be somewhat unnecessary. You've got a stockpile in a rural area and there's nobody around it. And there isn't because of whatever, the economy or whatever you're doing, I'm not sure it's -- we have a need to do some of these things as expeditiously as you have them timed in here.

Stabilization with vegetation, for example, number three on Page 7. You're looking at stockpiles if they're in place for more than six months must be stabilized with vegetation.

MR. LENBERGER: Yes.

CHAIRMAN STRAIN: You know, if it's six months next to Diane's project, I agree, she's in the urban area and people are going to be driving by and it's going to create dust. But if it's out in the rural area and you don't have any close proximity that's going to disturb anybody, the cost to vegetate a stockpile could be substantial. Plus the material, whether it's rock, which isn't going to vegetate very easy, or just regular soils.

So I'm concerned that this one-size-fits-all for this application may not be fair to the industry, and equally so, we might look at away the restrictions apply in an area where there's intense development versus areas where it's sparsely developed.

And I would suggest if you're going to look at rewriting this anyway you look at ways that you could fit those kind of situations in. It might be helpful.

MR. LENBERGER: I'd like to add something there. That's why we have that clause, unless otherwise approved by the county manager or designee. And we added the language, where vegetation on the stockpile does not require mowing or the four-to-one ratio is not practicable.

When you -- I was talking to Jack McKenna about this. When you have a steeper slope than four to one, obviously you may not be able to mow, you could actually overturn, that was a concern. We recognize the rock issue, which is -- that's obviously not practical to do that. The rock doesn't need to be stabilized with vegetation.

So we recognize -- that's why we have that in there, to account for these different types of fill material.

As far as urban versus rural, you know, these criteria have been applied and I don't know the time frame of yours, Diane, the project you're referring to. But these pretty much are applying to the urban area so far, okay. You know, as far as how they apply to a rural area, I'd have to talk to Jack about that and get their ideas. But I would also like to know on your end on the urban area, are you looking -- is six months a good time frame or are you looking to tighten it up more? What's your intent --

CHAIRMAN STRAIN: No, I think the cost just to do this -- first of all, after six months if -- someone in this marketplace, they may not use the stockpile that they've created from. Because the lake, once it starts to be dug, you've got to dig it all. And obviously you've got to keep the material on-site, because most PUD's are not commercial excavations. With that requirement, they've got to stockpile till the market catches up to a point where they can spread the material where they intend to build. And to tell them after six months you've got to stabilize whatever size stockpiles are remaining when they're going to be constantly nicked away at as development and the market dictates sales so they can build product, I'm not sure six months is a reasonable time frame to see that happen in this economy.

But I also understand it becomes more critical if that stockpile is next to housing and they've got dust

conditions and things like that. I'm just suggesting if there's a way when you meet with Jack and you guys come up with a possibility that could better be addressed so that the industry isn't imposed -- isn't being imposed with something that is unrealistic for them to perform by. But at the same time there's another way there's a possibility to protect the neighborhoods if there are such, we look at that alternative. I hate to see -- I hate to see an undue burden financially put on a developer who's already struggling to meet the marketplace just because a stockpile isn't being moved as fast, but yet he was forced to dig the whole lake --

MR. LENBERGER: I understand.

CHAIRMAN STRAIN: -- just to do economics.

So, it's a catch 22 I'm trying to see us avoid.

MR. LENBERGER: Right. And you could do distance from a certain development too. But, you know, when you have large stockpiles, you know, when you have windy days, it could travel a long way, depending on the type of material. So it's often hard to gauge exactly, you know, because the material that comes out of these excavations can be diverse, you know.

CHAIRMAN STRAIN: I mean, there might be an alternative. They might be able to put a large -- through a sprinkler head on the top of the pile with a pump from what they just pulled the material from and make sure it wets it down periodically. That would go a tremendous way and be hugely less costly than revegetating and trying to dig into that pile as time goes forward.

So I would just suggest maybe there's alternatives and --

MR. LENBERGER: Options.

CHAIRMAN STRAIN: -- maybe those conditions might be something to look at before we lock this in.

MR. LENBERGER: Okay.

COMMISSIONER EBERT: So he's going to do a rewrite?

CHAIRMAN STRAIN: Yes.

COMMISSIONER EBERT: I'd like to talk to Mr. McKenna also.

CHAIRMAN STRAIN: Yeah.

COMMISSIONER EBERT: So he knows where I'm coming from on this. Thank you.

CHAIRMAN STRAIN: There will be a rewrite and as long as you need to try to go down and meet with staff then before the -- and see what your concerns are, see if they can explain better.

Okay, anybody else have any questions on this one?

COMMISSIONER SCHIFFER: No.

CHAIRMAN STRAIN: Thank you, Steve.

MR. LENBERGER: Thank you.

CHAIRMAN STRAIN: This one will come back as a rewrite then, so -- let's move on to 3.05.02.G.8.

It's all yours.

MR. LENBERGER: We're ready?

CHAIRMAN STRAIN: Yes, sir.

MR. LENBERGER: This amendment is to create an exemption from having to obtain a vegetation removal permit. And it's for environmental restoration projects on publicly owned land such as parks, preserves, forests or mitigation areas.

So we actually spelled them out. And, you know, often when mitigation is done on properties, whether it be a park or a specific mitigation area, it's either done by the state or a lot of cases contractors who have -- working for the state or Federal government under contract to do this. So, you know, if it's already gone through all this permitting, parks have extensive management plans, so do forests. And mitigation areas obviously have specific criteria in accordance with the permits. You know, you decide that well, you know, why do we need to regulate this, it's already duplication of effort, it's already highly looked at, so we add an exemption. We also wanted to cross-reference the existing exemption in the preserve management plan section of the code. If you remember when we did the LDC, basically if you have a preserve management plan that's approved by the county, we want you to be able to implement your plan, we don't want you to have to come in for a vegetation removal permit every time you need to do that. So we created that exemption in the preserve management plan section. I want to make sure it's referenced here, and I thought appropriate it's a good spot to do that.

And that's basically what the amendment is. It's the language is on Page 2.

CHAIRMAN STRAIN: Any questions?

(No response.)

CHAIRMAN STRAIN: Steve, why aren't we simply exempting state owned preservation lands from any of our vegetation, protection and removal processes?

MR. LENBERGER: Why are we?

CHAIRMAN STRAIN: Why aren't we? I mean, let me tell you the incident, I think you're aware of it, that I ran into. In fact, both of them I ran into. One of them was with trying to help Rookery Bay with their reserve that they were trying to open for a walkway to the public. They came to the county and ran into a brick wall in trying to get that accomplished. And at the time it was recognized, wait a minute, this is the state, they actually have a preserve management plan of their own, why do they have to submit another one to Collier County, and why are they even coming into Collier County when their criteria is as strict in the particular cases of their property as ours was.

How does this address that? Or does it?

MR. LENBERGER: Well, it will address a portion of it. There's two issues here: One's a comp. plan and one's the LDC. The LDC is to say, you know, you can do your environmental restoration, go ahead and do it. The other issue is the comprehensive plan. When you're required to have a native vegetation retention requirement, a preserve, basically, doesn't exclude parks and preserves and state forests, which are basically there as preserves with the management plan. And if you remember correctly, do you remember the EAR, I have language in there that I have proposed and which is going in front of the BCC in a couple of weeks to address that, so they -- and you remember --

CHAIRMAN STRAIN: I remember it was -- I'm trying to think, it was the EAR which was recently I saw that language, and that's where it did fix it.

MR. LENBERGER: They'll meet the requirements, but they don't have to designate a conservation easement to the county, don't have to do a preserve management plan.

CHAIRMAN STRAIN: Okay. Memory's coming back. I understand it now. Thank you.

MR. LENBERGER: You're welcome.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Is there a motion?

COMMISSIONER VONIER: So moved.

COMMISSIONER SCHIFFER: Move to -- second.

CHAIRMAN STRAIN: Bill made a motion, seconded by Brad.

Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries, it's approved.

Okay, the next one is 4.02.14 --

MS. CILEK: Commissioner?

CHAIRMAN STRAIN: Yes, ma'am.

MS. CILEK: Just a note that there will be a speaker for this one, someone would like to speak in this coming one.

CHAIRMAN STRAIN: As long as it isn't Rocky or Tim, okay.

MR. LENBERGER: I'm going to go through this amendment and I'm also going to address the concerns of

Tim as well, and explain a little bit about the whole process here.

CHAIRMAN STRAIN: Good luck.

MR. LENBERGER: Actually, it's -- first I'm going to explain the amendment itself.

We -- there was recently a petition here for lot 80 in Plantation Island with a variance.

CHAIRMAN STRAIN: Yep.

MR. LENBERGER: You remember. It was maybe a couple of meetings ago here where there is an agreement between the county and DCA, the Florida Department of Community Affairs, to allow for clearing and filling up to 2,500 square feet on a lot, regardless of the predevelopment vegetation, i.e., mangroves, wetlands on the unrecorded subdivision phases one, two and three of Plantation Island.

And during that we met and said well, why are they going through this variance? You know, these people want to put up a mobile home. And we looked at it and said well, the development agreement. But then we took a close look at the development agreement and realized the development agreement is the variance for that, allowing it with the state. So what we did here is we started looking at this whole ST section and there's a lot of changes. As we tried to -- we wanted to get rid of the idea of having to do a separate variance for this process, because when development orders come in in the area of critical state concern, they're reviewed for compliance with those regulations by county staff. If they require a special treatment permit, ST permit, they're reviewed at that time. If it's just a billing permit in the urban areas of Plantation Island and Copeland, then they get reviewed administratively by county staff for compliance with those regulations.

And what we're saying here is that that review or that billing permit for those mobile homes will be the appropriate mechanism to review for compliance with the agreement with DCA. That's why the amendment came about.

There are other changes. And I'd like to just go through those, if you don't mind.

CHAIRMAN STRAIN: Okay.

MR. LENBERGER: The section here is written -- this is the special treatment section of the code. There is another section of the code that deals with the purpose of the special treatment overlay. It's not this section. This is a section of the ST that deals with the process and submission requirements. It deals with requirements for special treatment ST land, and ACSC, which is the Big Cypress area of critical state concern, ACSC, special treatment, ST, overlay. So there's two types of ST overlays.

And the ST overlay for the area of critical state concern has more stringent requirements. And it wasn't clear on the way this was written which requirements apply to the area of critical state concern and those which apply to, well, both, ST sections, both of them. So I had to spell it out, and that's what I did.

And if you go to Page 3, if you look at A and you look at B and you look at C, they all relate to the area of critical state concern. And those are specific requirements of the ACSC, okay. So there was some confusion there, we needed to clarify that.

If you go to Page 6 you hit a separate section which talks about under D Port of the Islands, Copeland and Plantation Island mobile home sites. Plantation Island has an agreement with DCA, and that agreement, it was honored by the state and the development proceeds in accordance with that agreement. And that's what the county utilizes when we review petitions in the Port of the Islands. I believe it's phases one, two and three. It's excluding one quadrant.

On Plantation Island and Copeland a while back, this was before my time in the county, the board said why are we requiring mobile homeowners in Plantation Island and Copeland to get an ST permit just to build their mobile home? They're basically smaller lots, they are definitely smaller lots in the Plantation Island area. Some of the ones in Copeland are a little bit bigger. So the board directed staff -- this is prior to me coming here and I've been here 19 years -- to say we need to just review them for compliance with area of critical state concern regulations but not have them file for a special treatment permit to do so.

But it was not clear on the language here. Although it exempted them from the permit requirements, it didn't exempt them from the review process for carrying that permit forward. So it was unclear. It was meant that they don't have to go through that separate process as well. So we had to clarify that as well, okay. So that's what happened with this section. And in this section we also reference the administrative approval for the DCA agreement I previously spoke about.

When I went through the rest of this section, it hasn't been reworded in years, probably since the beginning of

the code, and there was obviously a lot of updates it needed. So I started cleaning up the procedures. And then I got the submission requirements and I noticed that they were kind of mirroring what I remember the requirements for site development plans and plans and plats. So I said well, we've got to update this. So I went to two people in our office who deal with a lot of that and that would be John Houldsworth for plats and plans and Michael Sawyer in zoning. He handles most of the Site Development Plan reviews.

And they went through this for me and said what is already in the process for review for site development plans, site improvement plans, plat and plans? And basically everything that's crossed out there is already in the procedures, so I crossed out a lot of stuff.

And under one on Page 9.G, starts on Page 8, okay, in number one underneath it, you'll see everything is crossed out over to Page 9, and at the very bottom, above two, you'll see it says submission requirements pursuant to 10.02 and 10.08. And those are application submittal requirements in the code, and conditional use procedures which also have submission requirements in the code. So -- and that section, the 10.02.00, also contains the environmental data submittal requirements as applicable. So all that was removed and just reference to those sections was added as applicable.

I carried forward the beach access ordinance, which is -- I carried forward in two on the next page. And number three I added consistency with the conservation and coastal management element, the coastal portion. The coastal portion, there is essential treatment overlays also on the barrier island. They're on the undeveloped coastal barrier island as defined by the federal government under Coastal Barrier Resources Protection Act. And they're mapped as the coastal barrier resources protection system.

And there's language in the comp. plan under goal 10, and also in the code under 3.03.00 relating to that, so I referenced that in number three.

And that's pretty much it for submission requirements. We do have a couple changes from the EAC, and I also want to address Rocky's -- Tim's concern. Did you want to pause until the chairman gets back?

COMMISSIONER AHERN: No, we'll keep going. Continue.

MR. LENBERGER: Continue, okay.

First there's a typo on Page 4 under 5, middle there, it starts the sentence with access. It needs to be capitalized, the A. And for the chairman's benefit, I'm going to go through some of the changes of the EAC and also the concerns of Tim. That's where I'm at now.

COMMISSIONER EBERT: Now, where --

CHAIRMAN STRAIN: I understand.

COMMISSIONER EBERT: -- we're at Page 4?

MR. LENBERGER: Page 4.

MS. CILEK: Five.

MR. LENBERGER: Number five near the top. The middle of the paragraph it says -- starts the sentence with access. See that? It should be a capital A. It was just brought to my attention. That's all.

The EAC also was concerned about the variance procedure if a lot got too big on Plantation Island. So they wanted that variance procedure for Plantation Island to go up to lots under to five acres. And that was fine and that was in their motion. But if you look at the lots on Plantation Island, phases one, two and three, they're all tiny. So it won't ever kick in. And just so you know how DCA looks at these site alteration criteria, if you have -- if you own two lots or three lots, that 2,500 square feet or 10 percent site alteration limitation applies to the unit. In other words, it's all your lots. Only 2,500 square feet. So you don't get more for having more lots. So we didn't add that. It's already covered. The lots are all very tiny.

CHAIRMAN STRAIN: I'm glad you didn't add it, thank you. I mean, language that isn't necessary is the last thing we need to be thrown into this code, so --

MR. LENBERGER: And then the final one was -- now, this is Tim's concern and I'll bring this to your attention. And the best way for me to do that is to put something on the visualizer for you so you understand.

CHAIRMAN STRAIN: So you're saying he's tried to confuse the issue to a point that it's got to be -- it's a little harder to change. That's typical Tim.

COMMISSIONER EBERT: What page is that?

CHAIRMAN STRAIN: I don't think he has a page yet. This is a --

MR. LENBERGER: No, it's not. It's from the administrative code.

CHAIRMAN STRAIN: Yeah, that's what I thought.

MR. LENBERGER: And if you look at it, it's chapter 25 -- or it's actually 28-25.006. And that's the site alteration criteria for the area of critical state concern.

And if you look at what I highlighted, number four, it says no mangrove trees or salt marsh grasses shall be destroyed or otherwise altered. That sentence is word for word out of the code.

Now I want to go to the next sentence. The next sentence says: Plants specifically protected by this regulation include -- and it lists those pieces of plants, basically mangroves, salt grasses, needle rush. But there's a difference in the code and there's a difference in the comprehensive plan.

CHAIRMAN STRAIN: Now, you said this is the administrative code. You mean the numbering, is it state administrative code or --

MR. LENBERGER: It's Florida Administrative Code.

CHAIRMAN STRAIN: Okay. So we --

MR. LENBERGER: And the reason I'm showing you that, because I want to compare it to the code we have. And I just wanted to --

CHAIRMAN STRAIN: Have you run this issue past the attorney's office? Or is this the first time that Heidi's going to be hearing this too?

MR. LENBERGER: Well, we can't address it in the amendment at all, but I'm going to bring it to your attention because EAC and DSAC did vote on this, and it would require a comp. plan change. So it won't affect the amendment at all.

CHAIRMAN STRAIN: Okay.

MR. LENBERGER: Okay? But I just wanted to bring it to -- because Tim's going to talk about it, so I'm just going to explain why.

CHAIRMAN STRAIN: So you're kind of taking his thunder before he gets up here. I appreciate that. Go ahead. You brought Rocky. Looks like he had to have support himself.

MR. LENBERGER: If you go to Page 4 of the amendment.

CHAIRMAN STRAIN: Okay.

MR. LENBERGER: Under number four at the top, you can see that sentence there, it says no mangrove trees or salt marsh grasses shall be destroyed or otherwise altered. Same as the administrative code I just showed you.

Now, the next sentence says plans specifically protected by this regulation include -- and now it changes -- all wetland plants listed by the Florida Department of Environmental Protection in the Florida Administrative Code.

Wow, what does that mean? So if you go to the Future Land Use Element, and I have a copy in my hand, under overlays and special features in the area of critical state concern overlay, I'll read what the language says. It says: No mangrove trees or salt marsh grasses shall be destroyed or otherwise altered. Plants specifically protected by this regulation include.

Now we've got a new twist to it. All wetland plants listed by the Florida Department of Environmental Regulation, that's currently the DEP in Chapter 17301, Florida Administrative Code, as amended.

17301 is the old chapter dealing with determining the landward extent of jurisdictional wetlands. So it was -- it's been repealed. When they combined the Water Management District rules and the DEP rules for determining wetlands back in I think '92, they repealed this and the current wetland methodology is what would apply now.

What that's telling me is that you can't impact any jurisdictional wetlands.

The EAC kind of looked at that and they felt that, well, they didn't agree with that. They felt that was kind of too restrictive. So I talked with Tim and he was very helpful. And we looked through the transfer development rights. Because when you normally take away rights from people, you compensate them. And the TDR section falls underneath this section here on the code under the ST section. So it's like a subset. Okay, that was interesting.

But if you look at the TDR's, it says from urban to urban. And it talks about the different rural fringe ones. And I'm thinking why is it a subset under the ST regulation, for one, and two, why doesn't it have a TDR program for these people out in the area of critical state concern?

So I had to go back to the one with the knowledge, I went back to David Weeks, and he started recalling in his mind that yes, it used to be able to transfer out of the area of critical state concern to other parts of the county. And some developer did that. And to -- I believe it was Marco Island. And through time it was changed, so the board didn't like that. They didn't like buying transfer development rights from way out in the boondocks into the urban

area to adding them to density.

So it was eventually changed over time, and it apparently was like a gradual process. So the TDR compensation, I guess you want to put it, was eliminated. Maybe no one realized it, but that's what happened.

So the EAC said, well, they looked at this and said well, we should pretty much go with what the state list is, which I just showed you. But they also added three plants. And these plants basically would coincide with more pristine wetlands. They added shore grass, buttonwood and salt marsh fringe grass. You can read the Latin names, but I'll spare you.

COMMISSIONER EBERT: Thank you.

MR. LENBERGER: And DSAC, when they heard the EAC did that, they agreed with that.

I got one plant mixed up with them, so there was a little confusion there. But the concept was the same. They felt that it really should fall back on these plants. And they were okay with the changes the EAC did as well.

But what I told the DSAC, and I told the EAC, I didn't know if this could change because I didn't check the comp. plan yet. And I told DSAC this would have to require a comp. plan change.

I just bring it to your attention because Tim's going to bring the issue up, or I already have for him. And that would require a comp. plan change. And whether you want to make a recommendation on that or not, that is up to you. But anyway, we can't effect this amendment because it would require a comp. plan change.

CHAIRMAN STRAIN: Okay, but before we go there, you said I thought that the language in the comp. plan was basically -- the reference in the comp. plan to the administrative section or whatever law is there was eliminated. And it falls to another section; is that right?

MR. LENBERGER: Right, it was updated to the new jurisdictional section -- criteria used by the state.

CHAIRMAN STRAIN: Okay. And how different is the language in 28.25.006 than the language that's effective by the comp. plan that we currently have? I mean, I know this locks in specific species. But the language in our comp. plan seems to be more general. Any wetland species listed by the Florida DEP, correct?

MR. LENBERGER: It would basically be all jurisdictional wetlands, the way that's been interpreted. So you can in fact -- any jurisdictional wetlands in the area of critical state concern, according to the way our language is read in our LDC and GMP.

CHAIRMAN STRAIN: Is it just the area of critical state concern or is it ST areas as well?

MR. LENBERGER: It's only the area of critical state concern.

CHAIRMAN STRAIN: And the area of critical state concern is already defined within the Big Cypress Preserve, so -- but that means there would be no expansion of development in that area.

MR. LENBERGER: The site alteration criteria, which -- actually turn back, if you don't mind, under Page 3, under C. And the two -- the two major components that really affect most of the development that I have seen in my time here are number one under C and number four, which we just talked about. And number one is site alteration shall be limited to 10 percent of the total site size. And installation of nonpermeable surfaces shall not exceed 50 percent of any such area.

CHAIRMAN STRAIN: But what's happening now is if you take C.1 and you try to do it but you run into a brick wall because of C.4, where C.4 says all wetland plant species, which is basically the jurisdictional areas, you can't do even to the extent C.1 allows you to do.

MR. LENBERGER: Correct.

CHAIRMAN STRAIN: Okay, that's where the problem lies.

MR. LENBERGER: And also the TDR, you can no longer transfer TDR's out of the area of critical state concern.

CHAIRMAN STRAIN: That's another issue altogether. So I don't want to open that door, because -- can we hear from Tim, just to get his defense -- or, I mean his position? And then actually Rocky will have to tell us that you're telling the truth, so --

MR. HALL: For the record, Tim Hall with Turrell, Hall and Associates.

And I honestly wasn't trying to make this more complicated. I wasn't aware of the issue really until these amendments came about. But when I read through and looked at it, as Steve had said, my interpretation was that the ordinance basically prevents you from impacting not only any jurisdictional wetland but any wetland plants. There are a lot of plants listed in DEP's list that grow in uplands as well.

And another concern is that some of the exotic plants that are required to be removed in other portions of the

code are included on DEP's wetland list. So there's a conflict in terms of one portion of the code saying you have to remove them and this part of the code saying you can't.

CHAIRMAN STRAIN: Okay.

MR. HALL: And so that's why I just thought it would be best to go back to the Florida Administrative Code where this provision was specific towards trying to protect -- it seems to me it's specific towards trying to protect the coastal and salt marsh brackish areas.

CHAIRMAN STRAIN: Tim, right now our code is written with the language that we have in front of us; is that correct?

MR. HALL: Yes.

CHAIRMAN STRAIN: And so right now the interpretation would be that any ACSC, ASCS area that has jurisdictional wetlands of any kind cannot be developed, is that --

MR. HALL: Unless you clear the whole thing for ag. You can still farm it.

CHAIRMAN STRAIN: But as far as a 10-percent limitation goes, that was allowed, this would impact that 10 percent limitation.

MR. HALL: You'd only be able to do anything on upland areas that didn't contain any of those wetland plants. The way I read. I mean, if you take the strictest interpretation, it doesn't say jurisdictional wetlands, it says it's specific to the plants.

CHAIRMAN STRAIN: Okay. But the solution seems to be we can't change the amendment in front of us today because it would then be inconsistent with our GMP. We have to go back and change the GMP in order to change the amendment.

MR. HALL: Yeah, you actually have to go back and change the GMP either to reference specific plants or to reference that 2825 in the code instead of 62340, which is all of the wetland plants.

CHAIRMAN STRAIN: Okay. So actually, even though you're here today to point this out, there's nothing -- I don't see -- what can we do --

MR. HALL: Based on the conversations we had after the EAC meeting, it doesn't look like there's anything that we can do now. It's just something the county needs to be aware of, if somebody does come in to do something on property that they own in the ASCS and is told they can't. You know, I think it puts the county under --

CHAIRMAN STRAIN: A problem.

MR. HALL: -- under some issues with regards to takings.

CHAIRMAN STRAIN: Could you put that Florida Administrative Code section back up again?

MR. HALL: I'm actually trying to help the county out on this one.

COMMISSIONER EBERT: That's nice of you.

CHAIRMAN STRAIN: I think you do a pretty good job of helping out most of the time.

Now, this particular one, this citation is from what section of the Florida administrative -- I know the number, but what's the text title of this section? Rules for the --

MR. HALL: It's rules for the Big Cypress Area of Critical State Concern.

CHAIRMAN STRAIN: Okay. So those rules in the Florida Administrative Code are not as strict as the rules that we've adopted through our GMP and now in this amendment. Because they're limited to less number of plants and less distinction than what we've done.

MR. HALL: Correct.

CHAIRMAN STRAIN: Now, Heidi, I guess the question then is can our rules have criteria that is more restrictive in this particular kind of instance than is required by the Florida Administrative Code?

MS. ASHTON-CICKO: I don't think I have enough information as to when this was implemented or the GMP. I can certainly take a look at the issue and advise you at the next meeting, if you'd like.

CHAIRMAN STRAIN: Well, I imagine that would be important, because to know that before we go and structure a GMP amendment over something that has got to be changed anyway because we're inconsistent with state law would be a pretty good avenue to understand.

MR. HALL: There is actually a section further down in this same 2825 that says that local regulations or local ordinances can be more restrictive. As long as they're within their -- I think it's regulatory authority or something -- there's some language, you know, legalese language in there. It says you can be more restrictive.

My point is just I think the county went a little bit too far, because they took away, you know, all rights -- if a

person has a property that is 100 percent wetlands and there are a lot of them out there like that, my interpretation of the code says they can't do anything to it.

CHAIRMAN STRAIN: And they lost the ability to do TDR's as well.

MR. HALL: Correct.

CHAIRMAN STRAIN: So they're basically up a creek without a paddle, more or less.

MR. HALL: Right.

CHAIRMAN STRAIN: I think it would behoove us to have the county attorney's office verify the application of this against the Florida Administrative Code to make sure where we stand before we make a recommendation either on this amendment or the GMP.

Does that sound like something you can do, Heidi, before -- as we finish this LDC amendment cycle?

MS. ASHTON-CICKO: Do you want it for the 25th or for May?

CHAIRMAN STRAIN: I would say May or sometime in May.

MS. ASHTON-CICKO: Yeah, certainly, I'll get something --

CHAIRMAN STRAIN: Okay, Steve, does that work for you?

MR. LENBERGER: Yes, May would be good.

CHAIRMAN STRAIN: How does it work for the rest of the Planning Commission?

Okay, I think that will be -- thank you. I appreciate you pointing it out, Steve -- I mean Tim. And Steve, thank you for your institutional knowledge and detail on this. It's excellent. It makes it a lot easier to understand.

Before we go on to the next one, let's take a break until 10:45 and resume at that time.

(Recess.)

CHAIRMAN STRAIN: Just so you know, process-wise we're going to finish up with Steve with the next two and then we'll go to the docks. We have people in the audience who are here for the dock issue. And then after the docks, we'll go back into the regular routine. Based on what we've been doing, we may be out of here by mid afternoon. We'll essentially try for that.

So Steve, let's move on to your last two.

MR. LENBERGER: All right. The amendment in front of you is --

CHAIRMAN STRAIN: Wait a minute, 10.02.06.D.

MR. LENBERGER: Correct. Agricultural land clearing.

CHAIRMAN STRAIN: That's way to the back of the book. 10.02.06.D.

Okay, sir.

MR. LENBERGER: This is actually a scrivener's error. There are two types of permits -- or I should say two types of clearing that are authorized by the Land Development Code for agricultural uses. And those are agricultural clearing permits and agricultural clearing notices. And if you have an agricultural operation that meets the requirements of the criteria of the Right to Farm Act, you just have to give us a notice that you're going to clear, if you meet those certain criteria, and the agricultural clearing permit, if you don't meet those criteria, you have to go through a little different process. But when you looked in -- on Page 1 under D at the bottom it says agricultural land clearing. It says land clearing notice. But the criteria under D.1 or agricultural clearing permits, and if you go to Page 5 on the top it says number two, agricultural clearing notice, see. And that language there was also put under Page 1 under land clearing notice. It had it two places. And I looked through some of the old amendments, I was doing a lot of research, and you know, they got it right the first time. It was -- they did have agricultural clear permit. And then I found a few other amendments and I found the recodification and it carried through perfect there as well. Somewhere after the recodification a scrivener's error happened. I don't know. So I'm just fixing what was the language when the recodification went through. And that's all this is.

CHAIRMAN STRAIN: Anybody have any questions?

(No response.)

CHAIRMAN STRAIN: Is there a motion?

COMMISSIONER SCHIFFER: Move to approve.

COMMISSIONER EBERT: Approve.

CHAIRMAN STRAIN: Made by Commissioner Schiffer, seconded by Ms. Ebert.

All in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.
CHAIRMAN STRAIN: Aye.
COMMISSIONER AHERN: Aye.
COMMISSIONER VONIER: Aye.
COMMISSIONER EBERT: Aye.
COMMISSIONER HOMIAK: Aye.
CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

Okay, Steve, we're on 10.06 point -- 10.02.06 E, which is the very next one. It's similar in nature.

MR. LENBERGER: Yes, this one --

CHAIRMAN STRAIN: Are there any questions from the Planning Commission on this one?

COMMISSIONER SCHIFFER: No. Oh, wait.

CHAIRMAN STRAIN: Steve, that means you don't have to -- you can go through the whole -- apparently it's appearing somewhat similar to the one you just got done with.

MR. LENBERGER: You want me to go through the changes, or what do you want me to do?

CHAIRMAN STRAIN: I don't think anybody needs any. Anybody have any issues?

COMMISSIONER SCHIFFER: I just have a question on Page 3.C. Kind of just explain that. Because you're removing a requirement.

MR. LENBERGER: The removing the understory vegetation shall be restored to the area from which protected trees were unlawfully removed?

COMMISSIONER SCHIFFER: Right. So you're removing the requirement to restore the understory.

MR. LENBERGER: Well, actually, we didn't, because if you go to the following -- the page previous to that, number two, talks about replacement vegetation. And if you look there, it talks about trees. You see that where you crossed out the language? And they're very large trees. And what we did is we updated -- we had all these amendments from 2009, if you remember correctly, to different sections of the code. And this section needed to be updated and brought up to date, basically, to what happened to the other sections. So basically replacement of vegetation, if it's part of the landscape requirements, we reference the landscape requirements. If it's part of the littoral shelf planting area, we reference that section. If it's the environmental restoration of county preserves, we reference the applicable section. So we're not removing the requirement, we've actually put it over where it should be on iii on Page 2.

COMMISSIONER SCHIFFER: And which -- okay, so what you're saying, somewhere in there, these multiple requirements --

MR. LENBERGER: Right.

COMMISSIONER SCHIFFER: You would be required to replace the ground cover.

MR. LENBERGER: That's correct.

COMMISSIONER SCHIFFER: Okay.

Move to approve.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Made by Mr. Schiffer, seconded by Ms. Homiak.

Discussion?

I have one question. And I had circled the same issue that Brad brought up but with your explanation. If you look at C, iii.C.

MR. LENBERGER: Yes.

CHAIRMAN STRAIN: Environmental restoration within county required preserves shall be in accordance with 3.05.07.H.

So what you're saying is the only time on Page 3.C that understory vegetation shall be restored to the area from which protected trees were unlawfully removed. So that means the only protect trees were those within county acknowledged preservation? Because that's the only way iii.C applies for understory.

MR. LENBERGER: Right, it's for understory. And it would only apply to Page 2, iii.C.D. C and D.

Basically preserves or natural areas.

CHAIRMAN STRAIN: Okay, got it.

Okay, no further discussion, all in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

Steve, I think that takes us to the end of your day.

MR. LENBERGER: Thank you.

CHAIRMAN STRAIN: We appreciate -- your institutional knowledge is great. And thank you for the detailed way you provide everything. It's excellent. It sure helps us make decisions, so we appreciate it.

Okay, we move to docks. Docks are -- our item is item number 20. It's 5.03.06, by new administrator process.

Carolyn, I guess you're leading the charge in this, or Ray?

MS. CILEK: I'll let Ray start.

CHAIRMAN STRAIN: Ray, okay.

MR. BELLOWS: For the record, Ray Bellows.

This amendment basically addresses some of the previous direction from the Planning Commission in regards to boat dock and boat dock criteria. And what we were thinking is that single-family boat docks that met all the criteria could be done administratively. And those that didn't meet the criteria are multi-family docks would still come to the Planning Commission.

We also wanted to revise and clean up some of the language to make it more user friendly. And we also developed an advertising process for the administrative review of these boat docks.

MS. CILEK: Including a public notice requirement.

MR. BELLOWS: Yes.

MS. CILEK: For those that are approved administratively.

CHAIRMAN STRAIN: Okay. And I think the commission is certainly well aware of our boat dock process, because we get it so often. And obviously we've expressed our concern that some of these minor ones should be looked at by staff in a manner for approval and avoid the public process for the cost and everything else.

So with that in mind, let's just walk through the concerns from the Planning Commission. Does any -- why don't we take it a couple -- there's half a dozen -- seven pages. Let's take half of it at a time. Pages 1 through 3, does anybody have any issues?

MS. CILEK: And I'm just going to let you know that we are going to be basically making the public notice requirements a little clearer and outline them more specifically per the county attorney's office. So we're going to -- we'd love to talk about it today, but we want to give you a newer draft following her recommendations. So we did talk to her about this, and we'll be updating that part.

But the intent is still there.

CHAIRMAN STRAIN: So this is coming back for a rewrite.

MS. CILEK: It is. I just want to let you know that it is going to come back. And that's what we'll be looking at, as well as there's a couple of errors and we're going to fix those too.

CHAIRMAN STRAIN: Okay. Well, let's provide our input on top of whatever else you're going to do and then --

MS. CILEK: That sounds --

CHAIRMAN STRAIN: -- you'll have a complete package when it comes back.

MS. CILEK: Perfect.

CHAIRMAN STRAIN: Planning Commission? Brad?

COMMISSIONER SCHIFFER: I do.

I guess we'll just start walking through the thing. But just to make sure that I understand the advertising is that we've got some criteria here that if it's met, the staff can do the work, it doesn't have to come before the board. If/when you send out notices, if any neighbor objects does it come before the board then?

MS. CILEK: Yes. They have to send a letter of objection --

COMMISSIONER SCHIFFER: And this has to be a clean application, no objection, everybody happy in meeting the criteria.

MS. CILEK: Yes. If there's a letter of objection, then it comes to the Planning Commission.

COMMISSIONER SCHIFFER: Okay. In one, what is the line, the statement there, H.1 on Page 3, the county manager has the ability to permit additional square footage up to the maximum square footage of the dock area approved. What is that? And where do we determine the maximum?

MS. CILEK: In the sentence before it it reads: The facility envelope shall identify the maximum square footage of the dock area needed to allow for future expansion. So this is the case, if a -- Ray, step in if I'm going off track where they want to expand their dock. And they've already identified it in their site plan and they would just go to the building permit then, they wouldn't go through the SDP or the process with the zoning department. So they've already identified it, but they actually haven't built out to that.

COMMISSIONER SCHIFFER: Okay. So in their application they can show Phase I, let's say, and then give future phases also approved at the same time.

MS. CILEK: Yes. They would show their envelope of how big they could have it, which would meet all the setbacks and all the other requirements, but they didn't build it to that extent. They would have that option in the future, but they wouldn't come through the zoning department, they would just go to the building department.

COMMISSIONER SCHIFFER: Then down at three, you know, one of the problems that we've always had with this is there's things that they call them, criteria, but they're essentially not. And it looks like that's expanded through 3.A, for example. It's a regulatory thing, but it's not really a criteria. I mean, it could be worded to be a criteria. But what you're saying is you're limited to two slips. And --

MS. CILEK: I think one thing to keep in mind is that this criteria you're speaking to if you meet these regular store -- like meet the number of slips, then it is going to go through administratively if you met all the other criteria. If you go beyond these number of slips, then it goes to the Planning Commission. So it's still a criteria in that way.

COMMISSIONER SCHIFFER: Okay. So this is criteria for the administrative approval.

MS. CILEK: And then if you don't meet those, then you're buffered out.

COMMISSIONER SCHIFFER: Okay, are we -- how many pages are we --

CHAIRMAN STRAIN: I'd like to take the first three pages first, Brad, to keep it a little more organized.

Anybody else have any questions on the first three pages?

(No response.)

CHAIRMAN STRAIN: I have a few.

Caroline, in your first page number one, and this is just a clarification, three paragraphs up from the bottom you say the Planning Commission would utilize the same criteria and applicants will need to meet of the five primary and two of the three -- second dairy.

That's inconsistent with --

MS. CILEK: That's a typo.

CHAIRMAN STRAIN: -- Page 3.

Okay, so you're going to fix that?

MS. CILEK: Yes, I can do that.

CHAIRMAN STRAIN: Okay. On Page 2, this is a concern in the dock facility definition, which I know isn't part of this amendment. But it may play into the amendment. Because when we figure out the distance into a waterway that a dock facility can go, we include the boat.

MS. CILEK: Right.

CHAIRMAN STRAIN: But in this case the way this is written, if you rely on the dock facility definition we have here, it looks like the dock facility itself could go out 25 percent because the boats not considered part of it. How would you bring the boat into it through the criteria if it's not part of the definition of a dock facility?

MS. CILEK: Can you -- real quick, Ray, if you may --

CHAIRMAN STRAIN: I'm sorry, I should be directing this to Ray. I'm sorry, Ray.

MR. BELLOWS: Either one of us. We're both working on it.

MS. CILEK: Can you look at Page 3 for me, line five. And I want to see if you're looking at the copy most recently provided to the Planning Commission, which establishes sort of a dock definition for this section H. For the purposes of this section, the dock facilities shall include the farthest protrusion of both the dock and the vessels.

CHAIRMAN STRAIN: Yeah, I don't have that.

MS. CILEK: Okay. So you have a previous version we looked at. I apologize.

CHAIRMAN STRAIN: No, it's my fault. I've got so many versus I thought I'd grabbed the most latest.

MS. CILEK: 03.23. Do the rest of you have that?

COMMISSIONER EBERT: 03.23, yes.

MS. CILEK: And so the rest of them have that.

MR. BELLOWS: And I just want to point out, the reason we did this was because the boat dock extension we want to account for the boat. But for a general definition of a dock, it's not necessary to reference that. So there is some confusion about that, maybe we need to --

CHAIRMAN STRAIN: Well, I understand now. But if I had seen that, I probably wouldn't have asked the question. Since I don't have that, I missed it. Sorry.

MS. CILEK: Well, it's a good question. And we wanted to clear it up in this amendment -- or in this language within the code. So for dock extensions, you include both.

CHAIRMAN STRAIN: And then in number H.1, the way you ask this kind of almost suggests that -- and you come in -- and it's the second sentence I'm concerned about -- the dock area needed to allow for future expansion.

So are you suggesting that everybody come in and ask for the maximum they think they can get, then any time they want to add to the dock in the future all they need is a building permit? I would think we would want to look at just the opposite, where it says the facility envelope shall identify the maximum square footage of the dock area needed.

Why don't we just put a period? Why do you care if they're asking for a future extension? If that's just administrative still, they can come in and get it. Why would we want to force everybody to say you've got to ask for the maximum now, because we want to make sure you can always just get it by building permit here and in the future, what difference does it make?

MS. CILEK: Would you keep the second sentence that says the county manager and his designee shall have the ability to --

CHAIRMAN STRAIN: Yes.

MS. CILEK: Okay. That would provide for a similar situation.

CHAIRMAN STRAIN: Well, no, no, I'm sorry.

COMMISSIONER SCHIFFER: What does that mean then?

CHAIRMAN STRAIN: No, you can't then. But then see, why would you -- why would we want to tell someone to come in for the maximum if that's not what they need at the time they're coming in?

MR. BELLOWS: I think the idea was to be customer service oriented. If the maximum is still insignificant or meets all the criteria, then why force them to come back in? Because three years later if they're --

CHAIRMAN STRAIN: The maximum they come in for now may be more objectionable to their residence than what they need, and will automatically generate a letter of objection that kicks them into a higher level of scrutiny that they don't really need because they really -- I could see them coming to us now, well, we really didn't want this but we were told to put what we could do in the future, so we had to do it this way. Well, that just puts them into a process, because they could get more letters of objection from neighbors.

Why don't we just ask them to submit what they want and base our criteria on what they're asking for, not what we want to project them for in the future.

COMMISSIONER SCHIFFER: Yeah.

MS. CILEK: And regardless, they have to meet all these criteria, even if that is the maximum, so they likely would do that anyway.

CHAIRMAN STRAIN: Okay, well, why don't you just put a period after the word needed and stop the reference to future expansion. And that next sentence isn't needed. Or I guess it is, because it's up to the dock area

approved, because they're going to only get approved for what's needed. So, I mean, I think that next sentence is somewhat harmless.

Then the -- under 2.A, the third line under 2.A in my version says shall be approved by the zoning department. Wouldn't that may be approved by the zoning department?

MS. CILEK: I believe so. No, if you go to B, then you're speaking about those that go to the Planning Commission. So A is identifying those that go --

CHAIRMAN STRAIN: Well, but the may that I'm concerned about is even if they're under 2.A but they get a letter of objection, you guys still can't approve it, it's got to go to the Planning Commission. So it's still may for you all.

MS. CILEK: Yeah, and it's May in the second one too.

CHAIRMAN STRAIN: Right.

And then under 2.A, you're talking about provided the extension does not protrude more than 40 additional feet, 60 in length into the waterway.

That's a concern because not all conditions in the county need 40 feet. I would rather suggest we do as we do now, we look at the alignment of the docks in a particular area if there are adjoining docks. And if they're all getting the depth they need within 35 feet, but somebody comes up and needs a total -- wants 60 feet because this allows them to get 60 feet, why would we want to -- why would we want you all to be put in a position to having to give that to them? It's out of consistency with the rest of what the neighborhood has. And you know that neighbors, generally the docks are pretty much in line where that water line is.

MS. CILEK: Well, I think two things: One, that we'd have to -- the threshold is also there so that we don't go above that so that we have a number that we work within. Staff can approve. So we sort of do need a threshold of some level. And we could work with the county attorney's office to see if we could -- if that -- looking at like a linear line across where docks extend to --

CHAIRMAN STRAIN: We do the same thing with the coastal construction setback line, build line. When you have condominiums that have been grandfathered in over periods of time and they go so far out along the coast and you've got an infill in between, instead of going back to the line that's further inland, you can argue that you can be in line with the condos on both sides of you. It's a similar application.

MR. BELLOWS: Is that something that the Planning Commission would rather see instead of administrative?

CHAIRMAN STRAIN: Well, I think you'd have more objection for people who follow this and go farther out than their neighbors than if you just try to find some level of criteria you can use that keeps them in line with their neighbors. I think you may see less objections and more people then accepting the staff administrative review instead of going to appeal it.

MS. ASHTON-CICKO: Yeah, I mean, it has to be black-and-white for staff to approve it administrative. So we could determine that it can't extend further to your property that abuts you, you know, on either side. But if they have to draw a line and start to exercise discretion as to whether it's along that line, now we're getting out of an area that they really have the administrative --

CHAIRMAN STRAIN: I would suggest some kind of percentage to the dock next to you. If a docks -- I mean, because you may have a bigger boat, you may have more data that gives you a need to go out a little deeper. But if you start saying everybody can go out to 60 feet but yet you only have 25-foot or 30-foot docks in the area, that's going to raise eyebrows. That's going to cause problems.

MS. CILEK: And I do believe that we are using the other criteria to try to limit how far out you need to go. Like once you meet your need, you know, water depth or site conditions, sea grass, width of the waterway, you know, you can only protrude so far, those other criteria are helping to get to how far out you actually can go to.

CHAIRMAN STRAIN: Okay. Well, this is going to come back anyway. But consider that -- if it isn't needed when it comes back, just explain as to how -- why it wouldn't be needed. And I'm not -- I'm just trying to make sure we cover all bases.

MS. CILEK: It's an idea.

CHAIRMAN STRAIN: That's the point.

MS. CILEK: We can work with Heidi on it. We can look at it.

CHAIRMAN STRAIN: And then that's the issues I have --

COMMISSIONER SCHIFFER: I have another --

CHAIRMAN STRAIN: -- on Page 3.

Go ahead, Brad.

COMMISSIONER SCHIFFER: Come back in on that page.

Number one, why did you remove the fact that the barrier islands are special, or do the barrier islands automatically go to the Planning Commission?

MS. CILEK: That's a really good question, and I'll start and I'll have Heidi follow up on it.

But there was a recent boat dock extension that came in and it was removed from the CCPC's agenda because it was on an unabridged barrier island and they are in a separate provision in the code in the dock section. So right above 5.03.06.H. And so they're already provided for. They are just reviewed so that they -- for structural needs.

And then we look to see if there are any other areas outside of that, specifically things like state aquatic preserve area. And there is. There's I think federal lands. There's two types of larger governmental entities preserve areas. We had a map done just to show those two, and we spoke to counsel and they said that they would be treated the same. So there are no areas that would be left out of the provision above this section which gets to how you proceed with docks in unabridged barrier islands. Does that make sense?

CHAIRMAN STRAIN: Uh-huh.

COMMISSIONER SCHIFFER: If what you said is true, it makes great sense.

MS. CILEK: I mean, Heidi, can --

MS. ASHTON-CICKO: Are you reading the text of one of the amendments or are you at the reason?

COMMISSIONER SCHIFFER: Well, no, I mean --

MS. ASHTON-CICKO: I don't know what you're --

COMMISSIONER SCHIFFER: -- the point is that it's removed.

MS. CILEK: It's removed.

COMMISSIONER SCHIFFER: In other words, we -- in here we're allowed to give special consideration --

MR. BELLOWS: Can you point to the page?

COMMISSIONER SCHIFFER: It would be Page 3, line 36-ish, 37, 38.

MS. CILEK: It's in the existing language with how many slips.

COMMISSIONER SCHIFFER: Okay.

MS. ASHTON-CICKO: I really can't explain why that language was struck through, but I can tell you that there's already something in the code that does provide an exemption if it's in the state aquatic preserve, and there was one other requirement which what that meant was it was Keewaydin Island.

COMMISSIONER SCHIFFER: Okay. And then the next thing is you've -- up on H, line eight, in that area there, when -- you've crossed out that the Planning Commission deals with these requirements when we make our approvals. Now, we've had controversy as to whether it's a score card or whether it's a threshold. But -- so that means when it does come before us, we don't have to deal with these anymore; is that right? In other words, in order for the Planning Commission to approve, you've crossed all that out.

MS. CILEK: Well, the approval for the Planning Commission, that process is located under 2.B.

COMMISSIONER SCHIFFER: Let me get it.

COMMISSIONER EBERT: 2.B.

COMMISSIONER SCHIFFER: 2.B, or not 2.B.

Okay.

CHAIRMAN STRAIN: Okay?

COMMISSIONER SCHIFFER: Yeah, I guess it is covered there. Good, all right.

CHAIRMAN STRAIN: Okay, let's move on to the balance of this one, four through seven.

Brad?

COMMISSIONER SCHIFFER: The -- and it's 3.Aii that's at the bottom and carries over. How are we going to -- you know, the water depth was always a primary thing that I would look at to make sure that they're not going further than they need or in fact they needed an extension to begin with which --

MS. CILEK: Can you bring your mic a little closer?

COMMISSIONER SCHIFFER: The water depth was something that I would primarily look at to see if they really needed the extension; if they can't get the boat on the lift they probably deserve an extension.

Do you think that describes it well enough?

MS. CILEK: And you're on --

COMMISSIONER SCHIFFER: I am on --

MS. CILEK: Criteria -- secondary --

COMMISSIONER SCHIFFER: -- 3ii. 3.Aii.

MR. BELLOWS: We took out that first part.

MS. CILEK: Yes, this is a consolidation of several of the criteria into one, all dealing with site conditions.

COMMISSIONER SCHIFFER: Right. But what kind of requirement -- I mean, what are you going to look at? Staff's going to review the water depth. What is -- what is -- I mean, there's no requirements, there's no -- I mean, how were you going to determine water depth?

MS. CILEK: Well, it's modeling language above it which establishes that. So -- I mean, justifies closed dimensions. I mean, you have to illustrate that the water is too shallow.

COMMISSIONER SCHIFFER: Right. But you're removing that. In other words, don't you think maybe you should keep some of that in that the water's too -- I mean, you just say it's going to -- you're going to look at the water depth, but you're not going to say why. And the prior language said you're going to look at it because they can't launch their boat.

MS. CILEK: So you prefer the water depth is too shallow --

COMMISSIONER SCHIFFER: Well, I think you should --

MS. CILEK: -- to allow launching and mooring?

COMMISSIONER SCHIFFER: You know, there should be a reason for people down the road as to why we're looking at water depth. I mean -- and the water depth, the reason we're looking at it is that if the boat doesn't need the extension to be launched then they probably shouldn't get the extension.

MS. CILEK: Sure. Well, the intent of the new language is to get to that as well. You know, the presence of one or more of these justifying why. We can discuss adding the language up here.

MR. BELLOWS: Yeah, I was just seeing if it was written somewhere else and I couldn't remember. But yeah, I think Brad makes a good point, we'll --

COMMISSIONER SCHIFFER: And the other thing too is --

MS. CILEK: This is clarifying what --

CHAIRMAN STRAIN: Well, you can do a parenthetical after water depth to explain what you mean.

COMMISSIONER SCHIFFER: The other thing is you're ranking water depth with some other requirements that I don't want to lose the value of water depth in this decision. So I'm not too comfortable with that.

MS. CILEK: I think it's a good idea to include -- I mean, you're identifying --

MR. BELLOWS: You make a good point. We'll clarify and bring it back.

CHAIRMAN STRAIN: But what this is saying, I think, is if water depth is the issue, we can still -- they can still not meet that criteria, based on water depth alone. It doesn't have to meet a combination of any of those criteria, just any one of them could still make them lose that criteria; is that correct?

COMMISSIONER SCHIFFER: So there's criteria within criteria. Any one of them will cause failure.

MR. BELLOWS: Yeah. You're not meeting the intent of that on ii.

MS. CILEK: Because they were existing elsewhere and so we wanted to keep them as a criterion.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: So if the water depth is okay but they have seagrass beds, it's still a reason to lose the criteria, or any one or combination of numbers.

MR. BELLOWS: Yeah.

COMMISSIONER SCHIFFER: Okay.

And in B secondary, why did you get rid of the requirement of 50 percent of the linear waterfront footage?

MR. BELLOWS: Well, it hasn't been uniformly applied. And it seems to be addressed by the other provisions. You know, if you're trying to regulate the length of the facility, there are other parts of the code that are addressing that. And if it's trying to prevent the dock from stretching across the width of the lot, the riparian lines and setback address that. So it didn't seem like it was clear what that provision was trying to accomplish, so it seemed like why need it, there are other -- all the other code requirements with regard to boat dock extension seemed to address that same issue. Seemed to be redundant to a certain extent.

COMMISSIONER SCHIFFER: I don't particularly agree with that. I think what it did is it put the scale of boats to kind of be to the scale of the community they're in. And without any length limitation, I mean, somebody could pull the Queen Mary perpendicular to the back of his single-family house.

MS. CILEK: Well, length is guided by the extension of the entire dock facility, so that includes both boat and the structure.

COMMISSIONER SCHIFFER: Correct. But I think maybe when we discuss this we'll talk when we're over, but, you know, the problem is that now that we're in a time, which makes sense, that we have perpendicular docks, the code I don't think was written for perpendicular docks in mind. That there is nothing to limit the size of that vessel then. Or Ray, if you say it's in here, show me. I mean, it's --

MR. BELLOWS: Well, they would be -- you know, you're getting the total request and you're looking at them. So they've got this Queen Mary coming in, you'll be knowing that the size of that is part of the request. And if that's the only criterion that they don't meet, then it still would meet enough to recommend approval of it. So to me it just didn't seem like there was a lot of added benefit for that condition to be in there.

COMMISSIONER SCHIFFER: Okay. And you said we haven't really been honoring it that strongly.

MR. BELLOWS: Well, I've read through the history of these boat docks going back, and some people of staff interpreted it a little differently and applied it a little differently. And recently we've been fairly consistent in applying it as you're implying, regulating the size of the vessel. But it seems like there are other ways that the current provisions allow for it are regulated anyways.

COMMISSIONER SCHIFFER: And that's an odd thing to say when you're asking to turn this over to staff to review --

COMMISSIONER AHERN: Yeah.

COMMISSIONER SCHIFFER: -- that you don't consistently review it.

The other item is on Page 5.

MR. BELLOWS: And that's why we're trying to clarify and make it so it's understandable for everybody.

COMMISSIONER SCHIFFER: In the public notice, one question I have is why wouldn't we notice people on the waterway? Why -- you know, we're going to draw a circle. So obviously it's on the water. We know half the circle is useless, essentially. So why are we telling the guy across the street who doesn't have water maybe that they're going to build a dock over there. Why aren't we figuring out a way to do it where it goes up the waterway upstream? The people who will actually go back -- obviously the neighbors adjoining on the waterway are extremely important. But also the other guys who are going to be going by this thing are important, certainly more important than the majority of the half of the circle that's not even on the waterway. Can we come up with something that would actually take that into consideration?

MS. CILEK: I mean, we're using the standard county public notice requirements in this. And it's consistent with all other LDC requirements. We'd really have to talk to counsel on how they would work. Because if the code reads one way and we do it differently for boat docks, we'd have to really provide justification for that.

COMMISSIONER SCHIFFER: Well, I mean, it makes sense. I mean, you do realize half of the circle is useless.

MS. CILEK: It's water.

COMMISSIONER SCHIFFER: But it's in the water.

MS. CILEK: But I don't know how far out.

CHAIRMAN STRAIN: What good -- I mean, if you were to require notification to people down the waterway in some direction, what difference would that make?

COMMISSIONER SCHIFFER: Well, because these are the people that are going to be going by it. These are -- I mean, who's going to be affected by this dock? Not the guy across the street but the guy up the channel, he is.

CHAIRMAN STRAIN: But what would he complain about, that there's another boat dock going in?

COMMISSIONER SCHIFFER: Well, it may be -- he may be the one that would say that it's hard to negotiate around that area, that this dock is going to be --

COMMISSIONER EBERT: More than 50 percent.

COMMISSIONER HOMIAK: Well, anybody could say that.

COMMISSIONER SCHIFFER: Right.

CHAIRMAN STRAIN: See, I'm -- from what I've seen on boat dock applications, people come here just to

stop them. They don't really have a lot of -- I mean, I've got mine, nobody can have theirs and we want to make sure there's less boats. And that's not a criteria that this county should be weighing in on. And I think all it would -- by extending the notification to up and down channels, I think that's just going to bring people out of the woodwork for the wrong reason, Brad. I mean, we see it too often here as it is.

COMMISSIONER SCHIFFER: But, I mean, somebody in the public might come out of the woodwork with the right reason, too.

CHAIRMAN STRAIN: But they don't need to be notified by the applicant to do that. I mean, once -- I mean, their neighbors are -- if their neighbors are talking. If they're not, then they shouldn't be concerned.

COMMISSIONER SCHIFFER: Yeah, I'm not sure how much neighbors talk.

But that's it, I'm done, thanks.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: And we have Rocky or Tim, are you guys going to weigh in on this?

MR. SCOFIELD: I've been gone too long.

CHAIRMAN STRAIN: Rocky speaks, the code changes.

MR. SCOFIELD: For the record, Rocky Scofield.

I do have some comments, and I'll start on the clean version, which is Page 6 under -- let's see. Well, it's 2.A. You talked about the 40 additional feet, 60 total length. When I read that, it looks like to me they're setting a maximum there that they can't -- they can review under administratively anything from there under. If it goes over that, it's going to have to come to Planning Commission. I think that's the way I read that. So I don't -- I see that as a fine rule, because there are areas a lot of places where we do go out, and South Port's one of them. We go out 50, 60 feet in that area.

So I think that's fine. It just sets a maximum length that they can review.

Under Page 6, 3.Ai, well, let me back up just one minute. When I go to Page 1, under the fourth paragraph, the next to the last sentence in the fourth paragraph, where it refers to reasonable deck width shall be considered up to five feet. When I read on the next page, Page 2 under the EAC recommendations, it appears to me I was not at that meeting. Was that a recommendation by the EAC?

MS. CILEK: Yes.

MR. SCOFIELD: To limit it --

MS. CILEK: No, staff was to have it at five feet. Staff wanted to limit it to five feet and then the EAC's recommendation was up to five feet.

MR. SCOFIELD: Okay. Well, okay, my comment on that is I would like to see that up to six feet. Certainly when we dealt with the BDE criteria before, the language was used -- when you all reviewed BDE, the language being used was it shall not be -- you know, it has to -- you cannot use executive deck area, okay, which I think is a good term when you're viewing things. Obviously you don't want to permit something going out 50 feet and have a big party deck out on the end. That's one of the criteria, that you don't use excessive deck area. To me six feet -- a six-foot wide dock is not excessive. It's a lot of instances where there'll be a minimal dock and it can be six feet wide. For instance, a perpendicular dock coming into a property only going out 30 feet, and a guy's parking a boat on each side. When you're accessing two boats, one pier, one finger dock, six feet is not excessive. I would like to see that go to six feet. And I think if you go over that, then it has to go to a hearing; is that correct?

MS. CILEK: Yes.

MR. SCOFIELD: I mean, that's the way you're saying.

CHAIRMAN STRAIN: This is the criteria for administrative level approval.

MR. SCOFIELD: Okay. So I would like to see that six feet.

In -- Page 6, 3.Bi, the first sentence, the proposed dock facility shall be limited to the minimum. Should that be deck instead of dock area?

MS. CILEK: I'm sorry, what line?

MR. SCOFIELD: Okay, Page 6, 3.Bi. The first sentence, the proposed dock facility shall be limited to the minimum dock area. Should that be deck area?

COMMISSIONER SCHIFFER: I think so.

MS. CILEK: Sure. I can't find it.

MR. SCOFIELD: I didn't have much more on that other than the -- you know, when you were talking earlier discussing about the maximum area coming in, I kind of agree with what you were saying with that, Mark, on you don't come in -- people don't know what's going to happen in the future, if someone buys the lot and they want to change something. If the language is going to pertain to that, then what we're trying to do is avoid someone having to go through a BDE again.

Now, it used to not been that way. When we used to come in and we had a BDE in place and somebody wanted to change something within that BDE approved area, they could just go pull a building permit. And then somewhere a few years ago, within the last five years, that got changed. And then all of a sudden staff says you have to get another BDE, even adding a lift.

A case in point: I permitted a dock system in South Port. Pretty good sized dock system, like a lot of them are out there, they've got to get out a ways. And the guy had went out in a U-shaped dock and he only wanted one boat lift. Well, clearly he had several slips there.

The new owner came in, wanted to put in another boat lift. He was within the side yard setbacks. Nothing else was done. Had to come back through another \$5,000 expense just to put a boat lift within that area. That's what it needs to address, things like that. If you're coming back in and you're not adding another slip and you're not adding, you know, more deck area and you're within the side yard setbacks and within the distance permitted out, then it should be a building permit. And I don't know if we want to get into all that language, but that's where that needs -- that was the discussion on that, where that needed to go.

CHAIRMAN STRAIN: Well, whether it's a building permit or administrative approval for the boat dock change, that threshold would still fall back to the staff on the way it's written now, so you'll still be in about the same condition. You might need one more staff just to acknowledge that it's within staff's administrative purview.

MR. SCOFIELD: Right.

CHAIRMAN STRAIN: So I think that would cover that.

MR. SCOFIELD: Okay.

The other thing, the last thing I have is on Page 6 3.Ai, primary criteria. The vessels -- the first sentence, vessel slips for single-family use shall be limited to no more than two slips.

This has been a sticking point with county rules on this. The state and the City of Naples have the same criteria. That is, you can have two vessels. They don't limit it exactly to slips. You can have two vessels which is basically two slips at your dock. Plus you can have provisions to have personal watercraft, a canoe or kayak or rowing shell, something -- a lift for that. And so it's different criteria in the county.

The county says two slips. You want to put a couple of canoes or kayaks on a boat lift, that's your other slip. And I'd like to see that changed to coincide with the state rules and City of Naples also that has that.

CHAIRMAN STRAIN: Well, I mean, Rocky, my personal concern is what you open the door for when you do -- when you include personal watercraft arbitrarily. To me those are the most annoying things ever invented by mankind.

MR. SCOFIELD: I agree. You can't tell my clients that.

CHAIRMAN STRAIN: To kind of let those just flourish is I think detrimental to all boaters and kayakers and canoeists in this county. So -- I mean, and the people that ride them seem to get a kick out of making life miserable for everybody around them. So I'm not sure why we want to -- in fact, I'd rather tighten it up in the opposite direction, to be honest with you, just to avoid the proliferation of personal watercraft. But I understand that's a --

MR. SCOFIELD: Well, that's --

CHAIRMAN STRAIN: -- like some people, including Jack who's back there smiling at me. But, you know

--

MR. SCOFIELD: Well, you know, you can't regulate what people buy and use on the waterway. I'm just saying, if a guy has two slips and he's got a flats boat and a center console boat and he want to put a little -- a lift on his dock to pull up his jet ski or his canoe or kayak or rowing shell, then that's precluded. Now, I don't know if that kicks it into coming, you know, before. If that would kick it into a public hearing.

CHAIRMAN STRAIN: That's what it would do.

MR. SCOFIELD: That's -- well, okay, but right now that's not the way it is. Right now you are limited to two slips.

CHAIRMAN STRAIN: No, but what it means is you wouldn't get one of the primary criteria. You still could

qualify for the others and it still then would be acceptable.

MS. CILEK: It would just be reviewed by the Planning Commission.

MR. SCOFIELD: Okay. Then that's fine. Because right now you can't do that under the rules the way they are now. It's two slips, period.

MS. CILEK: This says that staff can administratively approve two slips. If the request is more than that then it would go before the Planning Commission.

CHAIRMAN STRAIN: Then if the Planning Commission feels that you don't meet that criteria, well, then you lose the one out of the four or three, whatever it is, that you can get. So you better not lose two.

MR. SCOFIELD: Yeah, right. That's fine. I mean, we couldn't even submit up to this point if it had more than two slips under a BDE. Yeah, that's the way the county -- that's the way it's been reviewed.

MS. CILEK: I think it says typical. I'm not really familiar, but let me read it.

COMMISSIONER SCHIFFER: I have a question for Rocky.

Rocky, we've come into this topic before, and one of the things you've always said that always made sense, I mean, we live in a water community, we really want to be, you know, water friendly to the vehicles.

Remember you had always mentioned that you were the one that actually started out, that back in the old days wharf docks were the typical dock and then the boat was put outside that and the 20 feet made a lot of sense in that world. But it didn't make sense when we started putting them in perpendicular. Shouldn't we not be restudying the requirements based on that, not based on whether the staff can do it? And I do agree, there should be administrative, you know, approvals to these things, but should we not set up some criteria based on the perpendicular parking, the lifts? Now that we have lifts, any lifts allow the canopy. I mean, wouldn't we be better off reestablishing criteria based on the way boats are really docked and moored today, not some legacy?

MR. SCOFIELD: Well, you know, it comes from -- I mean, it all boils down, every one of them is an individual case. I don't think the majority are perpendicular still. We're having to go that way, especially on smaller lots, obviously.

Are you referring to the over 50 percent?

COMMISSIONER SCHIFFER: Well, just the whole thing. I mean, you know, we had talked years ago about reviewing all the requirements again based upon the way we're doing things now, not based upon when these criteria were written.

MR. SCOFIELD: Well, I think, you know, you still have in place that you cannot protrude more than 25 percent of the waterway. That's county, that's state rules, 50 percent of the navigable waterway open. And I think, you know, if it fits and you don't have excessive amount of neighbors screaming, yelling that this is going to ruin navigability, I think it's an individual case-by-case basis. And I don't think you need to go into a whole lot of more explanation and putting more rules down.

COMMISSIONER SCHIFFER: Okay. All right, I mean, if -- actually, I thought we could study it, make more of it administrative and just get on with it. All right.

CHAIRMAN STRAIN: Before you leave, just couple of things. And I want to make sure when this comes back for rewrite that any explanation relative to the maximum number of slips per unit is explained. The way I read it it's typical, that it wasn't a solid no. Although you'd have to probably -- the burden of proof for you to justify more than two is on you. And if it isn't adequate, then it could be one of the primary turndowns.

And then the second thing that Rocky brought up, I want to get the weigh-in on the board, does six feet have any heartache for anybody concerning dock width?

COMMISSIONER EBERT: No.

COMMISSIONER VONIER: No.

CHAIRMAN STRAIN: I don't either. So okay, so it looks like six feet.

MS. CILEK: We'll rewrite it with six feet.

CHAIRMAN STRAIN: Okay. Rocky, thank you.

Tim?

MS. CILEK: Can I real quick?

CHAIRMAN STRAIN: Sure.

MS. CILEK: For typical, you wanted to explain how it currently --

CHAIRMAN STRAIN: Just to make sure, I just would like you to acknowledge that we have looked at it as

a typical --

MS. CILEK: Okay.

CHAIRMAN STRAIN: -- not a requirement in regards to -- not a maximum limitation that can't be broken. If that's the status that staff's looked at it, that's fine. I just want --

MS. CILEK: Okay, great.

CHAIRMAN STRAIN: -- an acknowledgment of it, that's all.

MR. HALL: Good morning, I guess still. For the record, Tim Hall.

And Rocky went over some of the points that we wanted to make. I know with on H-1, and I'm looking I guess at the last two pages on Page 6, but on H-1 some of the comments that you guys had regarding the ability to permit additional square footage up to the maximum, when we were having some of these discussions, one of the concerns we had was with people that would buy a property and want to redo the dock or reconfigure the dock to a different shape that was shown. But if, you know, our -- our intent was if the square footage stayed the same and the protrusion stayed the same, couldn't that be done administratively, even though it's a different design in terms of maybe the layout of the dock. If it's an -- you know, if it's a straight dock now and they went to an L or something like that.

CHAIRMAN STRAIN: But see, that's not what this says, Tim. This says allow for future expansion. And what you just described is something within the same -- yeah, I think you just said it.

MR. HALL: No, I'm talking about the last sentence where it says the county manager or his designee shall have the ability to permit. Where it says additional, you know, maybe alternative would be a better word there, square footage up to the maximum that was approved.

CHAIRMAN STRAIN: I think that would be a good suggestion, yeah.

MR. HALL: You know, something that would allow the reconfiguration to be done. As long as it's within the same footprint, why couldn't that be administratively done?

CHAIRMAN STRAIN: I think that works. Anybody? Brad?

COMMISSIONER SCHIFFER: Yeah, as long as --

MR. HALL: And the same square footage. As long as they didn't take the footprint and say okay, it's going to be all --

COMMISSIONER SCHIFFER: As long as we note that it's the existing area approved.

MR. HALL: Correct.

COMMISSIONER SCHIFFER: And that it was a legal permitted dock to begin with.

CHAIRMAN STRAIN: For existing area of a legally permitted dock.

MR. HALL: Right. Because there are -- on Isle of Capri there are a lot of docks there that were built before the BDE process. They would -- if somebody was going to reconfigure there, they would still have to come in for a BDE and they would I guess not be subject to this because the existing that they have is not currently permitted.

You know, I'd rather see them be able to do that, but I understand the concern that if it's not under, you know, the existing umbrella of a county approval then it should be.

COMMISSIONER SCHIFFER: But they might have vested rights which wouldn't be fair to take away either.

MR. HALL: Well, the state does. I mean, for Isles of Capris, because of the aquatic preserve, if they go in to change their dock, they're forced to come back to what the state requires.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: Okay.

MR. HALL: Under A, I kind of agree with Rocky that having some kind of an actual numerical extension would be good and help staff to make a decision. Just because if you get into a situation where there aren't any adjacent docks, how far out away from that property are you going to go to make that determination? You have to realize that the further away you go the more the shoreline or site conditions may change, so it may not be applicable.

CHAIRMAN STRAIN: But my concern was if we're trying to get staff to be able to do more, if we start getting docks that go out much past the neighbors, historically from what I've seen for the years I've been on this board, that seems to generate more objection just from the visual I'd thought of it than it really would. But I'm not -- it doesn't bother me one way or the other. I'm just trying to make it easier for staff to get through the process.

MR. HALL: Nobody's talked about 3.A.iii. I'd like to get this changed to where -- the county right now

defines the waterway as the mean high water line to mean high water line. And in terms of this specific criteria, I'd rather see that apply to the open water portion of the waterway. Because if you've got a mangrove shoreline that you're trying to preserve, you're actually penalized by this criteria.

CHAIRMAN STRAIN: Wait a minute. So then you're saying you've got a 250-foot wide waterway, and you have -- I'm not sure where this would occur, but you've got a seawall on one side and mangroves on the other, this would require your 25 percent to be measured from the high water mark of -- that would be up within the mangrove somewhere, versus now you're suggesting that it would be at the exterior edge of the mangrove. So the 250 feet might be reduced to 200.

MR. HALL: Correct.

CHAIRMAN STRAIN: And the 200 feet, 25 percent of that would be what, 50 feet.

MR. HALL: Fifty feet.

CHAIRMAN STRAIN: Instead of 250 feet, you'd be again -- you'd be, what, a little more than that.

Twenty-five percent of 250 feet would be what, 6,750?

MR. HALL: Well, if 50 feet of it is mangroves then --

CHAIRMAN STRAIN: I understand.

MR. HALL: -- your 25 percent of the waterway, you would be allowed -- if you measure from the edge of the waterway, you'd be allowed to go out 50 feet into the waterway and be -- this is only going to apply to the single-family, you know, I guess exemption criteria.

CHAIRMAN STRAIN: How does DEP look at it?

MR. HALL: DEP looks at the actual open water area. When they look at 25 percent of the waterway, they define the waterway as where the boats can actually go.

CHAIRMAN STRAIN: And that's actually how you looked at it in The Dunes, isn't it?

MR. HALL: That is how we looked at it in terms of showing that we left 50 percent of the navigable area open. But we failed that -- The Dunes failed that criteria because it was more than 25 percent of the entire waterway.

CHAIRMAN STRAIN: And that's because the entire waterway was measured up into the mangroves because of the high mean water line.

MR. HALL: Correct.

CHAIRMAN STRAIN: Okay. I mean, the active part of the water makes sense.

COMMISSIONER SCHIFFER: I agree with that too. And actually, that could be more restrictive on you too, couldn't it? I mean, if you're -- let's say there's no mangrove on the other side and there's mangrove on your side, the number would be higher for the percentage you're taking up, wouldn't it, the mangrove being on your side?

MR. HALL: If the mangrove is on the side of the dock, then your protrusion is going to be -- even though you're only taking up 20 feet of the waterway, your protrusion is going to be more than if it was 20 feet on the other side.

What I'm saying is that the intent of this, my understanding of the intent of this is to make sure that the navigability within the waterways is maintained. So each side is allowed to take 25 percent and then you've got 50 percent in the middle to be left open for that navigation. And the way it reads right now, if you have a mangrove shoreline that is -- and I mean, just to give an example, if the mangrove shoreline is 100 feet and the waterway then on the outside is 100 feet, you're 120 feet out, even though you're only taking up 20 feet of the waterway, the same as the guy with the seawall on the other side is.

COMMISSIONER SCHIFFER: So I agree, that is more restrictive.

CHAIRMAN STRAIN: I think if staff would consider this when you come back for the rewrite, but if you do so you're going to have to figure out a way to define open water that fits the conditions that would be applicable in the county.

So maybe Tim, you could supply some -- it's almost dangerous to ask you to supply some open water definitions after what you did with marginal docks, but --

MR. HALL: Same thing I said there, go to the administrative code.

CHAIRMAN STRAIN: Yeah. Well --

MR. HALL: That's where I tried to get all of my data from.

CHAIRMAN STRAIN: -- it didn't work for you either.

COMMISSIONER EBERT: And this is single-family only, correct?

CHAIRMAN STRAIN: Yes.

MR. HALL: Well, it would -- I mean, I guess the criteria applies to all of them. But in terms of the administrative --

CHAIRMAN STRAIN: Process.

MR. HALL: -- process, it would be -- that would be the application.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: Tim, how would that edge be defined, with a survey or something? Or how would you --

CHAIRMAN STRAIN: Well, that's what --

MR. HALL: Normally we define the edge of it with a survey, the same as we do -- when we do the mean high water line we also do the edge of the vegetation or the root line.

COMMISSIONER SCHIFFER: So when we see that vegetation on your survey, that's been a measured calculated --

MR. HALL: Yes, sir.

CHAIRMAN STRAIN: Melissa?

COMMISSIONER AHERN: How does DEP define waterways? Maybe just take their definition.

MR. HALL: Off the top of my head, I couldn't give you the exact definition. But the way they apply it is the actual open water portion. Basically if you can take a canoe through that area at any point, then it's defined as navigable, and that's how the Corps looks at it that way as well.

COMMISSIONER AHERN: But that's navigable, though, not waterway, correct?

MR. HALL: Well, that's, I mean, the same. The definition they have, like in some cases at low tide you may not be able to get a boat through there but at high tide you can. So they look at that high tide condition and include those areas.

It's basically mangroves or trees, vegetation. Usually it's mangroves or marsh grasses where you can have the mean high water line go up into them. But that would still be blocked from navigation.

CHAIRMAN STRAIN: Okay, Tim, thank you.

Is that the extent of the comments from the Planning Commission on dock facilities?
Brad?

COMMISSIONER SCHIFFER: I'd like to make two --

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: Ray, this is like how would staff handle this thing. When we do look at these docks -- and remember, we disapprove docks too. And essentially we hope that if we disapproved that you probably would have too.

Is -- like a lot of times they'll put a dock in and they won't show a boat there, yet a boat could come up to the edge of that dock. So you'll be careful in your review of these docks that, you know, let's say they put it right at the edge of the setback, a boat could come along that and violate the setback. So you're going to be very careful of that, make sure there's handrails and all the other goodies to --

MR. BELLOWS: Yeah, that part won't change. And it still has to go through the building review where all those railings and things would be checked.

But in regard to safety of ingress/egress, definitely we would require the survey to show the adjacent dock areas so that clearly shows that it meets the intent of the administrative approval. Otherwise it comes to the Planning Commission.

COMMISSIONER SCHIFFER: And you'll be suspicious, right, through the whole thing? Okay.

MR. BELLOWS: I hope so.

COMMISSIONER SCHIFFER: The other thing is once you build the boat dock and it's extended, a lift is allowed; that's part of a boat dock facility. And the way it's worded, it says on existing lifts we can put boat dock canopies on it. Sometimes when we stick them way out there we remove that ability. So how does that happen here? Because you lift the boat --

MR. BELLOWS: You're talking about a boat canopy that's attached to the boat or are you talking about a boathouse?

COMMISSIONER SCHIFFER: They're attached to the lift, I believe, right?

COMMISSIONER VONIER: Attached to the lift.

COMMISSIONER SCHIFFER: Yeah. In other words, we allowed that on existing. So obviously you would give them the extension, they would build the dock, all of a sudden they become existing, they can come back in and get the canopy permit.

CHAIRMAN STRAIN: What's wrong with that? Is that bad?

COMMISSIONER SCHIFFER: Well, in some cases we --

MR. BELLOWS: I don't think this provision's changing any of that criteria.

MS. CILEK: Right. It wouldn't go that -- it doesn't extend that far.

COMMISSIONER SCHIFFER: My point is in some cases we've limited that. Because they're out far, the boats are going to be lifted up pretty high and the canopy is just going to make it worse.

MS. CILEK: Wouldn't that be reviewed at the time the canopy permit came in?

COMMISSIONER SCHIFFER: There's -- the canopy's by right.

MR. BELLOWS: I don't think this -- it still would happen no matter how it's approved, whether the CCPC approves it or not.

COMMISSIONER SCHIFFER: Well, let me --

MR. BELLOWS: If someone attaches a boat canopy after the fact --

COMMISSIONER SCHIFFER: In our review we might have taken that ability away, or the ability to have a boathouse and stuff like that. Which they would have to --

MR. BELLOWS: A boathouse would come back.

MS. CILEK: Yeah, these would all come back to be a new permit, correct?

CHAIRMAN STRAIN: Well, but we could simply put that one of the thresholds you can't go past is canopies. And --

MR. BELLOWS: Yeah.

CHAIRMAN STRAIN: -- if they want a canopy, they have to come before us, if that's what your concern is. I'm not sure why anybody is concerned over a canopy. If you have a boat and you want to protect it, what's wrong with that?

COMMISSIONER SCHIFFER: Well, they maybe --

MR. BELLOWS: I think it may be a good idea to keep it as straight forward as possible. And if they deviate from that and they want a canopy, then that comes to -- requires a CCPC --

COMMISSIONER SCHIFFER: But they're allowed to come in and get a permit. Once -- the way it's written, once it exists, the lift, they can put a canopy on it.

I mean, if I'm the only one that seems to -- and I don't even boat, so what do I care about canopies? But if that's a smart thing to do then, you know, shut me down here.

CHAIRMAN STRAIN: No, my only concern, Brad, is if they have an expensive boat and they want a canopy to protect it from the sun. I don't blame them for that. I think that's --

COMMISSIONER SCHIFFER: So we'll give them the rights without -- okay, so there won't be limits on canopies.

MR. BELLOWS: Well, this amendment doesn't change that right. That's what I'm confused about.

COMMISSIONER SCHIFFER: It's by right the canopy, though.

MR. BELLOWS: Yeah, that's what I'm saying.

COMMISSIONER SCHIFFER: Some hearings -- because it's so far out, I'm thinking I can't remember the waterway, but we went out -- like we've gone pretty far on some of these shallows. And, you know, out there we didn't want structures and stuff.

But that's fine, I'll back off.

MS. CILEK: And we're not going that far. We have a limit of 60 so --

COMMISSIONER SCHIFFER: Right, that's true.

MS. CILEK: So those that went out 100 feet, you know, we're not going there. And that's probably where the limitations for the canopies came in.

COMMISSIONER SCHIFFER: That's a good point. I'm done.

CHAIRMAN STRAIN: Anybody else have any final comments on docks?

(No response.)

CHAIRMAN STRAIN: Ray, it's a good writeup. Thank you. I'm glad we got at least a start on the dock rewrite, because that's been bugging us for a long time. So thank you.

And with that, I think we'll probably -- it would be better to break for lunch now and come back at a quarter of 1:00. So that's just two minutes less than an hour. So let's come back at a quarter till 1:00 and we'll resume at that time.

(Luncheon recess.)

CHAIRMAN STRAIN: Okay, welcome back from the lunch break everyone. We will resume where we left off and try to get through this. And the intention is to break around 3:00 if we can and that way we can all be refreshed for the next meeting.

We left off after boat docks. We'll go back to the beginning of the regular agenda, and that starts back up on Page 1 with the number -- I don't know what number it is on yours.

COMMISSIONER EBERT: Fourteen.

COMMISSIONER AHERN: Fourteen.

CHAIRMAN STRAIN: Fourteen. 2.03.01, agricultural zoning districts, error of omissions.

Bill Lorenz and John Houldsworth, can we take that now, Ray, or should we -- can you handle it, or --

MS. CILEK: Yeah, let me just --

CHAIRMAN STRAIN: It's just an omission, I don't know why those guys would have to be here for that.

MS. CILEK: No, that's just -- they're just the authors. They just brought it forward.

Here we go. Yes, so this is just seeking to amend an error during recodification regarding the side yards for legal nonconforming lots trackers in the Estates zoning district.

The text that's being added to the LDC is on Page 3.D. 2.03.01. I just had to get Ray there. Agricultural zoning districts, error of omission.

CHAIRMAN STRAIN: It's number 14 on the agenda.

MS. CILEK: Yeah, 14.

And if you flip to Page 3, that's where the new text or the text that was accidentally omitted is being reinserted. And it deals with legal nonconforming lots in the Estates zoning district.

CHAIRMAN STRAIN: Anybody have any questions? Brad?

COMMISSIONER SCHIFFER: It's really simple. It's a scrivener error on line nine. You have a lot lien, which unless there's something I don't know about.

MS. CILEK: Line nine on Page 3?

COMMISSIONER SCHIFFER: Yeah, the setback along the longer lot lien may be reduced. I think it's line, that's all.

MS. CILEK: On line nine?

COMMISSIONER SCHIFFER: Yeah.

CHAIRMAN STRAIN: I don't have that.

COMMISSIONER VONIER: You're on the wrong page, Brad. We're on this page.

COMMISSIONER SCHIFFER: I'm sorry, go over to Page 2.

MS. CILEK: Okay. Line nine. Oh, setback along the longer lot line. I'll fix that.

CHAIRMAN STRAIN: Boy, spell check doesn't always help, does it?

MS. CILEK: I didn't even look at the word. Yeah, I can totally take care of that.

MR. BELLOWS: I wonder if that's old language too.

MS. CILEK: It is old language. That's all old language.

MR. BELLOWS: It's been that way for 20 years.

MS. CILEK: Or existing language.

CHAIRMAN STRAIN: Go ahead, Bill.

COMMISSIONER VONIER: On Page 3, line nine, frontage along a collector or arterial roadway to serve such lots is prohibited. Frontage is prohibited?

MS. CILEK: I think it's speaking to i, the first sentence, but I'm not very familiar, so I'll defer to --

COMMISSIONER VONIER: Well, frontage can't be prohibited is my point.

MS. CILEK: No, I think it's --

COMMISSIONER VONIER: Reduced frontage, maybe.

COMMISSIONER SCHIFFER: Yeah. I mean, if you read the sentence before, the intent is that it's -- you know, don't try this trick on an artillery (sic) or collector.

MS. CILEK: Yeah, it can't be read by itself as a sentence, it has to be in connection with the sentence prior.

COMMISSIONER SCHIFFER: Right. So maybe --

COMMISSIONER VONIER: Which is referring to reduced frontage; is that correct?

MS. CILEK: Do you want to --

COMMISSIONER VONIER: So for clarity, I would add the word reduced in front of the word frontage.

CHAIRMAN STRAIN: That doesn't hurt.

MS. CILEK: That's fine.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Caroline, just one. On your cover page, Page one, you have after -- in the change section, the indented quote includes not to exceed a maximum requirement of 30 feet. That's changing. So you just need to make sure you don't include that, because it says you're adding the following passage. You're really not, you're dropping the last part of it, right?

MS. CILEK: What I should do is say that we're adding a modified version of what was omitted. So I can fix that.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Is there a motion?

COMMISSIONER VONIER: So moved.

COMMISSIONER SCHIFFER: Second.

CHAIRMAN STRAIN: Made by Bill, seconded by Brad.

All those in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries.

Let's move to 2.03.08. And that one is the fringe zoning district, another scrivener's error. That's just that you added the word from.

MS. CILEK: Correct.

CHAIRMAN STRAIN: Well, what kind of a conversation do we want to have about that, guys?

COMMISSIONER SCHIFFER: Move to approve.

CHAIRMAN STRAIN: Move to approve by Brad, seconded by Bill.

COMMISSIONER VONIER: Second.

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0, because Melissa had to leave for her meeting.

Next item on the agenda is item 16, 4.02.01. Dimensional standards for principal uses. This is a really

intense spelling error.

Heidi, just out of curiosity, does staff have to come back to us with some of these minor errors? I mean, we've got one in here where they're taking out a comma in front of the word and.

MS. ASHTON-CICKO: Yeah, we're not allowed to change the text unless it's been approved. I mean, some of them, you know, we could pull some of them that are just really minor changes and put them at the end in a group that they can all be approved unless -- you know, with one vote, unless you --

CHAIRMAN STRAIN: Just trying to think of ways to expedite.

So 4.02.01 is a spelling error from the principle to principal.

Anybody have an objection?

COMMISSIONER SCHIFFER: Move to approve.

COMMISSIONER VONIER: Second.

CHAIRMAN STRAIN: Moved by Brad, seconded by Bill. Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

4.02.01.D. This is for an AC encroachment discussion.

And by the way, I think we've all read all this stuff, so as far as getting into an explanation from staff, it would probably be more expeditious just to ask questions from the Planning Commission. So I don't mean to take your thunder, but I'm not sure there's needed -- any is needed for some of these.

But on this one there may be some issues. Anybody have any questions?

COMMISSIONER SCHIFFER: I do.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: When you state that the minimum separation of structures is maintained, where do we find the minimum separation of structures?

MR. SCOTT: Building code. The minimum separation, as defined by building code.

COMMISSIONER SCHIFFER: Then you're referring it to the fire separation distance --

MR. SCOTT: Right.

COMMISSIONER SCHIFFER: -- of the building code, which could be zero, based upon the type of construction. In other words, as you get closer to the property line, it has nothing to do with buildings, so there is no building code separation for buildings unless they're on the same lot.

MR. SCOTT: Just for the record, my name's Chris Scott with Growth Management.

And I'm trying to find the -- bear with me one second.

COMMISSIONER SCHIFFER: Yeah. And here's where I really have a problem with this, is that I don't think we should ever have a situation where we could do something on our lot that affects the development of the adjoining lot, or the adjacent lot. So in other words, theoretically what you're kind of giving the impression is that I could push this air conditioner to the property line such that the other guy has to hold back his building to prevent in the future. I mean, if it's not an existing building you're changing his development rights on the adjoining lot.

MR. SCOTT: Understood. Yeah, I understand your concern, and it's a valid point.

The text amendment was simply codifying previous interpretation that was done by staff. It would need to meet any fire code related building separation, whether that notation is included in the text or not.

COMMISSIONER SCHIFFER: Well, I think you have to tell us what you mean by separation. But again, you can adjust that separation number by the type of construction, residential code and building code.

MR. BELLOWS: For the record, Ray Bellows.

It's also the zoning district would have -- if it's a multi-family situation, the multi-family zoning district has a set distance between structures set back.

COMMISSIONER SCHIFFER: And accessory structures.

MR. BELLOWS: Correct.

COMMISSIONER SCHIFFER: So what you're saying is separation means the distance between a principal structure and assembly structure, and you're implying that to the building on the neighboring lot, which doesn't make --

MR. BELLOWS: Well, on a multi-family situation there isn't an adjacent lot. I assume if you have a platted subdivision with a single-family home, you might have that situation occur, but there are setbacks from lot lines that apply.

CHAIRMAN STRAIN: But wait a minute, you've got -- you're going to have -- we've had PUD's come through like this. And Brad's point is exactly -- I mean, he's absolutely right. When you have -- say you have five-foot setbacks on the property line and you got two townhouses or two zero lot lines or five, five and zero, whatever, set side by side. That five feet is intruded upon by the air conditioner. The air conditioner takes up three feet. Well, if you have to maintain a 10-foot separation between these buildings but the air conditioner has to maintain by this the separation between the building now, you've pushed that guy's property over another three feet, haven't you? Jamie's shaking his head no. I'm hearing it.

MR. BELLOWS: I believe the requirement is that these would be either in the rear yard --

MR. FRENCH: Let me try to help.

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

COMMISSIONER SCHIFFER: Well, and we -- this would be the only thing in the code that affects an adjoining property.

MR. FRENCH: Hello.

CHAIRMAN STRAIN: Hi, Jamie. How are you? How's your arm today.

MR. FRENCH: My arm is fine. My voice on the other hand -- he lost his arm, I lost my voice. So I'll do my very best.

CHAIRMAN STRAIN: Too bad it couldn't have been just the opposite, huh?

MR. FRENCH: I'll do my very best.

I may have lost the fight, but he knew he was in a fight, how's that?

This is simply a clarification. You must maintain, by the Florida Building Code, Brad, a 10-foot separation between the single-family units, no matter what. No matter what the zoning allows for, we make sure this does not affect that 10-foot separation between the structure. This is simply mechanical equipment. And what's happening is that now that we've gone through with the flood zone updates, the allowance on the pad-mounted slabs for this mechanical equipment, it has to be elevated. So now when someone's been determined to be in a VE-6 or a VE-16, what's happening now is that they can't have that mechanical equipment on the ground, it's got to be elevated. And the only other way you could do it is actually make that home actually smaller to allow for an AC pad to protrude out over three feet. It does not encroach as far as -- or it does not go over -- does not allow for the AC pad to cantilever over someone's property line, nor should it create a barrier or a three-foot buffer so to speak that would prevent that next house from coming to be built only 10 feet from the primary structure. This is simply a pad that allows for the mechanical equipment.

COMMISSIONER SCHIFFER: Well, I think you can say it different. I mean, first of all you said that there's a 10-foot requirement in the residential building.

MR. FRENCH: I believe it is, yes, sir.

COMMISSIONER SCHIFFER: And there isn't. Because you --

COMMISSIONER EBERT: Yeah, there is.

COMMISSIONER SCHIFFER: -- move closer to the property line --

MR. FRENCH: I believe there is.

COMMISSIONER SCHIFFER: -- you increase the fire resistant rating of your wall. There's residential structures that have zero setback.

MR. FRENCH: I don't have it in front of me, Brad, but I believe it is.

COMMISSIONER SCHIFFER: Well, if there is, then let's say 10 feet. If you want to say 10 feet, make it 10

feet and rather than send somebody all over. Because, you know, the separation would be, you know, the fire separation distance, it wouldn't just be the word separation.

But -- so the intent is that no matter what the setbacks of the situation is, that as long as your building is 10 feet or let's say five feet so we don't affect the guy on the other side, he can't get closer than five, then he'll guarantee your 10. You're saying that you can put, you know, air conditioning systems --

MR. FRENCH: It allows for it to meet the current FEMA guidelines. Because the mechanical equipment has got to be protected. It can't be below the flood zone.

COMMISSIONER SCHIFFER: Yeah, but do we really have to do that? I mean, I'm an architect, and that would -- I would certainly not move the whole building back, but I would put a notch in it for my equipment. I mean, that's -- the hardball thing is that you don't have this ability and you put a notch in your building.

MR. FRENCH: And that's a question that certainly we have asked. In defense of that, you know, devil's advocate here is that the architects have come back and said we want to utilize as much space as we possibly can on this parcel.

CHAIRMAN STRAIN: Why don't you put the word principal in front of the last reference to structures? Wouldn't that take care of it, Brad? Provide the minimum separation of principal structures as maintained.

COMMISSIONER SCHIFFER: But I don't think there is such a thing as a minimal -- there is no such thing as a minimum separation between structures.

CHAIRMAN STRAIN: Well, there is based on the type of construction, right? Didn't you just say that?

COMMISSIONER SCHIFFER: Well, then that could be zero. I mean, you could --

CHAIRMAN STRAIN: Right.

COMMISSIONER SCHIFFER: -- put it on the neighboring guy's lot, you know. That's not the intent either.

CHAIRMAN STRAIN: Well, what would we -- if it was zero because of the construction type, as long as it was maintained at a separation allowed by building code, what would we care?

COMMISSIONER SCHIFFER: The buildings? Well, you know, first of all, our setback is probably going to be more restrictive than five feet. Well, no, wait a minute, look what we're going to get into on zero lot line development and stuff like that.

MR. FRENCH: Currently the language allows for pad-mounted units to sit three feet in.

COMMISSIONER SCHIFFER: From the setback.

MR. FRENCH: Yes, sir.

COMMISSIONER SCHIFFER: Why can't we stay --

MR. FRENCH: Three feet from the structure into the set back.

COMMISSIONER SCHIFFER: Right. And you can pass -- you're allowed to go into the yard or into the setback, whatever concept you want.

MR. SCOTT: To clarify just real quick, pad-mounted, if it's on the ground, the current language, it's allowed to encroach into the setback. There is no limitation placed on it.

COMMISSIONER SCHIFFER: You mean you could put an air conditioner on the property line?

MR. SCOTT: It is allowed to encroach into the yard, any required yard, except for the front.

COMMISSIONER SCHIFFER: I think the reason also we have to be sensitive is that when the AC mechanic comes back and puts in, you know, two of the six screws that hold the cowling on it and that starts rattling, these things get really loud and annoying.

CHAIRMAN STRAIN: But I think the issue today is -- I mean, that might be an issue for another amendment but this one is simply trying to acknowledge that if you elevate an air conditioner to meet the FEMA rules, that elevated piece becomes part of the air conditioner allowed intrusion into the side yard.

And I know why this came about. Because it came about as a complaint from Vanderbilt Beach. And I read Ross's clarification from when he had done it. And this mirrors that. But I think the part of it that is a little hard to understand and where Brad's going is provided the minimum separation of structures as maintained. Because -- and the words just before that last piece, it says, including their supporting structures. See, you've used the word structures both as a description of what the AC is mounted on and then as a separation requirement from -- for maintenance.

And I'm just -- and I think he's right, by reading it like that, where structures is used in both instances, it seems like if you count the AC pad as a structure, you're pushing the opposite lot further in. So I think you refer to the

principal structures as their demanding setback and I think that cleans it up to the extent we can in an issue like that.

COMMISSIONER SCHIFFER: I mean, I think -- first of all the downside of that is some guy builds some crappy wood structure right up against my property line. I'm not happy with that. So, in other words, this thing was even more restrictive because it did count that structure.

But why can't we do this, why can't we just come up with a number that we're allowed to go into the setback and leave it there? What's the problem with that?

MR. SCOTT: If the Board has a recommendation as far as a maximum encroachment into that side yard, required side yard, I'm --

CHAIRMAN STRAIN: Well, let me tell you something that happened --

COMMISSIONER SCHIFFER: Because here's the thing. You know, the side yard's an important thing for firefighting, for a whole bunch of stuff. If you're building structures across it, you're not doing something right.

But you had a story or --

CHAIRMAN STRAIN: Well, no, just as an example, the AC companies have a certain clearance that is now required around the outside of an air conditioning mounted unit or they won't warranty the unit. And if you look at that, the unit itself is 30 to 36 inches wide. They want one foot all the way around it. That adds two feet. And then you've got to have in a lot of cases a block wall or something else to match the structure around it as well.

So by the time you get into that, depending on the size compressor or size air handler you're using, or compressor, you could have quite a distance into the setback.

COMMISSIONER SCHIFFER: But our code doesn't require a buffer wall, correct? No, so that's -- I mean, you definitely need clearances around it.

MR. FRENCH: I don't know for the serviceability of the unit you could actually screen it or put a wall around it anyway.

CHAIRMAN STRAIN: Well, if you leave one foot clearance you can.

MR. FRENCH: But this is simply the exception section to the typical rule. So the rule currently is that they're allowed to on pad to encroach into the setback. Now clearly they can't infringe upon the other person's property.

But what's happening is that it's very specific, and Ross's determination was that he looked at it as the air space going up. So if it had to be three feet up, the pad typically is connected to the ground in some shape or form.

In these particular cases, when you get into these VE zones, they're cantilevered out off the side of the building. So it's not creating a big -- it's not creating anymore of a encroachment into the side yard, it's just that it's much -- it's elevated, it's not on the ground.

COMMISSIONER SCHIFFER: So you're -- well, I mean, I definitely think if we have it where you can build it totally across the side yard -- I don't know, I can't believe there isn't -- isn't there a maximum encroachment into the yard?

MR. BELLOWS: Yeah, this section is amending that section of the code. Section 4.02.01 allows for exemptions such as roof overhangs or chimneys to encroach into a side yard setback or front yard setback.

I think another thing that's changing with this amendment is that we're accounting for the flood zone where these air conditioning units have to be raised off the ground. Otherwise this language is already there as the first part was, that it's not underlined.

COMMISSIONER SCHIFFER: What you're not reading is the limitation on those distances. I mean, you're allowed pilasters, overhang, but there is limits to that.

MR. SCOTT: There are limits based off of what is actually encroaching. Some things do have limits, you're correct.

COMMISSIONER SCHIFFER: Right. So why don't we just add this like you say and give it a limit. See, if we just gave a number off of it, a number where they can get circulation behind it, another number where they can access it for repair, that's fine. But leaving it up to something vague like what -- I mean, the fact that you say the separation distances out of the building code, how would anybody ever come to that?

MR. SCOTT: Understood. And yeah, we could -- I mean, I'm willing to go with whatever suggestion you may have, whether it would be incorporating a hard number and specifying it like a 10-foot separation for principal structures, or if you want to put some type of limit that says an encroachment not to exceed whatever feet from the property line or a maximum --

MR. BELLOWS: I have a recommendation. We can put in a limit that any encroachment shall not be closer than one foot to any yard line or property line.

COMMISSIONER SCHIFFER: Why do you think that's safe? I mean, the yards that fight fires, to access -- you know, I mean, why do you think a one-foot distance off of a side property line's a good idea?

MS. CILEK: Or two feet. But rather than limiting the size of the air conditioner, which we don't know, you're saying you have up to this amount of room to work. And then you need some --

CHAIRMAN STRAIN: But see, you're getting into an entire different topic that has a whole slew of stakeholders that need to be talked to. We're talking simply making sure it's clear that if you have to elevate a pad because of FEMA, it's just as legal as if you put it on the ground. That's all we've notified the public we're doing.

So we get into what Brad's talking about, you're going to have a stakeholder issue that CBIA, the builders, developers, everybody needs to be involved in because it's going to involve the width of their lots, the way they plat their lots, the way they do everything.

MS. CILEK: We're just asking to be --

CHAIRMAN STRAIN: That's not what I thought we were here today about.

MR. FRENCH: You're exactly right, Mr. Chair.

CHAIRMAN STRAIN: And Brad, we need to figure out some way to fix this today and then consider what you're doing isn't -- what you're suggesting isn't wrong, but I don't think this is the right way to get there.

COMMISSIONER SCHIFFER: I mean, here's the difference, once we go above 30 inches, it's a structure. So you're telling me that I can build a structure, which could be a wall, perpendicular to my building all the way up to the property line and put a slab on top and put an air conditioner on top of that. That would be a disaster.

CHAIRMAN STRAIN: I think what you're saying is the rules that provided for air conditioners to be in side yards are no different today by this amendment than they were in the past, except if you have to elevate it to meet FEMA rules, it's okay to do that. That's all it is.

COMMISSIONER SCHIFFER: Well, the big exception is they're not up in the air on the side of the building. In other words, the creatures in the flood zones, you know, you stick them out of the building, there's some pretty ugly examples. Even in Vanderbilt Beach, where they've done just what you said, they cantilevered out and there these things are sitting in midair next to the neighbor's, you know, bedroom window.

COMMISSIONER EBERT: May I say something?

CHAIRMAN STRAIN: Go ahead. Yes, sure.

COMMISSIONER EBERT: You can come to my house. We have the pool things. The next person we had to live with her four, five years. Next person came in, they put their pool -- the developer/builder put their pool thing right -- we can't -- I mean, it is like, you're right, one foot. And you can't hardly get in there. You can't get a lawnmower through there or anything. We both had five-foot setbacks, so there's your 10 feet for the structure. But then they come in, and things are getting bigger, and we're right on the property line.

MR. FRENCH: Well, but pool equipment would not be included in this whatsoever. This is only for mechanical.

COMMISSIONER EBERT: Unenclosed pool equipment.

MR. SCOTT: That exists currently, correct?

MS. CILEK: Yeah, that's existing.

CHAIRMAN STRAIN: Wouldn't it be a better way to ask the question, if we have an AC unit mounted at grade and it is accepted in the side yard but FEMA requires it to be elevated to meet FEMA requirements, shouldn't what it sits on be accepted in the side yard too? That's the question here. It's not --

COMMISSIONER SCHIFFER: That is the question. And I say no. Because the thing that's sitting on the ground is sitting on a slab. This thing is sitting on structures that have supports.

What you're saying is that I can take my building to the property line. All's I have to do is put one of these devices on top of the slab or on top of the wall and I've got a wall across the property line.

FEMA heights are pretty high, some of these down there too. I mean, this is not a tiny thing.

The only other solution is you design the AC unit into a notch in the building, put them up on the roof in some structure. I mean, people have worked around this flood zone thing long ago.

COMMISSIONER HOMIAK: So what are people supposed to do that need a new air conditioner now, not have one?

COMMISSIONER SCHIFFER: Well, I mean, if you're grandfathered in we have vested right clauses I'm sure that will protect --

CHAIRMAN STRAIN: But honestly, we're going beyond the intent of this amendment. If we need to stick to the amendment, is it better then to accept this amendment language, maybe with a clarification that the -- maintain the minimum separation for principal structures. Because in PUDs you have a principal structure separation, or -- I mean, we can't -- or just deny it?

I mean, but I don't know if we want to -- if we can't -- for a complete redesign of how air conditioning units should be positioned on a lot, that's a subject for another amendment. It isn't part of this amendment. This is strictly a unit on top of a required elevation, and I think we ought to stick that in the analysis and then try to get done with it.

And I honestly think if you put the word principal in front of the last word where -- reference to structure, that clarifies it as much as it needs to be. And if you pull a PUD up that allows patio homes and you have a 10-foot minimum separation between principal structures, then you know what you can do with your air conditioning units. They can go in the side yards up until the property line. That's not changing. And if Brad's suggesting the change -- it needs to be changed, well, that's another amendment. I don't know if it fits this amendment.

COMMISSIONER SCHIFFER: Well, I'm not sure where principal goes. Read the -- well, first of all, the existing ordinance allows air conditioners, pool equipment and well pumps in the side yard, in the required yards. I guess it's all yards, isn't that right, the existing language?

MR. SCOTT: That was the way it reads.

COMMISSIONER SCHIFFER: Pardon me?

MR. SCOTT: Yes, that's how it reads.

MS. CILEK: That's how it reads.

COMMISSIONER SCHIFFER: So, I mean, this is -- I thought front yards were excluded. But now we could even bring these structures all the way up to the front of the property line.

But anyway, so there's how I get my walkway covered to where I put my garbage cans on the property line.

But the second sentence, Mark, where would you put that in?

CHAIRMAN STRAIN: I'd leave it -- I'd say -- first of all it says for the purpose of this section, the section being the one we're talking about, ground monitored air conditioners include units that are required to be elevated to meet flood elevation, including their supporting structures, provide the minimum separation of principal structures as maintained.

COMMISSIONER SCHIFFER: And what is -- but the other weakness in that wording is nobody ever defined minimum separation.

CHAIRMAN STRAIN: Well, and most of your PUD's, which is most instances where this will occur, I can't remember one that didn't have a principal structure separation. There may be some out there, but generally we have it in all the PUD's.

COMMISSIONER SCHIFFER: But we don't in conventional zoning.

CHAIRMAN STRAIN: But we -- I don't know, I can't remember what conventional zoning has offhand for distances between principal structures.

COMMISSIONER SCHIFFER: Nothing. I looked and --

MR. BELLOWS: On a multi-family I believe there is, but not single-family.

CHAIRMAN STRAIN: Well, but then your side yard setbacks would prevail --

MR. BELLOWS: That's correct.

CHAIRMAN STRAIN: -- and you've got side yard -- you don't have any -- do we have any zero side yard setbacks in conventional zoning?

MR. FRENCH: No.

MR. BELLOWS: Distance between structures is -- in a single-family is the setbacks provided on each lot.

CHAIRMAN STRAIN: But I think for today's exercise, that cleans this up a little bit better and we can go on. And if, Brad, we want to have staff look into the possibility of clarifying it for another future amendment and a different way to handle air conditioning units, but I think it needs to be vetted through the architect's organization, CBIA and others to make sure everybody understands it.

COMMISSIONER SCHIFFER: Okay, but I think you have a -- I mean, yes, we may have separation requirements for principal buildings or for buildings, principal and accessory building in PUD's, but we don't in

conventional zoning. So the people on subdivided lots have no protection whatsoever. Well, the principal structure obviously is going to hit the setback. So the building's going to have to meet the setback --

MR. BELLOWS: But these things are currently occurring under the standard zoning. I mean, this clarification is just basically trying to clarify the process that's currently occurring now when dealing with single-family lots.

COMMISSIONER SCHIFFER: Right. I mean, that doesn't influence my decision. I mean, it maybe gives me a chill, but the -- and then you can't use a word like separation unless you define it so that it works across the board.

MS. CILEK: Right.

COMMISSIONER SCHIFFER: Obviously the building could never not meet the setbacks due to this. I mean, nobody could go in and say I'm going to build my building five foot closer to property because I want to put an air conditioner on the other side of the exterior wall. So the setbacks are always going to be met. So they're always going to be controlled, the principal building. So that's not even an issue.

The issue is where do you put air conditioners that are elevated because of FEMA. Do you put them in the same place that you put them when they're slab on grade?

CHAIRMAN STRAIN: But this clarification's been in existence for many years. I don't think that's attempting to be changed. We're just codifying it today. If we don't want to codify it and leave it as a staff clarification, business just goes on like it always has. This just makes it a little easier for people to find it because it's going to be in the code.

COMMISSIONER SCHIFFER: I mean, the clarification actually says that the code will be amended, so that didn't happen.

CHAIRMAN STRAIN: No, it's happening now. It's been -- so the last few -- the last of the comment, provided the minimum distance between principal structures is maintained. That would be the language suggestion I think out of this discussion.

MS. CILEK: We can add that.

CHAIRMAN STRAIN: Okay, anybody else have --

COMMISSIONER SCHIFFER: Well, let me just get a yes or no from staff. So I design this nice house and I -- off of the front of my house into the yard setbacks is this pole-supported some sort of structural supported platform where I put air conditioners. That would be allowed; there's nothing you're going to say --

MR. SCOTT: In the front of the house?

MR. BELLOWS: I don't think we're looking at the entire code section here. Because it's not my understanding that it is allowed in the front -- it is not allowed in the front yard. This is mostly a side yard setback issue.

MR. FRENCH: Side and rear.

COMMISSIONER SCHIFFER: So in the rear I could do that. I could build this nice covered deck --

MR. BELLOWS: But it's a rear yard.

COMMISSIONER SCHIFFER: -- for the ultimate, you know, air conditioning layouts.

COMMISSIONER EBERT: I don't care if it is a rear yard, you have neighbors.

MR. BELLOWS: You've got to put an air conditioner somewhere, side or rear.

COMMISSIONER SCHIFFER: Well, what people do who don't have something like this is they do build them and --

MR. BELLOWS: If you look at most houses that are built, they're single story for the most part. You have a five to six-foot side yard setback, or seven and a half. And where are they putting their air conditioner units? They're putting it either on the side or the rear there. They're not -- they can't put it in the front.

So if they're going in the side yard and you have a flood zone situation and that has to be raised, that's all the staff clarification was, to clarify that. It could still remain in there and not be affected by other setback requirements.

COMMISSIONER SCHIFFER: Or you don't have to alter the design of the building to incorporate it.

MR. BELLOWS: I think if you want that, we'd have to study that as a future LDC amendment.

COMMISSIONER SCHIFFER: Then do this: If it is going to come back like this, after the first use of the word separation, put a parenthesis and define what that means. And don't send people to the building code.

CHAIRMAN STRAIN: Wait a minute, what are you trying to do?

COMMISSIONER SCHIFFER: Well, in other words, they say a minimum separation of structures.

CHAIRMAN STRAIN: No, I just suggested provided the minimum distance between principal structures as maintained. Take the word separation out. Provided the minimum --

COMMISSIONER SCHIFFER: But that goes without saying, Mark. There's nothing in the location of your air conditioner that could ever allow you to pull buildings together. The reason it's in there now is because they wanted to include the structural component of this raised -- right? I mean, including their supporting structures.

CHAIRMAN STRAIN: Brad, I'm completely lost on what you're trying to do.

COMMISSIONER SCHIFFER: Okay if you -- the way it's worded now, it says including their supported structures in the minimum separation. If you want to make it the primary structure, what you're saying is the supporting structure doesn't have to meet any kind of standard.

CHAIRMAN STRAIN: No, I'm saying doesn't have to meet the minimum separation that the principal structures have to meet. Because the way this reads now it would be construed that you have to have the separation from the structure that supports the air conditioning unit because it's referred to as a structure to the next structure.

What I'm suggesting is just make sure the distance between principal structures is what's maintained, because it's irregardless of what the --

COMMISSIONER SCHIFFER: And you could never change that anyway, that's my point.

CHAIRMAN STRAIN: Well, then what would it hurt to say that then? Why are we -- what are we arguing over?

COMMISSIONER SCHIFFER: Because when you do say principal structure you take out the supporting structures from that.

CHAIRMAN STRAIN: Exactly. That's what I was trying to do. Because you don't want the separation to be measured from the supporting structure. Then you would have -- then you'd be pushing your neighbor's house over further, which is the issue you started with.

COMMISSIONER SCHIFFER: Right. And here's what I would rather the outcome be, that the neighbor's house is on his setback. If you putting these things into the side yard would have to cause the distance between whatever you come up with as separation, then you should be able to -- you should pull back your construction, not force his construction to be moved.

CHAIRMAN STRAIN: That is way beyond the parameters of this LDC amendment. We're getting into design and issues that I would certainly want outside stakeholders to be involved in, because this will change the layout of lots and plats and everything else in the county.

COMMISSIONER SCHIFFER: Well, since everybody's going as per the Susan Murray interpretation anyway, let's take some time and study it and see what people do want. You may find a lot of stakeholders that don't want their neighbor's air conditioner outside their bedroom window.

CHAIRMAN STRAIN: Well, let's bring it to -- we beat this thing up pretty bad.

Does anybody else have any comments on it?

COMMISSIONER EBERT: So Mark, you're saying remove supporting structures --

CHAIRMAN STRAIN: No, I'm saying all we need to do is take the last -- after the comma say provided the distance between principal structures is maintained. And then you take out the reference on -- the reference to the supporting structure for the AC is just like it is today, it's irrelevant, it's in the side yard, it's allowed. And if we want to clean that up, we do it at a different meeting with a whole different presentation.

MR. FRENCH: We'll go into a study and we'll bring it back at another time, if that's the will of the board, if you want us to look into that. But this -- what I have here, Mr. Chairman, is this includes air conditioners that are ground mounted and those required to be elevated to meet flood elevation, including their supporting structures, provided that the minimum distance of the principal structures is maintained.

COMMISSIONER SCHIFFER: And that's weaker than we started out. Because no longer is there any restriction on the supporting structures of the air conditioners.

CHAIRMAN STRAIN: But there isn't now. I mean, that's where we are --

MR. BELLOWS: That's what staff clarification is allowing.

COMMISSIONER SCHIFFER: But that's the stealth code again. Somewhere out there we didn't know about a code that --

MR. BELLOWS: I really think the amendment was just to codify the staff clarification. It sounds like what

you really want is to restudy this. Because if it requires the house to be indented, that's going to have to go through all the stakeholders. That's a big cost to do that.

CHAIRMAN STRAIN: Anyway, I think --

COMMISSIONER SCHIFFER: I mean, there's a lot of other ways, too. You put air conditioners up on the roof structures, there's a whole bunch of other ways to do air conditioning, other than bowing it out in your neighbor's yard.

MR. BELLOWS: I agree. But that's what should go through all the stakeholders again as a restudy, not part of this amendment.

COMMISSIONER SCHIFFER: I agree. I would rather restudy it then.

CHAIRMAN STRAIN: Okay, that's a recommendation to change the language. We've gone over it a bunch of times.

Any further discussion?

(No response.)

CHAIRMAN STRAIN: Is there a motion?

COMMISSIONER HOMIAK: I make a motion to approve.

CHAIRMAN STRAIN: With the changed language?

COMMISSIONER HOMIAK: Yes.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER VONIER: Second.

CHAIRMAN STRAIN: Seconded by Bill.

Discussion?

(No response.)

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

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

COMMISSIONER SCHIFFER: I am.

CHAIRMAN STRAIN: Motion carries 5-1.

COMMISSIONER SCHIFFER: Let me just -- this is a good point. Ray, this is another example of the stealth code that out there there's requirements that aren't visible to the LDC. How many more of these kind of things do you think there are?

MR. BELLOWS: Well, we're in the process right now of putting together executive summaries to put together to the Board of County Commissioners, all the previous staff clarifications. They're also listed on-line on our website.

But as part of this process, we are eliminating those that have already been superseded by subsequent LDC amendments, and then like this one bringing them as future LDC amendments to get rid of those staff clarifications, as you call, a stealth code.

COMMISSIONER SCHIFFER: And is there a way with Muni. Code we could hyperlink code sections that have interpretations?

MR. BELLOWS: I think it's basically being done that way. There's -- right next to the -- if you to go our website, it says staff clarifications, along with the Muni. Code.

COMMISSIONER SCHIFFER: On the Muni. Code? So I should --

MR. BELLOWS: No, not on Muni. Code, but --

MS. CILEK: No, I don't think so.

MR. BELLOWS: -- it's on our website, though.

COMMISSIONER SCHIFFER: Right. Because what I'm thinking is as somebody's working in the code, if they could see that there's been staff clarifications on some of these things, that would remove some of the stealth properties.

COMMISSIONER VONIER: Ray, for my edification are there any codes that cover the support structures for elevated air conditioners?

MR. BELLOWS: Only this one that we're talking about right now.

COMMISSIONER VONIER: So, I mean, because Brad's example of a wall sounded horrible. But it seems

--

MR. BELLOWS: We're really just talking about the mount or pad that will keep the air conditioner off --

COMMISSIONER VONIER: Understand.

MR. BELLOWS: -- out of the flood zone.

COMMISSIONER VONIER: Understand. But there's all kinds of ways to do that. I think Brad was making that point. And I think there should be some kind of a code for how you do that so it looks decent.

COMMISSIONER SCHIFFER: Well, you don't -- you know, and let me say, as an architect I'm going to have fun with this. I mean, I'm sure every --

COMMISSIONER EBERT: We know you will, Brad.

COMMISSIONER SCHIFFER: -- architect out there watching me, you know, would love to stick a knife in me in the middle of that conversation.

But as the neighbor complaints in our district, this is a nightmare that a lot of people are suffering that this is just going to enhance. So my conversation --

MR. BELLOWS: Well, it's not that we're adding anything different that hasn't been implemented for the last 10 to 15 years that I know of. That staff clarification goes back away.

COMMISSIONER SCHIFFER: Have you looked at other communities how they've done it? They haven't done it this way.

MR. BELLOWS: Well, I don't believe they prohibit air conditioners --

COMMISSIONER SCHIFFER: In the side yards? They sure do.

MR. BELLOWS: -- in the side yard setback. Unless --

COMMISSIONER SCHIFFER: They sure do.

MR. BELLOWS: -- it's in some other district.

Well, we can look into that.

COMMISSIONER SCHIFFER: Most communities you can't even see the air conditioner from the street, stuff like that.

But anyway, that's -- we voted.

COMMISSIONER EBERT: Ray, question. Did this come about because of the new flood zone mapping?

COMMISSIONER SCHIFFER: No.

MR. BELLOWS: I don't believe so. Because the -- that staff clarification goes back, like I said, 10 to 15 years. And we always have structures that are being raised to keep out of the flood level. The principal structure in some cases are on stilts. Some homes have to be placed on stilts because of the flood zone. Some people haul in tons and tons of dirt to raise the base flood elevation or the first finished floor. And that's where you get some houses newer constructed on mounds much higher than their neighbors who are built prior to the change in the code in the flood zone map. So you have that situation.

This has been going on ever since the flood zones were created where you can't have your electrical equipment under the flood elevation, so they're lifting it up anyways.

Now, what Brad is talking about are other design changes that would have to go through and be vetted through all the stakeholders, because it's an added cost to building a house if you either notch it or put it on the roof.

COMMISSIONER SCHIFFER: And I'll accept defeat, because I can walk away knowing that I can build structures in the rear property line that go right up to the property line. I can -- you, when you look over in your neighbor's porch where some air conditioner is right on your property line, this is where we did it. Let's move on.

CHAIRMAN STRAIN: Okay, let's move on to the next one. It's 4.02.04, standards for cluster residential development. And it's a spelling error. Principle to principal.

Discussion?

(No response.)

CHAIRMAN STRAIN: Motion?

COMMISSIONER VONIER: So moved.

CHAIRMAN STRAIN: Bill made the motion.

COMMISSIONER HOMIAK: (Indicating.)

CHAIRMAN STRAIN: Seconded by Karen.

All those in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

5.03.02 is our next one, is a reference to an illustration that previously did not exist and now it does.

Scrivener's error.

Any discussion?

(No response.)

COMMISSIONER SCHIFFER: Well, I was curious, it would be fun to see, did the sketch ever exist?

MS. CILEK: I couldn't find it.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: Is there --

COMMISSIONER HOMIAK: Motion to approve.

CHAIRMAN STRAIN: Motion by Ms. Homiak, seconded by Bill?

COMMISSIONER SCHIFFER: I'll second.

CHAIRMAN STRAIN: Or Brad.

Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

The next one is the personal storage containers and submittal requirements for SDPs, 5.03.07.

Okay, this one's a little longer.

MR. BELLOWS: Yeah, basically this amendment is to address situations in the Estates in agricultural zoned properties that have single-family homes. And due to typical large lot sizes in the Estates and ag., that the lawn maintenance requirements are heavier so the need to have storage facilities become more important. And this amendment doesn't apply to like the RSF-1 through 6 zoning districts which are somewhat smaller lots.

The idea is to allow for these personal storage containers or pods, as some people call them, to be placed subject to conditions and limitations in number.

CHAIRMAN STRAIN: Okay, discussion?

COMMISSIONER SCHIFFER: Yeah, I have some.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: We're using again the separation from the building code, which I believe in this case exists. It's a type two building and all the separations required for that will be there. But there's no structural requirement whatsoever, you just plop it on the lawn and that's it.

MS. CILEK: They're required to have a permit, a tie-down permit.

MR. BELLOWS: And they're engineered structures that the building department --

MS. CILEK: Reviews.

MR. BELLOWS: -- are satisfied that -- they have to meet a certain industrial classification.

MS. CILEK: Right, these are very large containers made of iron, most often.

COMMISSIONER SCHIFFER: I know what they are.

COMMISSIONER EBERT: I know what pods are, so --

COMMISSIONER SCHIFFER: Does it say that anywhere about the permitting, or it doesn't have to say that, or --

MS. CILEK: These would be -- it would also be addressed, but limitations on use. And then again under --

COMMISSIONER SCHIFFER: But it's not stating that they have to be done by a -- I think that would be a good idea, that all permits are required. Because you wouldn't want somebody to think they could just drop one off one day.

MR. BELLOWS: It was in there at one time. I thought it was still in there, but --

MS. CILEK: Well, two things: It would be addressed in the procedural section that would apply for this.

And then also, you can pop in if you want to make comments, but --

CHAIRMAN STRAIN: Paragraph A of the last sentence refers to permitting procedures.

COMMISSIONER SCHIFFER: Okay.

MS. CILEK: Yes. Yes. And we did tie it into the administrative code, which is coming under fruition, and so that would be more lengthy in there. Because we did at one point have that information here, but then we were going to move it to the administrative code. And then the important part is that this is linked with Section 10.02.03, looking at the number in square feet. And so those that are more than 400 feet in aggregate would go through sort more of a rigorous review.

COMMISSIONER SCHIFFER: What's the square footage of a typical container?

MS. CILEK: It depends.

COMMISSIONER SCHIFFER: They're 40 by --

MS. CILEK: They're undersized. Number E, maximum floor area is 480. And so for the purposes of this section, that's what we're considering to be what we want to have go through this process. And then height is eight feet. And of course no stacking. So we were looking at the size.

MR. FRENCH: I would tell you, Brad, in the past what has happened with these is that they would come forward with an architectural drawing or engineered drawing and they should show, because it's intended to be a permanent structure, not temporary, there were no tie-down requirements, because these things were coming in at seven or 8,000 pounds. And because of their weight alone --

COMMISSIONER SCHIFFER: Yeah, I'm not worried about them rolling over.

MR. FRENCH: Right. If those roll over, we've got far other issues that we've already worried about.

COMMISSIONER SCHIFFER: Yeah. So I think the point is would you need any kind of permit for this? I mean --

MR. FRENCH: Still because it is a permanent structure we would require that it did have a building permit.

COMMISSIONER SCHIFFER: Just to show its location --

MR. FRENCH: Just to show its location and --

MR. BELLOWS: And help regulate the number to ensure that no minimum exceeds the --

MS. CILEK: That and make sure it meets where it can be located on the actual parcel. You know, it can't be in any required setbacks or stormwater management area. So it needs to have like a specific location.

COMMISSIONER SCHIFFER: Treated as an accessory structure.

MR. FRENCH: Yes, sir, just like we would a Ted's Shed.

COMMISSIONER SCHIFFER: And it's a good one.

I'm good with it.

CHAIRMAN STRAIN: Anybody else have any questions?

COMMISSIONER SCHIFFER: Move to approve.

COMMISSIONER KLEIN: Second.

CHAIRMAN STRAIN: Motion made by Commissioner Schiffer, seconded by Mr. Klein.

All those in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Next one is 5.05.04.D. It's actually the next one in your book. And it's an amendment to the FAR for group housing to make it more consistent with what we've routinely approved every time they come in.

MR. BELLOWS: Yeah, we think the graphic helps illustrate how the FAR works a little bit better, too.

CHAIRMAN STRAIN: Anybody have any questions?

COMMISSIONER SCHIFFER: Just a comment. Whenever they have come in, they've always asked for this larger FAR because of all the amenities.

MS. CILEK: Correct.

MR. BELLOWS: And that's why we've increased it to .60.

MS. CILEK: And we address that in the header.

COMMISSIONER SCHIFFER: Right. But you haven't increased the requirement that they have more amenities. In other words, they've always shown us that here's the beauty parlor, here's what we're going to do, here's what we're going to do, here's what we're going to do. So, you know, this isn't just your typical nursing unit, this is -- has all these amenities and thus we need the additional 15 percent. So should we, you know, carry the logic that we've always been influenced by forward in this, or --

MR. BELLOWS: I think for the purposes of determining the intensity, I think the case has been made over the last three or four years when we've approved the PUD's with the larger size, I think what we're trying to do is make the LDC provision for ALF's to be the same as we're approving for the PUD's, which they've all been at .60. And I don't think you need to have a requirement that they determine that, since that's now going to become the standard size.

COMMISSIONER SCHIFFER: Right. But what I wouldn't want this to do is open up some really horrible ACLF's or care units that really are jamming a lot of people in that additional 15 percent. In other words, that 15 percent has always been given to us in the explanation. It's because they have all these super amenities and therefore it's not fair to hold us to --

MR. BELLOWS: Basically that's correct.

COMMISSIONER SCHIFFER: -- 45 feet.

But this is eliminating their need for amenities.

MR. BELLOWS: Well, I think it just takes into account the modern trend or current trend is to provide those things, so why ask for deviations every time. This will be the standard.

COMMISSIONER SCHIFFER: I mean, I think -- you know, but we can't just do the code for the good guys. We have to think of what the bad guy can do. And, you know, when the 45 was put in there it was put in there by thinking people. They had something in mind. So I don't want -- you know, I really wish that we could do this in such a way that the additional 15 percent has to be attributed to amenity areas.

MS. CILEK: Well, one note is that this is an interim measure. So --

COMMISSIONER EBERT: An interim measure?

MS. CILEK: Interim, yes. Sorry, it's a hard word for me.

Staff understands that, even though this is a .60 FAR, it's sort of a hybrid of a FAR, because you're still looking at the height, the zoning height for your zoning district and other setbacks. So it's not a true FAR.

And if you want, we can take a look at if we want to require -- you know, this is interim. And when we come back we can look at how the amenities are playing out. And if that's something we want to tie in to it --

COMMISSIONER SCHIFFER: Well, I mean, yeah, true, we've always given them the .6. But we've always given them with the -- you know, the reason they justify it is the amenity increase. And I don't -- you know, if we go

to a .6 and they don't put the amenities -- there's no requirement to put amenities in, I mean, this could be horrible what they build if we're -- you know, what I would rather see is let's go with what they do is keep it 45 and then add that you can add an additional 15 for amenities. And that way we honor when we've always given it to them.

COMMISSIONER EBERT: Heidi?

MS. ASHTON-CICKO: Well, you know, it's a policy decision. Brad's making good points.

COMMISSIONER EBERT: That's what I'm saying.

MS. CILEK: And they're still regulated by state, like the Florida state regulations on how big the bedrooms can be and all that. So they're not going to be --

COMMISSIONER SCHIFFER: But not amenities -- but no, but you can jam -- let's go hop in the car and go to the other coast and let's put some things that meet the --

MS. CILEK: No, no, point well taken --

COMMISSIONER SCHIFFER: -- state requirement.

MS. CILEK: They're just not going to be --

MR. BELLOWS: I don't see a problem with adding to the current amendment to keep it at .45 with the ability to go to six, upon proof that the additional --

COMMISSIONER SCHIFFER: Well, let me use the 15 for the amenities. Let's make them give the residents what they should have. Because the .45 will work for the residents. No one's ever said here I can't build it in 45, but my problem is if I add amenities I'm taking away from the 45.

MR. BELLOWS: I think we can work on some language.

MS. CILEK: Yeah that's fine, yeah. We can bring it back.

COMMISSIONER SCHIFFER: Okay.

COMMISSIONER EBERT: So you're going to bring it back --

MS. CILEK: That's fine.

COMMISSIONER HOMIAK: In May?

MS. CILEK: Yeah, we'll just work on language for it, if we want to consider that.

COMMISSIONER SCHIFFER: All right.

COMMISSIONER HOMIAK: Okay, so the next one is 5.06 --

COMMISSIONER VONIER: Are you going to approve that?

COMMISSIONER SCHIFFER: Well, we're coming back.

MS. CILEK: It's going to come back.

COMMISSIONER EBERT: We're going to bring it back.

COMMISSIONER SCHIFFER: It's a revision.

COMMISSIONER HOMIAK: Number two 5, 5.06, sign regulations and standards by LUC. It's errors of omission.

COMMISSIONER EBERT: 5.06.

COMMISSIONER SCHIFFER: I have some comments.

COMMISSIONER HOMIAK: Go ahead.

COMMISSIONER SCHIFFER: Don't I always?

For one thing, this is -- stating it's clarifications and omissions, but it's actually changing some of the code. For example, let's just take the definition of flag. Right now a flag is allowed to be a sign. So this is eliminating that ability, for right or wrong. So it's not a clarification and it's not an omission. And I think it should be advertised carefully, because there may be an industry that would have a comment on that. And adding the no commercial might be a problem.

The other place where I think that occurs is you're changing the maximum heights for --

COMMISSIONER VONIER: Where are you, Brad?

COMMISSIONER SCHIFFER: Okay, on Page 2, line 48.

You start to go in and change the heights for better or worse. That's not a clarification or an omission, that's changing the code, unless the code was --

MS. CILEK: From what I was told, this was going back to the original -- or a prior code. But I'm actually trying to find that old code so we can kind of compare and contrast if there are any changes. So that's something I'm going to locate. But I also had a question.

Heidi, did you get a chance to review this just real quick to make sure that she didn't have any --

CHAIRMAN STRAIN: Don't say no.

MS. ASHTON-CICKO: I do have concerns with the definition that talks about flags do not contain a commercial message, because it seems like we're going beyond and into the content of the flag, as Brad alluded to. So I do have concerns with the change under A.

CHAIRMAN STRAIN: Have you reviewed this one prior to today's meeting?

MS. ASHTON-CICKO: I've read it but I haven't tried to analyze it.

COMMISSIONER SCHIFFER: Heidi, do you think it's been properly -- you know, the reason and the change are not -- these are not clarifications or omissions, these are changes in the sign ordinance.

MR. BELLOWS: For the record, I think the LDC says eight feet. I can double check that. And I think the 10 feet came as one of the revisions made by DSAC to increase the height. So they were proposing to increase the height. But we'll verify that.

COMMISSIONER EBERT: And you'll bring it back.

COMMISSIONER SCHIFFER: So the legislative format is essentially correcting revisions, not the LDC.

MR. BELLOWS: We're going back to --

MS. CILEK: An older draft. Which I need to find.

MR. BELLOWS: We'll verify.

CHAIRMAN STRAIN: What is he looking for, 91-102?

MS. CILEK: Yeah.

CHAIRMAN STRAIN: I have a complete one; I can bring it to you.

MS. CILEK: Great, yeah. We need to compare the drafts.

COMMISSIONER EBERT: So you're going to bring this back?

MS. CILEK: I think so. I think that we need to A, advertise it correctly if it is changing a height. And B, discuss with Heidi A, flags. Because she did not have a chance to review this prior to coming here today, so --

CHAIRMAN STRAIN: I think that would be better.

Is there any other comments from the Planning Commission, or other items before it goes back?

COMMISSIONER SCHIFFER: I have some.

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: Okay, it's on Page 4, 14, sandwich boards. You're discussing -- and I think it's good, you can have these and you can put them at the door. That's not exactly a precise location, but as long as you leave the 42 inches clear so people can -- it's not in the way, I mean, I'm not sure if we shouldn't have within so many feet of the door, because I could put it out at the street and say that's by my door.

And then the last sentence says the sign location -- I'm sorry.

MS. CILEK: Yeah.

COMMISSIONER SCHIFFER: The sign shall be removed from the entrance door area when the business is not opened.

I think you should word that in such a way that you actually bring the sign into the building as opposed to putting it out on the street for overnight advertising.

MS. CILEK: That's the intent is to bring the sign in. But yeah, we can tweak that.

COMMISSIONER SCHIFFER: But it doesn't say that, yeah.

And then on line 21, this is signs in the sports fields and stuff like that. You're keeping them so they're not visible from adjacent public or private roads. Should we also add residential development in there? In other words, if these signs are visible from some guy's house that lives near the play field.

MS. CILEK: So add what language?

COMMISSIONER SCHIFFER: Well, at the end, you know, it's adjacent public or private roads. I would say something like or residential --

MS. CILEK: Okay.

COMMISSIONER SCHIFFER: -- uses. Just to make sure. I mean, if you want to do -- just because I want to do it doesn't mean that's the right thing to do, but --

MS. CILEK: Other comments?

CHAIRMAN STRAIN: Anybody else? Is that it?

COMMISSIONER VONIER: That's it.

COMMISSIONER EBERT: No. Makes sense, though.

CHAIRMAN STRAIN: I don't have a problem with it.

MS. CILEK: I think it's just clarification. That's fine.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: So you're going to bring that one back for a rewrite.

MS. CILEK: Yeah.

CHAIRMAN STRAIN: Okay, let's move on to 10.01.02, development orders required, early on construction authorization permit.

MS. CILEK: And just to let you know, we're also going to have some language tweaks to this one. The intent is the same. There's a couple typos in this draft, and so we will provide you a clean copy at the next May 3rd meeting.

CHAIRMAN STRAIN: Okay. So we're not going to vote on this today, we're just going to take comments.

MS. CILEK: Yep, that would be great.

CHAIRMAN STRAIN: Okay, Brad?

COMMISSIONER SCHIFFER: Well, I just --

CHAIRMAN STRAIN: I mean, you're going to have them, so I might as well ask you first.

COMMISSIONER SCHIFFER: It says -- line five it says no on-site or off-site. I mean, doesn't that cover everything in the world?

MS. CILEK: Can you give me a page, please?

COMMISSIONER SCHIFFER: Oh, Page 3, line five. It just seemed --

MS. CILEK: Line five? That's existing language.

COMMISSIONER SCHIFFER: Okay, we can leave it.

Let's move to 4.F -- C.F.

MS. CILEK: C.F.?

COMMISSIONER SCHIFFER: Yeah.

One thing I was thinking of adding is the portion of work to be authorized. The permit has been approved. And I was thinking of adding, and subject to the conditions of the office of the fire code official under the Florida -- because with the early start, there are some situations where fires had trouble in the past where people don't have the proper water and fire supplies. They don't have the proper hydrants and things like that on a construction site, which they would need. I mean, I guess if it's been approved by the fire code official, that might be good enough.

MS. CILEK: So we're going to add language that would make the review subject to conditions of the fire official.

CHAIRMAN STRAIN: C.F I think has that, doesn't it?

COMMISSIONER SCHIFFER: Well, that's what I'm reading. And just with -- it's saying it's been approved. Anyway, I guess no approval would happen without subject to the conditions. So maybe it's redundant. We can -- that's it.

MS. CILEK: Yeah, it be won't go forward unless the fire official has said it's good to go. That's the intent.

COMMISSIONER SCHIFFER: And the person doing the work has to meet the conditions of that approval.

MS. CILEK: Sure. And that's probably when they make a review they say, you know, you have to do these things.

CHAIRMAN STRAIN: Okay, anybody else?

Go ahead, Diane. Was that you?

COMMISSIONER EBERT: Yes, it was.

There's a situation right now that somebody's been waiting five and a half months for their permit and it's because of fire and the county. And they're butting heads. One says it's fine, the fire department says, the county says no, it's not fine with us. It is going back and forth for five months.

MS. CILEK: Sorry to hear that.

COMMISSIONER SCHIFFER: Are you sure you have that order right? I mean --

CHAIRMAN STRAIN: Usually, I mean, if it's a problem, it's the fire department, it ain't the county, I can tell you that.

COMMISSIONER EBERT: Well, Mark, it might be. But this is inside work on a business that's just expanding to -- and they're waiting five and a half months and they're paying their rent and nothing is done yet. They can't even start.

MR. FRENCH: Which business, may I ask?

COMMISSIONER EBERT: Yes. It is a beauty salon. I will speak with you on it.

But it is -- and you're right, and they actually went there and --

MR. FRENCH: There's a reason why I asked this. I've recently had the opportunity to sit down with the fire official. Very similar complaint, three-and-a-half months. And I will tell you that -- and I happened to have Brad there. And I would tell you that they -- and staff's motion, honest opinion, ma'am, they had a bad architect. They had a bad design professional who did not do enough due diligence to bring forward enough information --

CHAIRMAN STRAIN: You had Brad there. Was he the architect?

MR. FRENCH: No.

And I will honestly say that Brad has helped us out quite a bit. And I asked him --

COMMISSIONER EBERT: He would.

COMMISSIONER SCHIFFER: But let me just say, in fairness, there was a lot of other people under the bus too.

MR. FRENCH: Right, I understand.

COMMISSIONER SCHIFFER: It was a crowded under the bus scene.

CHAIRMAN STRAIN: Okay, but are we --

MR. FRENCH: We'll be happy to take a look at it.

CHAIRMAN STRAIN: We're back on the ECA. Let's try to stay on focus here.

COMMISSIONER SCHIFFER: But Diane, by the way, if you do have problems, call Jamie, he's the fixer.

CHAIRMAN STRAIN: Do we have any problems with this section of the code?

COMMISSIONER SCHIFFER: It's going to come back to us, so --

CHAIRMAN STRAIN: I know. If there's any other comments --

MS. CILEK: It's just word tweaking. So all the intent is laid out.

CHAIRMAN STRAIN: Are there any other comments from the Planning Commission on this one?

(No response.)

CHAIRMAN STRAIN: I have one.

MS. CILEK: Okay.

CHAIRMAN STRAIN: On Page 5, D, review times do not include EAC, CCPC and BCC.

COMMISSIONER EBERT: What Page 5?

COMMISSIONER VONIER: Yeah, what Page 5?

COMMISSIONER HOMIAK: It would be on Page 4.

CHAIRMAN STRAIN: Okay, tell me what I've got that isn't necessary anymore.

MS. CILEK: Yes, you might have an earlier draft.

CHAIRMAN STRAIN: How many numbers do you have under three? Oh, well, good, you've already taken it out. Fine. It's going to come back for a rewrite.

Let's go to 10.02.03.B.1.J through K.

COMMISSIONER HOMIAK: This is coming back?

CHAIRMAN STRAIN: Yes, this is coming back.

MS. CILEK: Yes, it will come back so we can move on.

CHAIRMAN STRAIN: 10.02.03. And you've got this B-1, J through K. It's the last -- it's the bottom tab of one of your -- further on in the book.

And what is this? It's submittal requirements for SDP right-of-way process and submittal regulation for improvement plans.

MS. CILEK: Yes. And this is seeking to sort of assist and define the process for when an applicant gets the right-of-way permit. And this will help them know when to get it, which is right before the preconstruction meeting. So that just amends that procedure.

CHAIRMAN STRAIN: Okay. Any comments from the Planning Commission?

(No response.)

COMMISSIONER SCHIFFER: Move to approve.

CHAIRMAN STRAIN: Made by Brad. Seconded by?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Karen.

All those in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Mr. Podczerwinsky has been sitting there waiting for us to get done with that.

Congratulations, John. No problems.

Number 29, 10.02.03.B.4.b.

MS. CILEK: B.4.b.

CHAIRMAN STRAIN: And this is submittal requirements again for SDP's, extended and notice requirements for public hearings before the board.

MS. CILEK: Right. And I do have one update for this. And you can ask to bring it back, but I'm just going to tell you what Heidi and I discussed prior to today. So I'll share that with you and see if you want to see a clean copy of it, if that's okay.

CHAIRMAN STRAIN: Yeah.

MS. CILEK: So go to B.4.b.i, and it reads, the new language reads, a maximum of two extensions may be granted before an SDP amendment is required.

What we'd like to do is add a period there and remove everything else.

COMMISSIONER EBERT: Where is this?

MS. ASHTON-CICKO: Yeah, what one are we on?

MS. CILEK: B --

CHAIRMAN STRAIN: We're on 10.02.03.B.4. Page 2, item B.4.b.i.

And she's shortening this first sentence by half and dropping the rest of it.

MS. CILEK: Correct.

The rest of that will go into an administrative procedural type --

CHAIRMAN STRAIN: That's what I figured you were going to say. I don't think that needs to come back for a rewrite, unless somebody else has other problems with it.

COMMISSIONER VONIER: No.

CHAIRMAN STRAIN: It's pretty simple.

COMMISSIONER VONIER: So moved.

CHAIRMAN STRAIN: Made by Bill. Seconded by?

COMMISSIONER SCHIFFER: I'll second it. But let me ask --

CHAIRMAN STRAIN: Brad, go ahead.

COMMISSIONER SCHIFFER: Well, we can vote, and then I'll ask my question.

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Brad?

COMMISSIONER SCHIFFER: Remind me again why SDP's expire? What -- in other words, somebody goes through the expense of creating something that essentially becomes his GMP of his own property. I mean, why does that have to expire?

MR. BELLOWS: It expires because the codes have changed over time, and it is felt that if you go beyond three to four years, you might have a situation that you may not approve under the code says they are amended in the future. And this gives a chance for staff to reevaluate the plans again to ensure that there are no other issues with changes to codes.

COMMISSIONER SCHIFFER: Okay, but like with Burt Harris claims as a threat, why would that ever be a problem that the code changed? It's not like he's buying right futures or something. But never mind, it's -- it expires. Live with it, Brad.

CHAIRMAN STRAIN: Next one is 10.02.05.B, submittal requirements for improvement plans. Same kind of issue, just extending them, providing for two-year extensions.

MS. CILEK: And same correction.

CHAIRMAN STRAIN: Okay.

MS. CILEK: So B.11, new language, a maximum of two extensions may be granted, period. The rest of that information will be an administrative code.

CHAIRMAN STRAIN: Any discussion from the Planning Commission?

(No response.)

CHAIRMAN STRAIN: Is there a motion?

COMMISSIONER SCHIFFER: Move.

CHAIRMAN STRAIN: Brad.

COMMISSIONER EBERT: I'll second.

CHAIRMAN STRAIN: Seconded by Diane.

As -- I'm assuming as the language was modified.

All those in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Next one is 10.02.07.C.1.2, submittal requirements for certificates of public facility -- adequate public facility. Oh, no, this is -- yeah, okay, it's titled differently. Okay.

MS. CILEK: It's striking earlier language under that 10.02.07.

There's a bit of a typo on Page 3. The numbers are wrong. It should be -- actually, maybe that's not right. Never mind. The new language is on Page 4 relating to the monitoring requirements. And this is a new regulation that would instead -- instead of having people provide a monitoring report, they provide payment of \$500 for each access point.

CHAIRMAN STRAIN: Is that a one-time payment or a yearly payment?

MS. CILEK: One-time.

CHAIRMAN STRAIN: One-time payment. Because that's a lot cheaper than a monitoring report is for each property.

MS. CILEK: It is.

CHAIRMAN STRAIN: By a long shot.

That's good.

Any questions from the Planning Commission?

(No response.)

CHAIRMAN STRAIN: Is there a motion?

COMMISSIONER SCHIFFER: To approve.

CHAIRMAN STRAIN: Made by Brad. Seconded by?

COMMISSIONER VONIER: Second.

CHAIRMAN STRAIN: Seconded by Bill.

Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Next one is 10.02.13.F. It's obligation of the annual monitoring reports.

Anything you want to through, Caroline? Pretty self-explanatory.

MS. CILEK: This is just saying that those that -- the part of the PUD that is built out no longer have to supply the monitoring report. They're done.

CHAIRMAN STRAIN: Good move.

Discussion?

COMMISSIONER SCHIFFER: Is there any correspondence from staff to somebody telling them that? I mean, this looks like it's a condition that they know it's built out, but do you ever send them a congratulatory letter or anything?

MS. CILEK: Yay, you've made it.

Yes, I'm pretty sure there's a process for a built out portion of a PUD. But Ray might be able to speak to that, and so can John Podczerwinsky.

MR. PODCZERWINSKY: John Podczerwinsky for the record, Transportation Planning. I'm standing in for Lori Beard today, our PUD monitoring staff member.

And yes, to my knowledge she does keep track of what portion of the PUD's are built out and which are not. And she keeps those that are not built out notified of their requirements.

CHAIRMAN STRAIN: I've seen them.

Any discussion?

(No response.)

COMMISSIONER SCHIFFER: To approve.

CHAIRMAN STRAIN: Motion by Brad. Seconded by Karen.

All in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Last one is the appendix A, update letter of credit form.

MS. ASHTON-CICKO: Mr. Chair, I don't think it's required, but the -- I just wanted to let you know that administrator has requested that you discuss the aviation LDC amendment before you conclude today.

CHAIRMAN STRAIN: Whose administrator?

MS. ASHTON-CICKO: Nick.

CHAIRMAN STRAIN: He was here, why didn't he say something about it?

MS. ASHTON-CICKO: Well, I'm just letting you know, because we're reaching the conclusion.

CHAIRMAN STRAIN: Okay, does this have anything to do with letter of credit?

MS. CILEK: No.

MS. ASHTON-CICKO: No.

CHAIRMAN STRAIN: No, okay.

COMMISSIONER SCHIFFER: Approve.

CHAIRMAN STRAIN: Motion made by Brad, seconded by Barry. Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Now we're going back to number 13, 2.01.03, essential services, aviation.

MS. ASHTON-CICKO: Yeah, I think if someone has any changes or questions we can address it and then we can continue it to the next meeting.

CHAIRMAN STRAIN: If I understand it correctly, this is just adding a very defined sentence to the permitted essential services in a CON ST. And it reads, so I've got the right version, aviation related uses as approved in a Memorandum of Understanding agreement dated September 11th, 2001. Is that right?

MS. CILEK: No.

COMMISSIONER HOMIAK: No.

MS. ASHTON-CICKO: No. Shall I read the change in, or Caroline --

CHAIRMAN STRAIN: Well, probably -- oh, it's a whole paragraph.

MS. ASHTON-CICKO: You're the only one who doesn't have it, probably.

CHAIRMAN STRAIN: Yeah, I've only seen it -- I've only got the one sentence. Go ahead -- well, you don't need to read it, I can read it.

Anybody have any questions?

COMMISSIONER EBERT: Well, where are we at here?

MS. CILEK: He has an earlier version. And it's on Page 3, letter F.

MR. BELLOWS: And it's Section 2.01.03.

MS. CILEK: Yes, the first one in your binder.

CHAIRMAN STRAIN: Oh, just further clarifies the signatories to the inter -- yeah, okay.

MS. CILEK: It just lists out the people who are signing off on the document.

CHAIRMAN STRAIN: It fixes a problem.

Does anybody have any problems? Well we can't -- motion is going to be coming up for discussion on the 25th, right?

MS. CILEK: Correct.

CHAIRMAN STRAIN: Yes, I don't have any comment.

MS. ASHTON-CICKO: This requires the night meeting, that's why we're not voting on it today. Well, it arguably requires the night vehicle. She's looking for comments today. We're going to have the same thing happen on the 25th.

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COMMISSIONER EBERT: Oh, so we'll --

MS. ASHTON-CICKO: Yeah, if you have any questions or issues, you can raise them today and we can address them or we'll just hear it next Wednesday. Or in two weeks.

CHAIRMAN STRAIN: Okay, anybody?

(No response.)

CHAIRMAN STRAIN: No. Well, that takes us to the end of today's agenda. So is there a motion to continue this until the 25th of April at 5:01 in this room?

COMMISSIONER EBERT: I make a motion we continue till April 25th at --

CHAIRMAN STRAIN: Barry seconds.

Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?


(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

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 2:00 p.m.

COLLIER COUNTY PLANNING COMMISSION



MARK STRAIN, Chairman

These minutes approved by the board on 5-17-12 as presented or as corrected .

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