

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida, May 17, 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:

CHAIRMAN: Mark P. Strain
William Vonier
Brad Schiffer
Paul Midney
Melissa Ahern
Karen Homiak
Diane Ebert
Barry Klein
Phillip Brougham

ALSO PRESENT:

Raymond V. Bellows, Zoning Manager
Heidi Ashton-Cicko, County Attorney's Office
Tom Eastman, School Board Representative

CHAIRMAN STRAIN: If everybody will please take their seats for a couple seconds. Welcome to the Planning Commission meeting of Thursday, May 17th.

Now that you've sat down, will you-all please rise for Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Okay. Thank you.

Will the secretary please do the roll call.

COMMISSIONER HOMIAK: Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER HOMIAK: Mr. Vonier?

COMMISSIONER VONIER: Here.

COMMISSIONER HOMIAK: Mr. Schiffer?

COMMISSIONER SCHIFFER: I'm here.

COMMISSIONER HOMIAK: Mr. Midney probably just hasn't gotten here yet.

CHAIRMAN STRAIN: Probably not.

COMMISSIONER HOMIAK: Ms. Ahern?

COMMISSIONER AHERN: Here.

COMMISSIONER HOMIAK: Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER HOMIAK: Ms. Homiak is here.

Ms. Ebert?

COMMISSIONER EBERT: Present.

COMMISSIONER HOMIAK: Mr. Klein?

COMMISSIONER KLEIN: Present.

COMMISSIONER HOMIAK: Mr. Brougham?

COMMISSIONER BROUGHAM: Present.

CHAIRMAN STRAIN: Thank you.

Addenda to the agenda. We have a very interesting agenda today, so -- and I'll explain it all to everybody. And we're going to start out -- we have three typical hearings for the Planning Commission today. We're going to be going through those first. They're noted on our agenda.

At the end of those, whenever that finishes, which might be late this morning or right after lunch, we will go into the Land Development Code amendments, the continuation of that. And there's a whole page of amendments. There are quite a few to go over today.

And then after that we will adjourn that meeting and open the workshop up that we had partially processed through for the Master Mobility Plan and try to get into that, of which there will probably be quite a bit of discussion.

So I expect the meeting will last the whole day. And we've tried to include a little bit of everything to entertain everybody. So if you get bored today, well, maybe the next thing won't bore you so much.

With that, is there any addenda, Ray, that you know of at this point?

MR. BELLOWS: I have no other changes.

CHAIRMAN STRAIN: Okay. Planning Commission absences. Our next regular meeting is June 7th. Does anybody know if they're not going to make it to the meeting?

(No response.)

CHAIRMAN STRAIN: Okay. And, Ray, on that meeting we have the Master Mobility Plan workshop scheduled, so I'm assuming that means if we don't finish this afternoon, we'll recontinue to that meeting date as well.

MR. BELLOWS: Correct.

CHAIRMAN STRAIN: Okay. We had three sets of minutes distributed electronically to the Planning Commission members. We'll go through them one at a time for either recommendations to modify or approve.

April 13, 2012, anybody have any comments?

(No response.)

CHAIRMAN STRAIN: If not, is there a recommendation for a -- is there an approval?

COMMISSIONER VONIER: So moved.

COMMISSIONER AHERN: So moved.

CHAIRMAN STRAIN: Bill made it, and seconded by Melissa.

Discussion?

(No response.)

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

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: (Absent.)

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0.

April 19th minutes. Any discussion?

(No response.)

CHAIRMAN STRAIN: Is there a motion?

COMMISSIONER AHERN: So moved.

CHAIRMAN STRAIN: Melissa. Seconded by?

COMMISSIONER HOMIAK: Second.

COMMISSIONER VONIER: Second.

CHAIRMAN STRAIN: Karen.

Discussion?

(No response.)

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

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: (Absent.)

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0.

April 25th minutes. Is there any discussion?

(No response.)

CHAIRMAN STRAIN: Hearing none, is there a motion to approve?

COMMISSIONER AHERN: So moved.

CHAIRMAN STRAIN: Melissa.

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: By Karen; seconded.

Discussion?

(No response.)

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

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: (Absent.)

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0.

Thank you.

BCC report and recaps, Ray?

MR. BELLOWS: During their May 8th hearing, the Board of County Commissioners continued the SSP rezone to May 22nd at the petitioner's request. I think Commissioner Fiala had some concerns about some of the uses, and the petitioner wanted time to review those with her.

CHAIRMAN STRAIN: Okay. Chairman's report, I don't have anything new other than the agenda we're getting into, and it will be lengthy enough.

Consent-agenda items. We had one item on consent. It was VA-PL2011-1576, the Jaffe variance.

Is there any questions, concerns, or comments about that consent item?

(No response.)

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

COMMISSIONER BROUGHAM: So moved.

CHAIRMAN STRAIN: Made by Mr. Brougham. Seconded by?

COMMISSIONER SCHIFFER: Second.

CHAIRMAN STRAIN: Phil, or I mean Brad.

Discussion?

(No response.)

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

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: (Absent.)

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0.

Okay. With that, we get to our --

COMMISSIONER BROUGHAM: We have a second item.

CHAIRMAN STRAIN: Oh, we have a second consent, you're right. Naples View RPUD.
PUDZ-PL20110001519.

Anybody have any issues on that consent item?

(No response.)

CHAIRMAN STRAIN: Okay. Is there a motion?

COMMISSIONER SCHIFFER: I'll make a motion that it's representative of our hearing.

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Motion made by Commissioner Schiffer, seconded by Commissioner Homiak.

Discussion?

(No response.)

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

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: (Absent.)

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0.

***Now that takes us into our regular advertised hearings. And, on time as usual, Mr. Midney just showed up. Let the record show that Paul Midney got here.

Our first item up today is a continued item from our last meeting. It's the Agave Grill signage request, SV-PL20110002805.

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

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

CHAIRMAN STRAIN: Are there disclosures on the part of the Planning Commission?

I think I had a conversation with Wayne about their continuance and maybe this morning about just that they're up for review.

Other than that, I don't see any others. So with that, we'll leave the presentation up to you, sir.

MR. WALTERS: Good morning, ladies and gentlemen. My name is Theodore Walters. I'm an attorney with Cummings & Lockwood here in Naples. I'm joined by Ken Knief; right on time. He's the general manager of Agave, the restaurant that we're talking about this morning; and Wayne Arnold from Grady Minor.

Ladies and gentlemen, we're seeking approval of a variance to erect a second sign on the building. If you're not familiar with Agave, you may be familiar with it in its former life. The building was the home of Pizzeria Uno on Vanderbilt Beach Road.

The building is part of a corporate condominium called Olympia Park. The restaurant that is there now is a Mexican restaurant. It's been in operation for several months now, and it has a sign on the northern facade of the building facing Vanderbilt Beach Road.

The problem that we encountered in planning was that that sign is not easily seen as traffic moves easterly on Vanderbilt Beach Road. We thought that it would be better to have a sign on the western facade of the building because you can see it simply as you're driving in an easterly direction on Vanderbilt Beach Road.

In addition, when you enter what is, essentially -- and I think I'm going to make Ken cringe, but a shopping center. There is --

MR. KNIEF: Cringe.

MR. WALTERS: There is --

MR. KNIEF: I said, "Cringe."

MR. WALTERS: Cringe, okay. You can't identify the building. There's no other signage available. It's not clear, perhaps, to the uninitiated what it is, and that's why we are seeking this additional sign.

The sign would be 96 square feet in size maximum. The one that is on the front side of the building or the northern facade of the building is approximately the same size. I think it's actually 93 square feet. So pretty similar in size.

It's -- the reason for the request is primarily for identification for the public to identify the restaurant, to identify the business, of course.

The building would be -- if it were not in a corporate condominium, it would be an outparcel. As the staff indicates in its report, it's treated as an outparcel, or if this were an outparcel, the second sign would be available.

There's the restaurant on the screen available for you.

We have several photographs. I don't want to inundate you. It's a relatively simple request, I believe. Very happy to answer questions. Mr. Arnold's happy to answer questions. But that is essentially what we're seeking from you-all this morning.

CHAIRMAN STRAIN: Thank you.

MR. WALTERS: Thank you.

CHAIRMAN STRAIN: Questions from the Planning Commission? Brad?

COMMISSIONER SCHIFFER: Kind of a statement. I live around that area, and one of the things this area does have is that's a good interconnection for a lot of the shopping centers on that corner. So I think, as a reward for their interconnection, this certainly made sense to treat it like a outparcel.

CHAIRMAN STRAIN: I drove by the place just to see what it was like, and I certainly agree with you, a sign would be needed there, and it would help your business, and it would help the public as well.

So anybody else?

COMMISSIONER KLEIN: I move to --

CHAIRMAN STRAIN: Well, we've got to see if there's public -- we've got to hold off yet. Can't go that fast. We've got a little process to go through here.

COMMISSIONER EBERT: I was going to do that, too.

CHAIRMAN STRAIN: Does anybody else have any questions of the applicant?

COMMISSIONER EBERT: No.

CHAIRMAN STRAIN: Okay. Thank you, sir. I appreciate your brevity today, and a few words go a long way sometimes.

MR. WALTERS: Thank you very much.

CHAIRMAN STRAIN: Thank you.

Nancy?

MS. GUNDLACH: Good morning, Commissioners.

For the record, Nancy Gundlach, principal planner with the Department of Land Development Review Services. And staff is recommending approval of this petition subject to one condition, that the sign is limited to the western facade of the building and a size of 96 square feet.

CHAIRMAN STRAIN: Okay. Any questions of staff?

(No response.)

CHAIRMAN STRAIN: Okay. Is there any public speakers, Ray?

MR. BELLOWS: No one has registered.

CHAIRMAN STRAIN: Anybody in the public wishing to speak on this item?

(No response.)

CHAIRMAN STRAIN: If not, we'll close the public hearing and entertain a motion or -- well, no discussion needed.

Motion, Diane or Barry?

COMMISSIONER KLEIN: I move we -- what do I want to say? I move that we --

CHAIRMAN STRAIN: Recommend approval with staff's recommendations.

COMMISSIONER KLEIN: Yes.

COMMISSIONER EBERT: I'll second.

CHAIRMAN STRAIN: Okay. Motion's been made by Barry, seconded by Diane, to recommend approval with staff recommendations.

All those in favor, signify by saying aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

Well, that was short and sweet. Thank you, guys.

MR. WALTERS: Thank you very much.

CHAIRMAN STRAIN: You came all the way in for a quick hearing. Appreciate it.

COMMISSIONER KLEIN: But they charge by the hour.

COMMISSIONER SCHIFFER: Mark, a question on that. Can we waive the consent requirement on that one?

CHAIRMAN STRAIN: Yeah, that would probably be a good idea. We certainly can. We have done that in the past. Is there a motion to waive consent?

COMMISSIONER SCHIFFER: I'll make that motion that we waive the requirement to come before us with a consent item.

COMMISSIONER EBERT: I'll second.

CHAIRMAN STRAIN: Motion waived, seconded by Diane. Motion made by Brad.

All those in favor, signify by saying aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion passes 9-0. So that -- we'll save you the additional time in coming back for a consent hearing. So thank you all.

MR. ARNOLD: Thank you very much.

MR. WALTERS: Thank you.

MR. KNIEF: Thank you.

CHAIRMAN STRAIN: Ray, when they're that simple, gee, I wish staff could just do those.

MR. BELLOWS: Yeah, we need more sign variances.

CHAIRMAN STRAIN: You know, save people a lot of money if we could do it that way.

***Next item up is a conditional-use petition. It's CU-PL20110001157, and I'm not sure I'm going to say this right. It's the Ichthyo Park conditional use. It's off of Sabal Palm Road and Morgan Road in East Naples.

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

And some guy with gray hair -- short gray hair is just at the podium. I'm not sure who that is anymore.

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

CHAIRMAN STRAIN: Disclosures on the part of the Planning Commission? I haven't had any either.

Tim, you definitely look different. We haven't seen you for a while and -- God, you're more distinguished looking. Is that a better way to say it?

MR. HANCOCK: Thank you. I think so, and I appreciate that. And there's a picture of my younger brother in the hallway out there.

But good morning. I hope to keep the string of easy and short going, and it is pronounced Ichthyo Park.

CHAIRMAN STRAIN: How did you say that again?

MR. HANCOCK: Ichthyo.

CHAIRMAN STRAIN: Ichthyo.

MR. HANCOCK: Ichthyo. And, actually, Viktor Jarikov does a nicer job with it than I do, but it's basically

based on the scientific term dealing with fish, and so a very appropriate name and one that I'm sure will continue to cause conversation.

I am here representing Viktor Jarikov and Arena Lavickova (phonetic). They're the owners of property at 316 Morgan Road.

The request before you today is to permit a Conditional Use No. 3 of the agricultural zoning district to allow a small, privately-run aquarium to be erected and basically located within the existing structures and lanais on the property.

Again, this is really for the purpose of operating a small educational display of freshwater aquatic species.

The property's located at the northern end of Morgan Road, which is just north of Sabal Palm Road, approximately 1 mile east 951. It's 9.17 acres and consists of two existing structures with a connected screen patio, and there's a second screen lanai, which is behind what used to be a studio or was used as a studio.

In selecting a site for this use, the owners probably could not have found a more perfect setting. Some of you may recall this property was featured in news articles and at least one television piece as the home and working studio of Jonathan Green, a world-renowned artist capturing the Gullah culture of South Carolina.

Mr. Green spent 25 years here creating an oasis with his partner where he lived, worked, sold his art, and at times had hundreds of guests and clients attending parties where he displayed and sold his pieces as frequently as two times per month. Unfortunately, the decline in art purchases forced the property into foreclosure in 2009.

As I say unfortunately for Mr. Green but fortunately for Mr. Jarikov. That allowed he and Arena to move their plans forward to revive this oasis in much the same way that Mr. Green created it by living here and operating a small-scale business that's an extension of Mr. Jarikov's passion for freshwater fish, including breeds of catfish over 4 feet in length.

Specially constructed tanks will be crafted, and the existing studio and patio areas will be used to create an intimate and educational aquarium for locals, visitors, and schoolchildren to enjoy.

The site is ready-made for this use with minimal modification required. Really, only ensuring ADA accessibility is the primary issue that we've discovered.

Vehicular trips will be far less than the prior, shall we say, unregulated parties that occurred when Mr. Green was on the property. Neighbors got used to a lot of cars coming up and down the road for these parties several times a month. We're really kind of going from a somewhat unregulated use to a more highly regulated use with a conditional-use approval.

We've received no letters or emails of objection. And the required neighborhood information meeting was held and attended by a handful of residents whose primary issue was really the use of Morgan Road and the narrow condition. It is a private road, but it is paved from Sabal Palm all the way back to its terminus, which is right here at 316 Morgan Road.

And it is wide enough for two vehicles, although sometimes you may have to slip to the shoulder a little bit if you have a wide vehicle coming. There are businesses that exist on the road that have been there historically that have orchids and other things out there, so it's a little bit of mixed use, if you will, on Morgan Road.

This application is really one of those rare times that if it's approved, a small owner-operated business can become established that can be an asset to the community that doesn't currently exist. We really don't have an aquarium here. We do have some nice exhibits here and there. And the owners have put everything they have into this project, including overcoming Arena's fear of snakes and things that slither -- that's something odd to have to deal with moving to Florida -- and really turn this into -- their love of aquatic species into a business.

With the conditions proposed by staff dealing primarily with the low volume of trips that the site would generate, the limitation on the size of vehicles, and the requirement that any parties in excess of six have a pre-set appointment -- in other words, this is really intended to continue as a small-scale operation. With those conditions, we achieve compatibility. My sincere hope is to be standing before you here in the near future asking for an expansion of this use because they will have been wildly successful. But as it stands today, those conditions certainly match the intent and goals of the property owner.

Mr. Jarikov is here and can answer any questions you have with specific requests to the aquaria itself, the types of species, the operation, if you will. But with respect to the land use itself, we find it to be both compatible and consistent with prior use of the property, the traffic volumes to be extremely low, and the conditions set forth to more than compensate for any potential issues that we foresee at this time.

So with that, I will ask your favorable consideration and be happy to answer any questions you might have.

CHAIRMAN STRAIN: Okay. Does anybody have any questions. Phil?

COMMISSIONER BROUGHAM: A couple.

First question is, does the owner have experience in operating an aquarium? I mean, is this some of his past life or work experience?

MR. HANCOCK: It is, indeed. Mr. Jarikov has shared pictures with me. In essence, what he's doing is turning an extensive hobby into a business. And I'm probably most appropriate to let Mr. Jarikov talk about his experience with aquaria if you'd like a further explanation. But, yes, this is something that -- at his home in Rochester, he had turned the entire basement into these types of tanks and whatnot. So his experience, in my opinion from what I reviewed, is fairly extensive in this.

COMMISSIONER BROUGHAM: Perhaps you can answer, perhaps the owner can answer, but can you give me some idea of the size of, quote-unquote, the aquarium. Why don't you come to the podium, sir. I mean, I can envision home aquariums, or I can envision Sea World.

CHAIRMAN STRAIN: Were you -- did you rise, and were you sworn in when we asked for --

COMMISSIONER BROUGHAM: Yeah, he was.

MR. JARIKOV: Yes, I was sworn in.

CHAIRMAN STRAIN: Thank you. Okay. You have to state your name for the record, and please spell your last name.

MR. JARIKOV: My name is Viktor Jarikov. I'm the owner of the property and the petitioner, along with my wife, Arena Lavickova.

So the question is as to the size of the displays and exhibits --

COMMISSIONER BROUGHAM: Yes.

MR. JARIKOV: -- and quantity of them; is that the question?

COMMISSIONER BROUGHAM: Yes. We know the size of the building, and there's no expansion to that. But if you can just give us a broad idea of how you're going to populate the inside of the building with these devices and how you're going to control them. And I have no experience with operating an aquarium, so I don't know what the risks are or not and --

MR. JARIKOV: Right. For starters, all we could really erect is about 25 aquaria. The smallest is about 220 gallons. The biggest is four-and-a-half thousand gallons, and in between. Those are being made by -- primarily by Dolphin Fiberglass Products out of Homestead, Florida.

COMMISSIONER BROUGHAM: So they're individual aquariums of various sizes to occupy the building and so forth?

MR. JARIKOV: Correct, yes.

COMMISSIONER BROUGHAM: Okay. I have a couple -- go ahead.

MR. JARIKOV: The smaller ones are all glass and the bigger ones are pretty much -- you know, it's like an aboveground swimming pool with a window. That's what it amounts to.

COMMISSIONER BROUGHAM: Okay. Couple questions regarding traffic, I guess. That seemed to have been one of the primary concerns at the neighborhood information building, and there's been comment that it's a one-lane road, quote-unquote. And I understand the staff recommendations, and your agreement to the conditions, you know, state that no vehicles with the capacity of more than 24 passengers will be admitted, you know, until and unless we have a wider road. How do you plan on enforcing that?

MR. HANCOCK: Because any group greater than six much have a pre-set appointment, we can then inquire as to the type of vehicle that's being used. The focus there really was -- the concern was school buses. If you were to have a school bus come down the road which, you know, could take up or consume the majority of the roadway itself, the safety and concern for the children on the bus was the primary issue, and that's how we got to the limit of 24. That takes us down to what is typically called a minibus or a large passenger vehicle which, given the roadway condition, would allow two vehicles to pass on the roadway using little or no portion of the shoulder.

It was called one-way, but it's not a 10 or 12 footer. It's actually closer to 16 to 20 feet, and a little over 20 feet in some areas. So there are certain portions of it that are a little narrower than others, but it is a little bit wider than what would be a one-lane road.

COMMISSIONER BROUGHAM: Do you have any immediate plans for a roadway to 20 feet?

MR. HANCOCK: We do not, mainly because of the -- it's four-tenths of a mile, and the cost of that is extensive. The business would have to be on the cusp of growing to something far more significant than this and really would have to generate far more traffic than what we're talking about for that to become an issue for the neighbors.

We're talking about a maximum peak vehicles of 12 per hour. And I think, candidly, that's -- we intentionally put that on the high side as a projection. We didn't want to underproject. But, you know, we don't have plans to widen the roadway at this point simply due to the cost. This is a start-up business.

COMMISSIONER BROUGHAM: You know, I'm in favor of this in general. I guess my concern is the uncertainty, wishing the owner every success going forward. If his aquarium business takes off, and traffic does increase, and there's a need for school buses to want to get in there or vehicles of that size or you just have more reservations for parties of greater than six than you can handle, I'm trying to look forward into how we can accommodate that future growth. I'm not saying we should invent a new condition, but I'm concerned about that, that if this conditional request is approved based upon these conditions, who is out there monitoring? Do we wait for the neighbors to call and complain, or what would that process be? And I'll look to anybody to help with that. But that's my concern.

MR. HANCOCK: Understood.

CHAIRMAN STRAIN: Anybody else?

COMMISSIONER SCHIFFER: I have.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: Tim, one thing in here you mention that if you do have food it would only be by vending machines; is that right?

MR. HANCOCK: Yes, sir.

COMMISSIONER SCHIFFER: Okay. Do you have a problem adding a condition that those machines can't be visible from a property line?

MR. HANCOCK: No, sir.

COMMISSIONER SCHIFFER: Because some of them are lit, and some of them --

MR. HALL: Understood, and that's not a problem.

COMMISSIONER SCHIFFER: Okay. And then the other thing is the hours of operation. Is that something we should be listing as a condition or -- because under six people, you could have unlimited cars of four people or two people, or --

MR. HANCOCK: Correct.

COMMISSIONER SCHIFFER: So is --

MR. HANCOCK: We're comfortable limiting the hours of operation from 9 a.m. to 6 p.m.

COMMISSIONER SCHIFFER: Okay. Would you want the ability to have parties at night or something, special events?

MR. HANCOCK: We anticipate very few of those. This is not an engallah-type environment, so we would anticipate very few of those, and maybe those could be limited by the special-use permits that the county requires if we were to have an evening event, so to speak.

COMMISSIONER SCHIFFER: And they're residing on the grounds?

MR. HANCOCK: Yes. We've already cut two trips out right there. The owners live there.

COMMISSIONER SCHIFFER: All right. Thank you, Mark.

CHAIRMAN STRAIN: Okay. Anybody else have any questions of the applicant at this time? Oh, yeah, I'm sorry. Tom?

MR. EASTMAN: This may not be an issue, given that this is pretty landlocked and the nonnative fish species are freshwater, but we do have problems with exotic species of pythons, monitor lizards, Africanized bees. Have you given any thought to these nonnative species? They have no potential to establish themselves in the wild under this scenario, correct?

MR. HANCOCK: That's correct. All the aquaria are fully contained and not so much even interconnected. The water filtration system is a closed-loop system. You're not drawing or depositing eggs outside of an aquarium, for example, into local water bodies and whatnot. So they are fully self-contained.

And as a matter of fact, one of the educational components that Mr. Jarikov spoke to me about very early on

was just that very issue. Many of these species, you know, would not or could not survive in the wild or could dominate others. And for those who come to the aquarium, that's one of the educational components is the presence of non-native species that will be a part of the display and part of the description and reasoning that is provided.

MR. EASTMAN: Tim -- and I think that part of the story goes with the pythons, that a hurricane allowed some to escape. Does this have extra hurricane or storm protection, this structure, in any way?

MR. HANCOCK: Not beyond that required and -- but I believe -- I'll have to check. I believe the roof tie-downs are post-Andrew in this home. The studio was built second to the home, and that's where most of the aquaria would be located. But beyond that, I'm afraid I don't have any information.

MR. EASTMAN: Thank you, Tim.

CHAIRMAN STRAIN: Okay. Anybody else have any questions of the applicant?

(No response.)

CHAIRMAN STRAIN: Tim, I've got a few. And, first of all, I like the idea of what you're trying to do, and I just want to make sure we've got all the T's crossed and I's dotted.

You're asking for a permit -- a conditional use for an aquarium. Are you intending to sell any of the fish byproduct such as meat or anything like that? Because then that would be aquaculture, and I want to make sure we have that covered if that's what you're intending to do.

MR. HANCOCK: Correct. This is not an aquaculture operation. Sale of the species will not occur on site.

CHAIRMAN STRAIN: Okay. You're up against the future residential PUD or DRI called Hacienda Lakes. Is there any interconnection at that point with Hacienda, or is there any anticipated or needed?

MR. HANCOCK: There is a roadway easement that extends north and south along the western edge of the property. There has been some discussion, and I would defer to John Podczerwinsky on whether or not there would ever be an ultimate connection there. But as of right now there's not one planned. But there is a 30-foot easement on our side of the property that could be utilized for that purpose.

CHAIRMAN STRAIN: And those are generally found throughout Collier County, especially on section lines. In fact, we have one coming up at the next hearing where it's being vacated because it's running right through a project, which is typical.

How about the Benfield Road corridor; how close to the -- how close are you to that corridor, and is that going to have any impact involving your property; do you know?

MR. HANCOCK: I believe that is actually to the east of the property. It does not have any planned impact specifically on this parcel, no, sir.

CHAIRMAN STRAIN: Okay. And I'll ask John later on when staff reports to verify that, and we'll get into that a little bit.

On your site plan you have a road on the south side that apparently connects through another property to Morgan Road, and I see on the aerial that that's the actual existing connection at this time. You don't own that property to the south, I would assume and -- because you're showing a new connection made to the north of your property line.

Is that going to be your primary access then to Morgan Road, or is that going to be done at what point and at what time?

MR. HANCOCK: That connection actually -- and it doesn't show up very well on the aerial -- is kind of a dirt or gravel drive that exists.

One of two things. Either we will secure the formal legal access through that driveway. The property -- excuse me. The adjoining neighbor doesn't -- you know, isn't there all the time. So we're working on getting an easement on that. If we cannot, then we will construct something on the property to close that loop.

CHAIRMAN STRAIN: And that's what the optional easement is for.

MR. HANCOCK: Yes, sir, that's correct.

CHAIRMAN STRAIN: Okay. At your neighborhood information meeting, one of the neighbors expressed the following: Mr. Hood indicated that the applicant was willing to work with the neighborhood to address the issue and that the anticipated traffic will be less than the previous art studio. The residents expressed an interest in only seeking a fair-share resolution. What is that about, and what came out as a result of that comment?

MR. HANCOCK: What came out from that is that we are more than willing to enter into a fair-share agreement for maintenance and improvement to the roadway based on traffic numbers. One of the problems you have

on Morgan Road is there are some businesses that have been there a long time that are not -- candidly, not doing well right now, and not everyone along that roadway has a desire to participate in the widening or additional expenses.

We do stand ready to, you know, fill potholes as necessary and do the required maintenance, because it is the access to the property. And we'll continue -- Mr. Jarikov will continue to work with his neighbors and participate in any improvement plans that addresses the extent of Morgan Road. That's going to be an ongoing process.

CHAIRMAN STRAIN: Okay. I'm -- we'll probably be asking John Podczerwinsky to verify that the arrangement you're speaking of verbally is something that's acceptable to the transportation department to assure that the road is maintained by whatever traffic is generated. So I'll look for clarification when we get the staff side, and you may want to contribute during that period of time.

The preserve area, the .053 acres up in the northwest corner, that's a proposed preserve area. What's happening to that up there? What is it you're proposing? I mean, you're proposing it, so how -- how much exotic is in there now, and are you going to be replanting it to make it a preserve area? Because it's listed as only proposed, and I'm just --

MR. HANCOCK: Oh, okay. No, it's actually in very good shape as far as native vegetation goes. As a matter of fact, a lot of the property -- let me go back to the aerial.

CHAIRMAN STRAIN: And, by the way, the reason I'm asking the question is because you have Hacienda Lakes going into the north, which is residential, and your preserves, I believe, are adequate buffers as long as they are retained as preserves and they have the growth needed that preserves generally have. So that becomes an important piece for buffering to your future residential to the north. Most of that is native?

MR. HANCOCK: Yes. Actually, exotics are less than 25 percent in the green area.

CHAIRMAN STRAIN: Oh, fantastic, okay. Good.

Then my last question, in your packet was a plan of Morgan Road. You may have it. It's black and white. Could you put that on the overhead. And that shows Sabal Palm to the south which, obviously, that's where people would come in. They would go up Morgan Road, but then they hit that one little piece right there in the center that doesn't have any of the dashed lines on it. And to the north of that -- and to the south they even have half a dashed line, which means you've got 30 feet. So you don't have 60 feet solid through there. What happens where you have nothing? How is your access through that area guaranteed?

MR. HANCOCK: Well, this is something we went through in detail with the County Attorney's Office to make sure the property showed that it had legal access. And on that particular parcel, after the creation of this exhibit, we were able to find a "less and accept" (sic) on that property, and here's a copy of it that we provided to the County Attorney's Office to satisfy their concern about legal access.

CHAIRMAN STRAIN: Who in the County Attorney's Office did you work with?

MR. HANCOCK: Ms. Ashton.

CHAIRMAN STRAIN: Heidi, good. Then maybe you can confirm.

MS. ASHTON-CICKO: Yeah, I looked at the chart. This isn't accurate what he has right here, but --

CHAIRMAN STRAIN: It is not accurate, did you say, or is accurate?

MS. ASHTON-CICKO: It isn't accurate, because I think I found one additional one. I was able to confirm that they had legal rights over 30 feet to get to their property. Now, whether the existing road is in that 30 feet, I don't know the answer to that question.

CHAIRMAN STRAIN: Okay. Well, on the two properties that abut that show no easement on either side, what side of those properties is the 30 feet on? And I'm sorry to split hairs, but it -- the reason I'm asking is if it's on the east side -- or on the west side of the eastern property, then you've got -- it's not -- doesn't align with the properties to the south, and if it's on the east side of the western property, it doesn't align with the properties to the north. And I'm just making sure you're covered. I'm trying to understand how.

MR. HANCOCK: And, candidly, we did go through this. And I apologize, my recall is not as clear as I would like.

But what we found is on parcel --

CHAIRMAN STRAIN: You took the overhead off, so it's hard to --

MR. HANCOCK: Well, I had to --

CHAIRMAN STRAIN: Oh, you've got to use it yourself, okay.

MR. HANCOCK: Yeah. And now we're really going to make the gray hair get grayer.

On Property No. 10 --

CHAIRMAN STRAIN: Okay. That's the one -- that's that piece in the middle on the west side of Morgan Road.

MR. HANCOCK: Correct.

CHAIRMAN STRAIN: So the east side of that property does or does not have an access easement?

MR. HANCOCK: It does. And then in addition to that, as you go to the north, what we found that is not updated in this exhibit is a 30-foot easement area immediately to the north of that on that next leg which creates that connection.

CHAIRMAN STRAIN: Good, that's great. And the County Attorney's Office agrees that those connections are all in place?

MS. ASHTON-CICKO: I'm having Gail bring down my chart, and I can put that on the visualizer when she brings it down. If you want to go to your next question, when she comes down, I'll put it --

CHAIRMAN STRAIN: Well, unfortunately, we'll have to go to staff, because that was my -- that was my last question. If there's no other questions of Tim at this moment, we'll go to staff and then come back and look at this further.

MR. SAWYER: Good morning, Commissioners. For the record, Mike Sawyer with zoning services for Ichthyo Park.

You have a staff report that -- original date was April 23rd, revised 25th, and April 26th. Staff has found that the petition is consistent with the GMP. We do have three conditions, as we've already discussed, as far as the access road for the project; otherwise, staff is here to answer any questions that we can.

CHAIRMAN STRAIN: Okay. Questions of staff? Phil?

COMMISSIONER BROUGHAM: Mike, on Page 8 of the staff report, it's a continuation of your No. 4 in your analysis. You say, noise from these operations will be minimal and performed by the owner/operators of the aquarium. I'm interested in how you reached that conclusion. How did you reach that conclusion?

MR. SAWYER: We reached that conclusion basically in that normally when you've got aquariums of this scale, they don't generate a lot of noise. You've got motors that are generally electric, and they just simply don't generate that much noise.

COMMISSIONER BROUGHAM: I would tend to agree with you, but I want to be picky.

MR. SAWYER: Okay.

COMMISSIONER BROUGHAM: Have you visited any, have you looked up any aquarium operations, et cetera, et cetera? I'm concerned about statements that have not been researched.

MR. SAWYER: Only the -- my personal experience with other aquariums that are larger than this, certainly those did not generate any high levels of noise that I've ever experienced.

COMMISSIONER BROUGHAM: Okay. I'll leave it at that. Thank you.

CHAIRMAN STRAIN: I was worried that Phil was alluding to some barking kind of fish or something in there. It was the equipment.

COMMISSIONER BROUGHAM: Well, there are fish like that.

CHAIRMAN STRAIN: Well, I know. We have trouble then, don't we?

COMMISSIONER BROUGHAM: No. Just to clarify, I think on a conditional use, one of the criteria that we evaluate is the effect on neighboring properties, whether it be noise, whether it be uses, et cetera, et cetera.

So any time we're making -- reaching conclusions or recommendations concerning noise, concerning traffic, et cetera, et cetera, I'm most interested in what stands behind staff making a recommendation one way or the other. And I'll continue to be concerned along the lines as we go forward.

MR. SAWYER: Excellent point.

CHAIRMAN STRAIN: Anybody else got any questions of staff?

(No response.)

CHAIRMAN STRAIN: I'll have one of you and then a couple of John. The issue concerning these connecting easements on Morgan Road, did staff initiate the questions on that, or was it the County Attorney's Office? The only reason I'm asking, Mike, it stands out like a sore thumb. If you had -- if someone had got this clarified and had it placed on these maps correctly, it wouldn't have been a question at today's meeting. I was trying to avoid it in the future.

So I don't know who finally caught it, but it was pretty obvious that there wasn't a solid connection based on the material provided to this board. And that should have been resolved before it got here.

MR. SAWYER: Right. I believe that both staff as well as the County Attorney's Office discovered that on the initial first review of the project itself and started working with the applicant to try and get all of that determined. That information, I believe, most of it, if not all of it, was actually presented to staff on our second review.

CHAIRMAN STRAIN: Okay. When we have maps like that that could be clarified, if we can get them clarified by the time they're distributed to us, they would be real helpful. I spent a lot of time trying to figure this out myself, and you guys had already done it. So I would be very comfortable with that, knowing it was done ahead of time. So thank you.

MR. SAWYER: Agreed.

CHAIRMAN STRAIN: Okay. And, John?

MS. ASHTON-CICKO: Mr. Strain?

CHAIRMAN STRAIN: Yes, ma'am.

MS. ASHTON-CICKO: I have my file, and I confirmed that they have 30-foot access on the eastern 30 feet, and the western 30 feet of the road they have access except for Lot 10 and 11.

CHAIRMAN STRAIN: Wait a minute.

MS. ASHTON-CICKO: You want me to put that up on the visualizer?

CHAIRMAN STRAIN: If you've got a graphic, I would like to see it, yes. So they have -- because the way Tim described it, I just want to make sure that you've got the same connections so there's no missing pieces.

MS. ASHTON-CICKO: Okay. The ones that they -- okay. I need the microphone. The ones that they do not have -- the one that they don't have is Property 10 and Property 11, so that is --

CHAIRMAN STRAIN: Well, no.

MS. ASHTON-CICKO: If I can read your chart.

CHAIRMAN STRAIN: Property 11 is a horseshoe shape that goes around Property 12. Property 10 is to the south of 11.

MS. ASHTON-CICKO: Yes. So they don't have -- they don't have the 30 feet here and here --

CHAIRMAN STRAIN: Right.

MS. ASHTON-CICKO: -- and they don't have 30 feet here, but they do have -- some of them that are noes over here are yeses.

CHAIRMAN STRAIN: Well, then how are they making the cross between Property 4 and Property 5 and 9? Do you understand what I'm saying, because you've got a pinch at the bottom of property --

MS. ASHTON-CICKO: Yeah, but they have the whole way on that side. They have the whole 30 feet.

CHAIRMAN STRAIN: So you're saying that this map still isn't representative of the properties where there's an easement in regards to the easement on the west side of Property 5. You say there's another easement there that's missing? Because that's the -- kind of the different direction than what Tim was --

MS. ASHTON-CICKO: Yeah. I mean, I checked all the deeds. So 4 and 5 over here he's got noes, but those are yeses. Okay. And then --

CHAIRMAN STRAIN: Okay.

MS. ASHTON-CICKO: But those are missing over there.

CHAIRMAN STRAIN: Tim, by the time this comes back to consent, could someone have put these properly on a graphic and verify that all these connections are through and that the County Attorney's Office concurs and that we can answer this at -- assuming at our consent agenda?

MR. HANCOCK: Yes, sir. It's my fault for using an old graphic that should have been updated.

CHAIRMAN STRAIN: You know what my concern is, when you get down to two points, one on -- two opposite sides of that line, there's not a width there to get through, and that's what I want to make sure is in place.

MR. HALL: Correct. And as Ms. Ashton said -- and you know, we've -- up the east side, we've got 30 feet all the way. There's a couple of gaps on the west. Even though we found on surveys that there was a 30-foot easement shown on the survey, it wasn't on the deed. So that's why they're even shown as gaps. We did find information on surveys that indicate an easement, but we can't legally rely upon it.

CHAIRMAN STRAIN: This is something that this commission regularly reviews, so I'm just a little surprised it wasn't attempted to be more clear before it got to us today. It should have been. But, I'm willing -- I'm

certainly willing to work with it on -- by the time consent gets here just to make sure we cross the T's and dot the I's.

MR. HANCOCK: We will have an updated accurate exhibit for you at consent.

CHAIRMAN STRAIN: Okay. Thank you. And if you get it earlier, if you could email it, I'd appreciate it so I can match it up with anything that I have.

MR. HANCOCK: Yes, sir.

CHAIRMAN STRAIN: Okay. Thank you.

John, can you tell me where Benfield corridor falls in relationship to this project?

MR. PODCZERWINSKY: In a short answer, sir, briefly, no, not exactly, because it's still under study.

At this point the potential alignments that we're looking at vary in this area. One of the more likely alignments would be along the eastern edge of this property. But we do not have right-of-way reserved for that at this point.

CHAIRMAN STRAIN: Okay. In the process for Hacienda Lakes, you had a more definitive layout of Benfield Road corridor, and it went within a strict confined area of Hacienda Lakes. So since Hacienda Lakes is abutting this project to the north, wherever it comes out of Hacienda Lakes is where it would most likely have to connect.

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: Otherwise, you can't get through Hacienda Lakes.

MR. PODCZERWINSKY: That's correct.

CHAIRMAN STRAIN: So do you know where in relationship to this property it comes out of Hacienda Lakes?

MR. PODCZERWINSKY: I knew you'd ask that. Unfortunately, I don't have that exhibit with me.

CHAIRMAN STRAIN: You guys, you're not anticipating things.

MR. PODCZERWINSKY: No. I believe it's slightly further to the east. But I do know the southerly alignment of this where it does align at Sabal Palm Road, within Hacienda Lakes it's right around the section line, right at the corner. And if you wouldn't mind, I'll put a graphic up, or I could just --

CHAIRMAN STRAIN: Yeah, it would help if you put a graphic up, certainly. It's like a mirror. You've got to go in the opposite direction.

MR. PODCZERWINSKY: Yeah, you see it. Can you hear me? Okay.

The current alignment right now, I believe, comes in right around this corner, this section corner at Sabal Palm and -- it would be the northeast corner of Winding Cypress PUD. And what I've highlighted here, what I've sort of sketched out is a rough area that is a -- it's currently a preserve easement within Winding Cypress, Morgan Road being right around in the center of this. North to south in the center of this. So we do have a reservation as part of Hacienda Lakes that runs along this -- you know, this section line, but it's a reservation and not a -- an easement of any kind yet. Reservation for future.

CHAIRMAN STRAIN: And when it goes to the north, up north of Sabal Palm Road, where does it wind through Hacienda Lakes at that point?

MR. PODCZERWINSKY: Again, that's a good question. I don't have the exhibit with me. As I recall, it is further -- slightly further to the east. I believe it is in this region here. I don't believe it backs right up against this property.

CHAIRMAN STRAIN: Okay.

MR. PODCZERWINSKY: Okay.

CHAIRMAN STRAIN: Okay. So this property's not going to have any influence on this corridor?

Well, you're coming up looking for sympathy. You've even got a red volleyball -- or little ball that you must use in croquet or something there attached to your arm, Nick. What is going on?

MR. CASALANGUIDA: Can I put a timer on how long he can badger me for?

Mr. Chairman, for the record, Nick Casalanguida. The 300-foot corridor is exactly abutting the easterly line of this property. It's a 300-foot corridor so that -- for 120-foot road, and it abuts his property line. I just pulled it up on my laptop in the back.

CHAIRMAN STRAIN: Okay. So this property doesn't impact that corridor?

MR. CASALANGUIDA: Not at this time. It's a 300-foot corridor adjacent to this property. And, obviously, we know that there's a residential property. We would avoid it with our design and right-of-way alignment.

CHAIRMAN STRAIN: Okay. Is there any concessions you want from this property in regards to noise-proofing barriers and other things like that that you would be asked for if you didn't say you wouldn't give them out now?

MR. CASALANGUIDA: I think as long as the gentleman puts on the record as the property owner and understands it's potentially a four-lane road there and he's not going to be asking the county for a noise wall or any concessions, I think that would be a good thing to put on the record.

CHAIRMAN STRAIN: Put on the record or put in the recommendations?

MR. CASALANGUIDA: Put on the record, stipulation --

CHAIRMAN STRAIN: Okay.

MR. CASALANGUIDA: -- they understand there's a four-lane corridor adjacent to them and there are no expectations for a noise wall or anything like that.

CHAIRMAN STRAIN: Okay. Thank you, Nick.

MR. CASALANGUIDA: You're welcome.

CHAIRMAN STRAIN: I hope whatever's causing that massive array of slings and stuff gets better. Doesn't look good.

MR. CASALANGUIDA: It will.

CHAIRMAN STRAIN: Okay.

Okay. Thank you, John.

MR. PODCZERWINSKY: Thank you.

COMMISSIONER SCHIFFER: I have a --

CHAIRMAN STRAIN: Oh. Go ahead, Brad.

COMMISSIONER SCHIFFER: John, since this is, essentially, a rather long dead-end road, is there any provision for emergency vehicle turn-around or even emergency vehicle access to this site?

MR. PODCZERWINSKY: Just the stabilized surface, sir. This is -- this roadway is treated just like a private driveway as far as transportation looks at it, and it falls under the engineering standards that are in the LDC.

COMMISSIONER SCHIFFER: And wouldn't a private driveway, longer than 150 feet, have to have a cul-de-sac or a turnaround on it?

MR. PODCZERWINSKY: I couldn't quote that. It's a private driveway, sir. I'm not familiar with the engineering standards for a private driveway.

CHAIRMAN STRAIN: Don't go away yet.

COMMISSIONER SCHIFFER: Yeah, because, I mean, we do have to do that. I mean, so I think one condition I think I'd be comfortable with, since I assume -- is this going to be a gated situation ever? Will the roadways be gated? I guess Tim will have to come up and --

CHAIRMAN STRAIN: But, John, isn't this a loop road anyway? I mean, it goes -- it looks like there's an internal loop on the property that brings it -- any emergency vehicle could turn around within the internal loop, right?

MR. PODCZERWINSKY: To answer your question, as far as I understand, that's not a public easement of any kind. It would just be private within the property.

COMMISSIONER SCHIFFER: Okay. But if it's gated, will it ever be gated during off hours?

MR. HANCOCK: Because of the level of investment going into the project itself, there may be a requirement at some point down the road to put a gate across the drive. Right now there's no turnaround for anybody on Morgan Road. If there is a turnaround, it's us, but it was not -- it's really just an internal circulation drive.

So, unfortunately, I think even if you were to try to require a 100-foot turn, there's nowhere to put it other than on his property, thereby making it a public turnaround on his property, which seems excessive. I understand the desire to have one, but I don't think it's Mr. Jarikov's responsibility to provide that for everybody on Morgan Road. I would be concerned if that were a condition of this approval.

CHAIRMAN STRAIN: There would be no easement width to fit it in either, would there?

MR. HANCOCK: No, sir. The only way to do it would be to take his private property and turn it into a turnaround for the people on Morgan Road. And, candidly, we're talking about a very small operation here. I don't see how that could be borne by the property owner feasibly.

COMMISSIONER SCHIFFER: And this road would never go further, do you think, than his northern boundary? I mean, could it go into the Hacienda?

MR. HANCOCK: It could, technically, but they would have the same issues we did. In looking at the easements, there's really only a 30-foot-wide area continuous up to Hacienda. But particularly with the Benfield Road approach, I don't see any way or reason for this to be extended in Hacienda. So I don't think that's a possibility.

The piece to the west of us is still owned, I believe, by Jonathan Green, and there may be a time that that property comes forward. But I -- beyond that, I don't have any additional knowledge on that.

COMMISSIONER SCHIFFER: I mean, the intent was -- is to maybe leave some dedication for a T-turn. I don't think a cul-de-sac's necessary, but --

MR. PODCZERWINSKY: Mr. Schiffer, maybe to help out, when this does come in for an SDP of any kind, the fire district governs this, and the fire district does require either hammerhead turnarounds -- in some cases they would require a cul-de-sac, and that's all governed by the state fire marshal's office and their code requirement.

COMMISSIONER SCHIFFER: So if they want it, they can get it. It doesn't matter what we do here?

MR. PODCZERWINSKY: I'm sorry. Can you repeat?

COMMISSIONER SCHIFFER: I said, if they want it, they can get it. It doesn't really matter what we do here then.

MR. PODCZERWINSKY: That's correct, yes, sir.

COMMISSIONER SCHIFFER: I'll go with that.

CHAIRMAN STRAIN: Okay. Anybody -- and, John, before you leave -- anybody else before I ask another question?

(No response.)

CHAIRMAN STRAIN: John, I had brought up earlier that the residents are seeking -- expressed an interest in only seeking a fair-share contribution in regards to how that Morgan Road is maintained. How does the county enter into assuring that that road is --

MR. PODCZERWINSKY: We do not.

CHAIRMAN STRAIN: -- worthy of vehicle travel?

MR. PODCZERWINSKY: Essentially, it's looked at by the engineering department under the SDP as a site access, just like any other driveway would be.

CHAIRMAN STRAIN: Okay. How -- now, as a site access, are they limited to within the site of the owner's property, or are they limited -- does that extend to the full length of the accessway all the way down to Sabal Palm?

MR. PODCZERWINSKY: It depends on what the legal rights of their access -- you know, the legal access rights dictate.

CHAIRMAN STRAIN: Well, legal access right; looks like they have a continuous 30-foot legal access right.

MR. PODCZERWINSKY: Right.

CHAIRMAN STRAIN: If the road gets potholes in it so bad that it's hard to transverse (sic) with a larger vehicle, is there any issue that can be enforced to make sure it's repaired?

MR. PODCZERWINSKY: No, sir, not by the county.

CHAIRMAN STRAIN: Okay. Well, then, Tim, you know where my next question's going to be. How can we assure that that road's going to maintained and opened, kept open and safe? Honestly, I know it ain't -- wrong word. I know it isn't. We don't use the word "ain't."

MR. HANCOCK: I was born in Florida. Ain't is just fine with me.

CHAIRMAN STRAIN: I know it isn't the responsibility of this owner to do all of Morgan Road, and I wouldn't want to put that burden on him, but at the same time it's already been expressed by the residents that there's a concern there. So it's something that you should address in some manner. So what are your thoughts on that?

MR. HANCOCK: Mr. Jarikov and I have spoken about this. And, obviously, our ideal solution was to have everyone join into one MSTU, and the road maintenance falls under it, and everybody pays their fair share, but it doesn't seem like we're going to be able to get a majority of the property owners who are willing to do that.

As a condition of the approval, Mr. Jarikov will offer to spend up to \$2,000 per year on roadway maintenance and repair to affect potholes and damaged shoulders, and we think, based on the amount of trips, that that would be a more-than-fair-share contribution to keeping the roadway maintained. And, plus, with a business at the end of it, it does him no good to have a road with -- that is in disrepair as the entry to his business.

But if you find that acceptable, I think that, based on what I know it costs to fix potholes and crumbling edges here and there, that should be allowed to keep the road in serviceable condition.

CHAIRMAN STRAIN: Well, lacking any further testimony, then anything is better than nothing, and it shows a good-faith effort to try to work with the people. If they are here today and can express any of their concerns, that will only -- we'll see where it goes.

Thank you, Tim.

Anybody else?

(No response.)

CHAIRMAN COYLE: Okay, thank you. And what we need now is any -- are there any registered speakers, Ray?

MR. BELLOWS: No speakers.

CHAIRMAN STRAIN: Anybody in the audience wanting to speak on this issue?

(No response.)

CHAIRMAN STRAIN: Okay. With that, we'll close the public hearing. And I have a list of five items that were brought up during our discussion. In case anybody wants to make a motion for a recommendation of approval, I would hope that these would be included, in addition to the staff recommendations.

First one is that vending machines will not be visible from the property line. Second one is that hours of operation are 9 a.m. to 6 p.m. Third one, there will be no expectation for noise barriers from future road links that would go alongside this property or near this property. The fourth one, that the new Morgan Road graphic will be produced and that it will show a continuous 30-foot access, and that weighs heavy with my vote, because if it doesn't, then we have to reconsider this. But right now, I'm assuming what I'm hearing from the County Attorney's Office and from Tim that there is a continuous 30-foot access.

And the last one is up to \$2,000 per year will be applied from this applicant to fix potholes and repairs along the shoulders. I would suggest that you keep accurate records of that in case the issue ever comes back to light, because it is a conditional use.

Did I miss anything? Brad?

COMMISSIONER SCHIFFER: No. I'll make a motion.

CHAIRMAN STRAIN: Okay, Brad.

COMMISSIONER SCHIFFER: Okay. I move we forward Petition CU-PL20110001157 -- that's harder than the name of it -- with a recommendation of approval with the three staff conditions and the five --

CHAIRMAN STRAIN: Six -- oh, yeah, five. You're right.

COMMISSIONER SCHIFFER: -- and the five Planning Commission.

COMMISSIONER AHERN: I'll second.

CHAIRMAN STRAIN: Motion made by Brad, second by Melissa. Is there any discussion?

(No response.)

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

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

And, Tim, we'll look forward to seeing you in consent to clear it up.

MR. HANCOCK: Thank you.

CHAIRMAN STRAIN: Thank you.

***Okay. Next item up is PUDA-PL20110001497. It's the Bent Creek Preserve RPUD located approximately one-half mile east of the intersection of Collier Boulevard and Immokalee Road.

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

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

CHAIRMAN STRAIN: Okay. Disclosures on the part of the Planning Commission? I had a conversation with Mr. Anderson. I'm disappointed he's not here. We'll have to -- I'll walk through the whole conversation again. It was about various issues. I hope he relayed some to you, Patrick.

MR. VANASSE: Actually, if I may interject. I spoke with Bruce, and my understanding is that Bruce had talked to you and had requested to be put at the very end of the agenda, and I think the agreement was -- he's at the RPC this morning, and he was hoping to be here around 11 o'clock or so.

CHAIRMAN STRAIN: Isn't that the one we did last month for him?

MR. VANASSE: No.

CHAIRMAN STRAIN: It's this one. I was a month off. Okay. Well, then my fault. I apologize. Yeah, we will put it at -- we will move it further on today. I think he wanted it this afternoon, didn't he?

MR. VANASSE: If we can. And he said he'd be here around 11 o'clock. The rest of our team is also going to be here around that time.

CHAIRMAN STRAIN: Okay. I'm sorry for the confusion. I thought this was one previously addressed. I didn't realize it was today.

So with that, we will defer discussion on PUDA-PL20110001497 till later today at the end of our -- probably the LDC discussion that we're going to be having next.

***With that in mind, I guess we will -- that's the end of our typical advertised public hearings. I know there were some people that wanted to talk about the LDC.

And, Caroline, can you come up for just a moment. We might take an early break to accommodate anticipated public speakers.

MS. CILEK: Caroline Cilek, for the record. Good morning.

CHAIRMAN STRAIN: Good morning. And I know there was an issue that was recently arisen, and I certainly appreciate all your background information that you have provided. And I know what they're going to come and talk about.

MS. CILEK: Yes. And they are on their way.

CHAIRMAN STRAIN: Okay. Well, then why don't we take a break, and we'll commence at 10:15, and we'll go -- we'll just go into it the best we can starting at that time.

MS. CILEK: That would be great. Thank you so much.

CHAIRMAN STRAIN: Okay. We'll break now till 10:15.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay, everyone. Welcome back from break.

***At our -- just before break we were going to go into the last item on the regular hearing. And I had forgotten that the applicant had asked to be heard last today because of a commitment by one of their representatives earlier this morning, and because of that we will move into the LDC cycle amendments now and continue those until we get through them today.

There is a new issue for the LDC amendments. Some members of the public had gotten in touch with myself and staff about an item they didn't believe was at least exposed enough to public review. I'll discuss that more when I see those members of the public here, which I believe they're on their way.

What we'll do right now is just go into the regular course of review of the LDC amendment packets that we got for today's meeting. And there are 16 LDC items on it. So let's just start with that, and we'll move back into the other item when we need to.

Caroline, it's all yours.

MS. CILEK: Great. Good morning, again. Caroline Cilek, for the record.

The first LDC amendment we have on the agenda is the kenneling amendment, and that was brought to you on April 13th, which was a Friday, on a special session. And at that time we discussed the provision of removing the number of dogs.

And what I have before you today is just the -- just the text change. And what we'd like to do is bring up some individuals, Amanda Townsend from Domestic Animal Services, and code enforcement as well to discuss the issue and give you a little bit of a broader picture of the amendment and what they'd like to do, and then we'll go from

there.

CHAIRMAN STRAIN: Great, thank you. Well, let's move forward then. You don't look like Amanda Townsend, but -- on, no. We don't have to swear in for this.

MR. LETOURNEAU: Oh, okay. I'm sorry. It's my first time here.

CHAIRMAN STRAIN: Unless you're Amanda Townsend. I'd like to know that.

MR. LETOURNEAU: For the record, Jeff Letourneau, Collier County Code Enforcement. I'm here to answer any code questions as far as this change is concerned.

CHAIRMAN STRAIN: Did anybody have any questions of code? And I'm -- I need some refresher on -- maybe some of the questions I'm going to ask are repetitive from our last meeting. We've had so many meetings, I'm not sure of everything.

What has generated this problem that's needed for change? Can you refresh us on that?

MS. CILEK: Sure. This amendment was brought forward in an executive summary written by code enforcement last year, and that's in the header. I think it was in September of 2011. It was among five or six other LDC amendments to bring forward in the next amendment cycle.

And that been -- the executive summary was done because there had been a petition, a public petition to remove the -- public petition to the board to remove the number-of-dogs component of the definition.

And so the amendment was brought forward in this cycle in reflection of that executive summary. And in speaking with code enforcement, they would like to continue with the amendment as it is written right now, which would remove the number of dogs, and that was an issue with the Planning Commissioners on April 13th.

CHAIRMAN STRAIN: Okay. And the public petition that originated this change, what induced them to come forward? Was it a code enforcement action?

MR. LETOURNEAU: Yes, sir. I personally had a case against a gentleman that had four dogs in a residential area, and there was a complaint generated. And we did take him before the special magistrate, and she did find him in violation of a prohibited use of kenneling in a residential area.

CHAIRMAN STRAIN: Did he own all the dogs?

MR. LETOURNEAU: He did own all the dos, yes, sir. They're actually really little dogs, Yorkies and Chihuahuas and such.

CHAIRMAN STRAIN: Was it a complaint that originated his -- the investigation to him, or how did it --

MR. LETOURNEAU: Yes, sir, it was a complaint. It came in, anonymous complaint.

CHAIRMAN STRAIN: Was it a noise complaint or --

MR. LETOURNEAU: No. It was -- I think somebody knew what they were -- you know, had researched the LDC and found out that it was a violation and called it in on the gentleman.

CHAIRMAN STRAIN: So you had four dogs, none of which were really making, apparently, noise or anything to generate objections to the neighborhood. An anonymous complaint gets called in just to have him cited because he had one more dog than the code allowed?

MR. LETOURNEAU: I believe so. I don't think there was any issues with DAS at any moment with this gentleman. Just kind of came in out of the blue, and we had to, you know, do our job.

CHAIRMAN STRAIN: Now, on the other hand, if this quantity is removed, how do we avoid kenneling as an operation, then, in the Estates?

MR. LETOURNEAU: Well, I mean, in residential and estates properties, kenneling still will be a prohibited use, according to the LDC. I believe kenneling is mainly allowed in agricultural properties of 20 acres or greater, or you can get a conditional use for that type in agricultural properties.

Code enforcement would still enforce the zoning aspect of kenneling. You -- you wouldn't be able to board dogs that weren't your own. You'd have to prove that your dogs on your property are registered to yourself at that -- or anybody that's living on that property.

So we would also use the home-occupation ordinance which clearly states that you can't have any kind of customer or employee traffic coming to and from your house. That's how we would normally do any kind of home occupation. We'd sit out there and, you know, monitor the property to make sure that you don't have that type of business going on.

CHAIRMAN STRAIN: Well, my questions are really trying to center around to make sure that if someone is operating a kennel illegally in a residential area that it can be addressed, that you guys do have the horsepower to

address it.

And the definition change goes from the word "kenneling" to the word "kennel." And it says, an establishment licensed to operate as a facility housing dogs, cats, or other household pets.

So that would mean if they're not licensed to operate, then they're not a kennel. Well, how does that prohibit them from operating -- from operating? I mean --

MR. LETOURNEAU: It's not a -- it's not a permitted, accessory, or conditional use in residential or estates zoning, so we would go after them for a prohibited use if we had to enforce the kenneling.

CHAIRMAN STRAIN: Okay. But if someone had a residential house and they had six dogs and that was -- and they were a nuisance, what would you go after them for?

MR. LETOURNEAU: DAS would have to step in as far as a nuisance.

CHAIRMAN STRAIN: Okay.

MS. TOWNSEND: Good morning. Amanda Townsend, your director of Domestic Animal Services.

CHAIRMAN STRAIN: You changed your hairstyle.

MS. TOWNSEND: I have.

CHAIRMAN STRAIN: You look totally different from the last time you spoke to us. It looks very nice, but definitely different.

MS. TOWNSEND: Thank you very much. Good morning.

The animal control ordinance has provisions for, as far as I can tell, all the nuisances that a large quantity of animals would create in a residential environment. So, for example, if an animal owner's dogs were making excessive noise, creating a sanitary nuisance, running at large, et cetera, any nuisance that might prompt a complainant to say, you know -- to ask us to intervene should be covered within the animal control ordinance, and we're prepared to answer those.

CHAIRMAN STRAIN: Theoretically everybody's supposed to register their dog.

MS. TOWNSEND: That is correct.

CHAIRMAN STRAIN: Okay. If the language for kenneling included some reference to dogs owned by the occupant of the residence, limited it to that, then wouldn't it make it easier to prove that they're operating something beyond what they're allowed to do by the mere fact that some of the dogs that are licensed aren't theirs?

MS. TOWNSEND: That's an interesting question. You also -- if some of the dogs present are not registered to the owner --

CHAIRMAN STRAIN: Right.

MS. TOWNSEND: -- then that would, de facto, mean that the owner was kenneling?

CHAIRMAN STRAIN: Well, my concern is if, say, somebody had six or eight dogs and they were becoming noisy and neighbors were complaining, based on the -- if they owned all the dogs and they were all licensed to them or registered to them, they're not a kennel; I don't think they would be. So how would you address that?

MS. TOWNSEND: Through the animal control ordinance. Then you have, you know, a noise nuisance and if -- you know, if that's persistent and can be documented, you can cite the animal owner for creating a noise nuisance.

CHAIRMAN STRAIN: Okay. But at the same time, if they had six dogs and three of them weren't theirs but they were keeping them there, would they then be considered a kennel?

MS. TOWNSEND: I would like to -- I would consider -- let's say, for example, that person was working with a legitimate 501(c)3 rescue organization and fostering those animals, that should be a permitted use, providing that they're not creating some kind of noise, sanitary, nuisance, running at large or creating some kind of other violation of the animal control ordinance.

CHAIRMAN STRAIN: Well, I would just like to clarify what is an operation that's acceptable in regards to residential ownership of pets, of dogs and cats at a residential versus if they're keeping them for other people and then making that threshold one that you could actually utilize to say that's not a licensed operation or a legal operation.

Phil, did you have something you wanted to add?

COMMISSIONER BROUGHAM: Along the same lines, I guess my question would be, what problem are we attempting to solve here, to impose some sort of a limitation on the number of dogs, cats, and so forth, resident on a premises, or are we trying -- what are we trying to do? Because I might have 10 dogs, for example, and they're all debarked.

MS. TOWNSEND: Yes, sir, and I understand. And in the instance that came forward, in fact, the only

violation was that there were more dogs than the LDC allowed. There was -- there was no other nuisance being created. Animal Services had never had any calls for service at this residence.

So exactly what is trying to be addressed is an instance where the person is in violation only in an arbitrary manner, only in the number of animals and that they are not causing a nuisance.

COMMISSIONER BROUGHAM: But with this amendment, there's no restriction on the number of animals I might have?

MS. TOWNSEND: That is correct.

COMMISSIONER BROUGHAM: Own personally and residing on my property whatsoever --

MS. TOWNSEND: That is correct.

COMMISSIONER BROUGHAM: -- unless they're causing a nuisance.

MS. TOWNSEND: Precisely, in which case DAS is prepared to address any nuisance that is -- you know, that comes about.

CHAIRMAN STRAIN: And I'm in favor of fixing the solution that would cause this problem. I just want to make sure we don't open a door even wider to cause a bigger problem.

Go ahead, Brad.

COMMISSIONER SCHIFFER: Yeah. First of all, I think in the code this was a cleverly written part of the LDC because you would go to a house, and you would not say you have too many animals. You're saying you're an illegal kennel, which I think is an excellent way to control it.

I'm not a big fan of doing this. I think the danger of it is that by having more and more animals, you have to go to failure of that, which is create the nuisance or the animals aren't being cared for. And we all -- you know, once a week we're watching that on TV. So there is a potential danger. The people will easily slide into more three -- you know, more animals than they can control.

But even with that aside, where are we taking out the two dogs requirement for the industrial properties, which are essentially guarddogs? Why would -- you know, do we want 30 dogs on the other side of that chain link fence or --

MR. LETOURNEAU: Is that a part that is taken out? I'm not sure. Oh, okay. I wasn't aware of that. I don't really know.

COMMISSIONER SCHIFFER: The concern I have here is that -- you know, in reading a change in an LDC, you have to give your forefathers credit for thinking this through, and there must be a reason they came up with three. There must be a reason they wrote this. They're preventing something, something we may be missing.

And it's scary to just throw this thing into pure anarchy on the number of dogs. The animal services has no requirements now, and Amanda, I don't think you're going to in the future, that's going to somehow restrain the number of dogs, except for what you can maintain, which is maybe a dangerous way to limit something.

There is a problem. I do think that if I have three great danes, that's acceptable and some guy has four little, you know, fluffy dogs. You know, that's -- my great danes are a bigger burden, I think, on the residential neighborhood.

So there could be clever ways to do it. But I think as soon as we eliminate this, and as soon as it goes into effect, there's anarchy on, you know, dog ownership in the county from that point on.

Thank you, Mark.

CHAIRMAN STRAIN: You got something, Melissa?

COMMISSIONER AHERN: Brad, I would think probably 80 percent of the residents have no idea this even exists that there's a limit, and the other 20 don't care. So I don't think by changing this people are going to change their behavior.

COMMISSIONER SCHIFFER: Well, I mean, how often have you used this kenneling in code enforcement?

MR. LETOURNEAU: I've been with code approximately 12 years, and less than a dozen cases that we've had on this. And a lot of them were actually kenneling. People were out in the Estates, and they were breeding dogs and having customers coming over and everything else. So we could have got them either way.

COMMISSIONER SCHIFFER: Well, what would you do now? So you'd come out, and I have 20 cocker spaniels, some of them in cages in the backyard. How would you prove that I'm a kennel? Let's assume I'm smart enough to even get them registered. Puppies, obviously, wouldn't have to be.

MR. LETOURNEAU: I want to kind of segue back to, Mr. Strain, I do like that idea that you had about

maybe having a little -- a snippet in there about the animals being registered to the property owner.

Now, if you can see the section I have up there right now about all the animals do have to be registered to the property owner at some time. At that point we would work with DAS to make sure that the animals are all registered at that property.

If you've got animals that aren't registered at that property, we're going to assume that you have some form of kenneling going on, and we'd go with the prohibited use.

COMMISSIONER SCHIFFER: Okay. But in my example all my 20 cockers, you know, breeding cockers were registered. The puppies, I mean, do I register them at birth, or what's the length of time?

MR. LETOURNEAU: I think it says four months in this ordinance right here, you have to get them registered by.

COMMISSIONER SCHIFFER: I would sell them before that. So I can run a kennel. You'd never be able to

--

MR. LETOURNEAU: You can't -- breeding would also be -- would also be a prohibited use in a residential and estates-zone property. It's also under the section -- let me pull up one more section here.

COMMISSIONER SCHIFFER: So if a person has a residence and one of their dogs gets pregnant, that's not allowed?

MS. TOWNSEND: It's not preferred.

COMMISSIONER SCHIFFER: So --

MR. LETOURNEAU: As you can see, in permitted use in agricultural property 20 acres or greater, breeding is included along with the kenneling as being an acceptable use. It's not in residential. It's not estates.

To be honest, people's dogs are going to get pregnant. It's a way of life. But you know, if you're selling them, if you're advertising, if you've got people coming in and out of your property, that's how we're going to enforce it. We're going to monitor the property to see if you've got customers, see if you've got employees, see if you have any advertising on site or off site, and you can't do that.

MS. TOWNSEND: If I could add to that, there's a provision within the animal control ordinance that allows DAS to permit pet shows, stables, rodeos, et cetera. And we've recently worked with the county attorney to determine that residences that are doing kenneling also fall within that permitting, and we've begun permitting those residences.

Now, I can give you an example of a residence where animal care is at an acceptable level, more than acceptable level, all animals are registered. They are breeding animals; however, they're conducting all of their commerce through the Internet and through, you know, postal service, so they're not generating traffic to their home. They're square with the LDC, they're permitted by us, inspected by us, and they're perfectly within their rights to do what they're doing.

COMMISSIONER SCHIFFER: And how are they square? They don't have more than three animals?

MS. TOWNSEND: They do have more than three animals.

COMMISSIONER SCHIFFER: And they're in a residence not registered as a kennel that is --

MS. TOWNSEND: They are permitted with DAS as a kennel.

COMMISSIONER SCHIFFER: Okay, all right. In residential zoning?

MS. TOWNSEND: They are in estates zoning, I believe.

COMMISSIONER SCHIFFER: Okay. And that's an allowable use?

MR. LETOURNEAU: I don't think it's an allowable use. It's not a permitted accessory or conditional use in estates-zoned property. It's only listed in the agricultural. You have to have -- it's a permitted use in agricultural property 20 acres or greater, or if you have something less than 20 acres, you can get a conditional use at that point. I think it's pretty clear in the LDC.

CHAIRMAN STRAIN: Well, the LDC classifies the Estates as agricultural, so --

MR. LETOURNEAU: It -- the Estates is somewhat agricultural; however, it does not list kenneling or breeding in the Estates as any kind of use in there.

MS. CILEK: If you check on Page 2 of the amendment, I have listed 1 through 6, the places where it's permitted and as a conditional use, just as a quick overview.

CHAIRMAN STRAIN: Well, Amanda, looks like you just got somebody in trouble.

COMMISSIONER SCHIFFER: Yeah.

MS. TOWNSEND: I must be honest that there is also a definition of kenneling in the animal control

ordinance. It does not match the definition in the LDC. It is something that we'll be addressing in the future.

CHAIRMAN STRAIN: That is something we ought to see when this comes back is your definition. I'd like to see it.

MS. CILEK: And that ordinance is in the Code of Laws and Ordinances, Chapter 14. So, yes, we can work with counsel and get that cleared up.

CHAIRMAN STRAIN: It would be smart to have consistency in our different -- or definitions.

MS. CILEK: That's the first time -- yeah.

CHAIRMAN STRAIN: I think we should definitely consider adding some language to address the residence -- registered owners to a single residence, and that does help avoid being a kennel. And I don't think that the necessity to limit them to three dogs is a good thing, especially if they own more than three registered dogs to them. Somehow that ought to work into the equation.

I don't know what else to say about it. Phil, did you have something else you wanted to add?

COMMISSIONER BROUGHAM: Not really. I mean, it's coming back, and I would sure appreciate more clarity in language addressing the problem or problems that we're trying to solve here. It seems like this spawned out of one person's complaint against a neighbor for probably another reason, but -- and it got to the BCC and -- knee-jerk reaction, and here we are. But I think the way it's written is going to create more issues than solve myself. So if it comes back, it comes back with some clarity.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: Yeah, one thing. We do have to address also the commercial and industrial properties, because there are dogs on there. Some cases the dogs are owned by the business. Some cases they're security dogs brought in every day and taken out every morning.

MS. CILEK: Right. And that struck language is simply reflecting what went to the board as an LDC amendment. Simply reflecting that.

COMMISSIONER SCHIFFER: Okay. But -- so the board wants no limit on how many security dogs I can have on my industrial property?

MS. CILEK: That is what went forward in the executive summary.

COMMISSIONER SCHIFFER: Okay. All right. I mean, that's -- you know, dogs are pack animals, you know. They're dangerous when they get together.

COMMISSIONER AHERN: They're breaking in.

CHAIRMAN STRAIN: Well, if someone's breaking in on a piece of property, I think that's probably a good thing to keep them -- keep it as a deterrent.

COMMISSIONER SCHIFFER: But there could also be a hole in the fence and killing all the neighborhood cats, but the --

CHAIRMAN STRAIN: Well, that's not bad.

MS. CILEK: Are you requesting then --

COMMISSIONER SCHIFFER: But, anyway. The point is, so we're just going to leave it unlimited? There's no -- the ownership of the animal wouldn't be necessarily the property owner. It could be a security system and stuff? I guess we're going to let it go then.

CHAIRMAN STRAIN: I think it needs more work. I don't think we're there yet. And if we don't get there, then it may go forward without any recommendation or change -- or different recommendation. But another try to coordinate it with the Code of Laws and DAS's definition would be helpful. Maybe a stab at trying to incorporate a reference to the registered owners -- animals registered to one owner would be helpful to limit the quantity by the mere fact they'd have to all be registered to the person.

MS. CILEK: We can do that.

CHAIRMAN STRAIN: Those might mollify some of the concerns, I guess, when you write the new language. We'll see and take another -- one more shot at it before we just call it quits, okay.

MS. CILEK: Okay.

CHAIRMAN STRAIN: Okay?

MS. CILEK: Yep.

CHAIRMAN STRAIN: Thank you very much for attending today.

MR. LETOURNEAU: Thank you.

CHAIRMAN STRAIN: Now, we had a request by a -- two civic associations in Golden Gate Estates to address an item we already addressed. They didn't know it was coming before us at that point in time.

They've worked with staff to have another public information meeting where they can express their concerns to the final language that came before us that we had already voted on.

MS. CILEK: Correct.

CHAIRMAN STRAIN: So they asked if we would consider a reconsideration of that. I think it's a good thing if it's going to have more public input. It will come back at another time before we finish this LDC amendment cycle --

MS. CILEK: Certainly.

CHAIRMAN STRAIN: -- to hopefully see if there's anymore issues there.

MS. CILEK: Yes. And we --

CHAIRMAN STRAIN: And Peter Gaddy, I think, is here representing one of the civic groups at least, and I know there was a letter circulated by a second civic group in Golden Gate Estates.

Peter, if you want to tell us your concerns, we'll see if we can work with you.

MR. GADDY: Yeah. Thank you, Mr. Strain, Mr. Chairman, and members of the Planning Commission.

Gosh, I first learned about this in January of this year. One of our representatives had suggested that we need to come up with some limitations and parameters for these storage containers, if they're going to be allowed, so we did that.

In the meantime we've just been bombarded with a host of telephone calls and questions, you know, about these containers and what their effect is going to be on the Estates.

We're concerned. We have just a whole host of concerns, which I don't want to really get into in depth but, you know, let me just list them for you. We're concerned about the condition of the containers when they're installed. We're concerned about the standard and quality of the manufacture of them. We're concerned about how they're secured to the ground. We're concerned about what kind of foundation these units are going to have.

I learned this morning that, you know, the base of these containers is made out of wood, and it's untreated wood. And normally the shipping companies are able to use these containers in a saltwater environment for six to eight years, and at that point they begin to lose some structural integrity because they stack them, you know, maybe 10 or 20 or 30 high.

They get rid of them. They get rid of them in bulk to recyclers. They get rid of them to companies that will sell them for temporary storage.

After they come from the shipping companies, they come in widely different qualities. If they're used in the Caribbean on small freighters, they're particularly usually in pretty bad shape. If they're used by one of the bigger shipping companies on larger ships, like Maersk, they tend to be in better condition after six to eight years.

But, anyway, I learned that the recyclers are paying \$11 a hundred for these containers, and occasionally they can buy them for less than that, in which case they buy them directly from the shippers. But they do buy it from members of the general public.

And I have learned, to my surprise, that they only last for three to five years. The floors are the first to go. They became very popular with contractors years ago. The floors are the first to go, and then the roof is the second thing that goes on them.

So in a -- it all depends on where they're placed. If they're placed in a wet, damp area, the floor's going to go out at six months or a year.

So I think there are just a whole host of issues, including wind load how these are going to be maintained. You know, what kind of transition is there going to be for a ramp to get into it? Are cars going to be stored in it? Are there going to be explosive materials stored in it? Should there be some requirement for venting it? You know, are these really appropriate for permanent use in a residential neighborhood?

The bottom-line issue is, is this going to affect the real estate values of properties in Golden Gate Estates? The secondary issue is, Estates zoning extends east of 951. There are even areas in the coastal zone, as you're aware of, that are zoned estates. I don't think those people are aware of the potential for their neighbors putting shipping containers in the backyard, so --

CHAIRMAN STRAIN: Okay.

MR. GADDY: There is a lot of estates zoning off of Goodlette Road, isn't there?

CHAIRMAN STRAIN: Yes. There's a lot of estates zoning in East Naples south of Davis, too. It pops up in different parts of the county.

I think what this board saw when we had our presentation on it, or actually our discussion with staff, I think the reference was mostly to pods. And are PODS the same thing as shipping containers, or are there -- if what Mr. Gaddy is saying is true about wooden floors and everything, that's -- I don't think we envisioned that as one of the issues.

So it's good that this is going to be discussed again, but at the same time, when we compare it to things that are acceptable -- you know, remember, you can always put a shed up and -- you know, you can get a permit for a Ted's Shed. They're done routinely. So whatever we do to assure that a shed is safe, if a shipping container is as equally safe, that's one hurdle to get past. Then what is it that we don't like about it after there?

I'm not sure you eliminate all of them is what I'm saying, Peter.

MR. GADDY: Right. You don't eliminate all the problems. We have people out there with visions of kids jumping off the top of them. We have people out there with visions of people operating kennels in them.

CHAIRMAN STRAIN: But, see, you could do that with any structure --

MR. GADDY: Right.

CHAIRMAN STRAIN: -- so I'm not sure that needs to be focused as an applicable criteria --

MR. GADDY: Right.

CHAIRMAN STRAIN: -- against a shipping container. It needs to be more --

MR. GADDY: Right.

CHAIRMAN STRAIN: If you can say kids are going to jump off it, they can jump off the balcony of a house, too. So what are you -- we can't prohibit -- we prohibit all balconies? So there's got to be some reason in here that's special to these particular units.

MR. GADDY: Yeah, well, sheds have, you know, treated lumber, and they generally aren't in direct contact with --

CHAIRMAN STRAIN: Well, that may be a criteria that has to be added. So I think the idea is good to have at least another airing of it, and then have it come back. Is that okay with this board?

COMMISSIONER EBERT: Yes.

COMMISSIONER VONIER: What's the number?

CHAIRMAN STRAIN: Anybody against that?

(No response.)

CHAIRMAN STRAIN: Okay. Then, Caroline, is that enough for you to work it up and bring it back to us after the next -- you get some more public input?

MS. CILEK: Yes. We can work with the organizations. There are several out in the Golden Gate Estates, and work on their timeline and bring back what they propose.

CHAIRMAN STRAIN: Okay. Sounds good.

MR. GADDY: Okay. I don't have a position on the issue; neither does our organization. We just want to gather more information.

CHAIRMAN STRAIN: Well, when it gets finished and back to us, it would be helpful if any organizations where these could go had input on it and took a position. That's what we're here to do is listen to the public. So I would -- it would be nice if you could take one as we go on.

MR. GADDY: I can guarantee you won't be lonely when it comes back.

CHAIRMAN STRAIN: Okay. Thank you very much.

COMMISSIONER SCHIFFER: Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER SCHIFFER: And, Caroline, could you develop maybe some definitions as to the different types of containers so --

MS. CILEK: Yeah. So far we've been categorizing them by size. We can take a look at the materials and how they're constructed as well speaking to the lumber.

CHAIRMAN STRAIN: Yeah. I mean, actually, what we had presented to us was very limited in the way it was categorized. It was sized, and you actually used the reference to PODS in the staff summary. So that was getting us into a focus that seems to be a little different than maybe where it could go if it was used in a wrong manner. So,

yeah, we'd certainly appreciate more clarity.

Thank you.

MR. GADDY: Thank you.

CHAIRMAN STRAIN: Okay. We've finished up with the kennel issue for now.

Let's move onto No. 2. It will be 4.05.02, design standards for parking space requirements.

MS. CILEK: This was presented last CCPC meeting, and we have made corrections highlighted in yellow.

CHAIRMAN STRAIN: Yep, sure do. That would be under -- in our tab, it would be 4.05.02.

Does any -- go ahead, Phil.

COMMISSIONER BROUGHAM: On Page 3 in our packet under that 4.05.02, down on B1(A)(i).

MS. CILEK: Yes.

COMMISSIONER BROUGHAM: Grass parking spaces shall be compacted, stabilized, and well drained and surfaced with a durable and maintained condition. Grass cover driveways, handicap spaces, and access aisles shall be paved.

Just so I understand, if you have a grass parking area and you have handicap spaces designated within that, then those spaces --

MS. CILEK: Must be --

COMMISSIONER BROUGHAM: -- must be paved?

MS. CILEK: -- paved, correct.

COMMISSIONER BROUGHAM: Okay, fine. Got it.

CHAIRMAN STRAIN: Okay. Anybody else have any questions or concerns? Brad?

COMMISSIONER SCHIFFER: And I'm happy the way it's organized and everything. I think we got it just about right.

CHAIRMAN STRAIN: Is that a motion to approve?

COMMISSIONER SCHIFFER: Motion to approve.

COMMISSIONER VONIER: Second.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER BROUGHAM: I'll second.

CHAIRMAN STRAIN: Second by Phil.

Discussion?

(No response.)

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

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

Next one is 1.08.02, definitions, usable open space.

COMMISSIONER VONIER: What is it?

CHAIRMAN STRAIN: 1.08.02, usable open space. That would be the second -- third 1.08.02 in your tab -- of your tabs.

MS. CILEK: Correct. And similar to the last amendment, the changes that we discussed are highlighted in yellow. We are adding back in language that is currently in the code, on Page 3.

CHAIRMAN STRAIN: And this was -- I think, Brad, you brought some of these points up last time, and it wouldn't be good to take them out, so they're put back in.

COMMISSIONER SCHIFFER: Move to approve.

CHAIRMAN STRAIN: Is there any discussion first of anybody? Phil?

COMMISSIONER BROUGHAM: Just a question. Define floodplains for the purpose of this amendment.

MS. CILEK: I think -- and I'm speaking offhand here, but floodplains are probably something that is defined in the LDC. I can't speak to the pure definition.

CHAIRMAN STRAIN: I know they're defined in the floodplain ordinance because we went through all that, but I don't know if the definition got matched up to the LDC. You got your definitions up on your MUNI code at all, Ray?

MR. BELLOWS: I'll look.

COMMISSIONER BROUGHAM: The reason I ask is, what pops into my head is a floodplain can be 100 acres, 200 acres --

COMMISSIONER SCHIFFER: Could be.

COMMISSIONER BROUGHAM: -- or more.

MS. CILEK: Yeah. This doesn't limit size.

COMMISSIONER BROUGHAM: Pardon?

MS. CILEK: This doesn't limit the amount that they can attribute to the open space.

CHAIRMAN STRAIN: If it's a floodplain and doesn't have any obstructions, then that's what it is is open space, so it would be -- it certainly should be qualified as open space.

MS. CILEK: And this provision doesn't limit any size.

CHAIRMAN STRAIN: It was before.

COMMISSIONER BROUGHAM: I'm talking about the limit or the uses or the designation. But if I want to use this as open space and I say, okay, I am going to designate that as a floodplain, is that sufficient?

COMMISSIONER SCHIFFER: No.

COMMISSIONER AHERN: No.

COMMISSIONER BROUGHAM: Okay. I'm looking --

COMMISSIONER SCHIFFER: Mother Nature --

COMMISSIONER BROUGHAM: Everybody's going to help me then.

CHAIRMAN STRAIN: Well, I think, Ray, is there a definition in our LDC for a floodplain?

MR. BELLOWS: There's not a separate definition for floodplain. It occurs currently under the current open-space language as it's currently provided in the LDC; therefore, I think it -- like you mentioned, it would be subject to how the floodplain management ordinances define it.

CHAIRMAN STRAIN: Okay. So if staff got a request from an applicant that says this is -- I'm going to declare this all a floodplain, therefore, it's all open space, you wouldn't allow him to declare it a floodplain until you verified with the floodplain ordinance that it is, in fact, a real floodplain.

MR. BELLOWS: Correct.

MS. ASHTON-CICKO: Mr. Chair?

CHAIRMAN STRAIN: Yes, ma'am.

MS. ASHTON-CICKO: I have the hard book. I'm not on the MUNI code online. But I do have a definition in my book of floodplain area inundated during a 100-year flood event or identified by the National Flood Insurance Program as an A zone or V zone on flood insurance rate maps or flood hazard boundary maps.

CHAIRMAN STRAIN: Okay. And that probably matches up pretty much to what the floodplain ordinance --

MS. ASHTON-CICKO: But it's not one word, so you might want -- I think in here you've got it one word.

MS. CILEK: But it's going to reflect what that definition is in the code.

CHAIRMAN STRAIN: Okay. So the definition in the code being two words. That may be why you didn't catch it, Ray.

MR. BELLOWS: Let me check.

CHAIRMAN STRAIN: Unless Heidi's got an outdated book. Boy, then we're in trouble.

MS. ASHTON-CICKO: It's updated.

CHAIRMAN STRAIN: Okay. Well, I think it's -- Phil, does that solve your concern?

COMMISSIONER BROUGHAM: Yeah, as long as we can fall back on a specific definition, then I'm good

with that.

CHAIRMAN STRAIN: Okay. Anybody else? Brad made a motion to recommend approval, and there's a second.

COMMISSIONER HOMIAK: Second?

CHAIRMAN STRAIN: By Ms. Homiak.

Discussion?

(No response.)

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

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

Next one is the -- was tabled from 4/13. It's 4.02.14, and it's on design standards for development in the ST and ACSCST districts.

Harold Hall was here earlier, and I'm sure this is the one he was probably wanting to talk about.

MS. CILEK: Yes.

CHAIRMAN STRAIN: He's gone, so -- hi, Steve.

MR. LENBERGER: Good morning. For the record, Stephen Lenberger, Land Development Services Department.

Actually, I did speak with Harold in the hallway, and he is in support of this amendment. You asked us to discuss this amendment and pretty much resolve all the issues. Then there were stakeholders present that voiced concern about the limitation of impacting jurisdictional wetlands and also that the TDRs are no longer -- you're no longer allowed to transfer TDRs out of the ST area and into the urban area.

And we had -- I asked David Weeks to verify that, and we had presented a memo to you indicating when the TDRs are no longer allowed to be transferred out of the ACSCST, and that was in -- by Ordinance 99-66.

CHAIRMAN STRAIN: By the way, David did an excellent job on the research in the way he laid it. And I'll tell you what, that's why he's the -- kind of like the historian on the issues. He did a real good job in laying that stuff out in the research, so please let him know.

Okay. We'll probably definitely see if there's any -- are there any speakers on this here today?

(No response.)

CHAIRMAN STRAIN: Anybody have any issues with this today?

MS. CILEK: We have no speakers that have submitted anything.

CHAIRMAN STRAIN: Okay. From the Planning Commission, with the revisions and the changes in the new language, does anybody have any issues with it? Bill?

COMMISSIONER VONIER: C3, I think that first sentence needs some punctuation. Soils exposed during site alterations shall be stabilized, comma, and retention ponds or performance equivalent structures or systems maintained, comma, in order to -- et cetera. That's a whale of a sentence if you don't put any commas in there.

Anybody have any problem with that?

MR. LENBERGER: The language is taken right out of Florida Administrative Code and also out of the Growth Management Plan, but -- however you --

CHAIRMAN STRAIN: That's existing language, right?

MR. LENBERGER: That's correct.

CHAIRMAN STRAIN: Yeah. We haven't been changing existing language, Bill.

COMMISSIONER VONIER: Okay.

CHAIRMAN STRAIN: I mean, if that's a mistake, we will have to pick it up at another time in the future if it's needed, but -- anybody else?

Okay. Is there a motion?

COMMISSIONER AHERN: I'll make a motion.

CHAIRMAN STRAIN: Melissa makes a motion to recommend approval.

COMMISSIONER AHERN: Yes.

COMMISSIONER VONIER: Second.

CHAIRMAN STRAIN: Seconded by Bill. Discussion?

(No response.)

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

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

Next one up is 5.03.06, dock facilities and new admin procedure.

MS. CILEK: As you're searching in your binder, this amendment was also reviewed on the 13th of April, and following our discussion, I added in a couple of the recommendations. First on Page 3, we tweaked H2, removed some language regarding the -- putting the dock facility, "maximum square footage," tweaked that language, and it is -- actually it was in H1.

And then we've added language in H2 which reflects the appeals process, updated the number of criteria, needed for approval by the planning commission.

And then on Page 4 we added in the recommendation from Brad to add a criteria looking at the water depth at the proposed site. We utilized the existing language. We tweaked it a bit for consistency.

CHAIRMAN STRAIN: Okay.

MS. CILEK: And then at the request of Heidi we added language regarding the appeals process.

CHAIRMAN STRAIN: Anybody have any questions? Go ahead, Brad.

COMMISSIONER SCHIFFER: One thing. H is what the Planning Commission used to use for dock extensions, and now it's going to be shared with staff --

MS. CILEK: Uh-huh.

COMMISSIONER SCHIFFER: -- for them via the administrative availability. So a couple of the things I wouldn't mind keeping in there. Do you see the word "in order for the Planning Commission to approve," which you're striking?

MS. CILEK: In H.

COMMISSIONER SCHIFFER: In H. That's kind of always been important in the argument of is this a scorecard or is this a condition that has to be met before we can start to approve it.

So let's not have that debate now. But is there a problem in keeping that in? I think the wording of that is important, at least important to me, that it means that it's a condition that has to be met before we can start considering.

Staff has interpreted it that the criteria is a scorecard. But just so that we can maintain the argument on our side of the fence, since we're sharing this thing, could we keep that in there?

MS. CILEK: It would be a reiteration of H2B, but if you're fine with that double, putting it in the overall umbrella of H and then under --

COMMISSIONER SCHIFFER: Well, it's not a reiteration because you have -- you're actually saying that the Planning Commission do it "provided." So, in other words, the words "in order for" is the important wording.

MS. CILEK: Okay.

COMMISSIONER SCHIFFER: "Provided" doesn't equal that.

CHAIRMAN STRAIN: Well, maybe we change the language in H2B to put in the "in order for" there and then not have to have it redundant in both sections.

COMMISSIONER SCHIFFER: Right. I have no problem with that. And I think we should just rewrite B that kind of adds the wording of -- that you crossed out above.

CHAIRMAN STRAIN: Let's do it now so we can finish with this one if that's okay.

MS. CILEK: Sounds great.

CHAIRMAN STRAIN: So why don't we pick a spot to put that language in. There doesn't seem to be an objection from staff. I think it meets your concern, Brad.

COMMISSIONER SCHIFFER: Right. Then right where it says "may be approved," start right there, add, "in order for the Planning Commission to approve a boat-dock extension request, it must be determined" -- essentially just put --

MS. CILEK: Yep.

COMMISSIONER SCHIFFER: -- from maybe, cross that out and put the one you crossed out above in there.

MS. CILEK: Well, cross out "maybe" all the way to the end of the sentence and put in the sentence in H that is currently struck.

COMMISSIONER SCHIFFER: Right. And you obviously changed the numbers, so make sure they match with the update.

MS. CILEK: Correct, of course.

MS. ASHTON-CICKO: The way we revised this with staff was so that, you know, you had to have four out of the five criteria of the primary and two out of the three, but even if you had that, you'd still have the flexibility to not approve it if you had other reasons, and that's why we changed the language.

COMMISSIONER SCHIFFER: Well, actually --

MS. ASHTON-CICKO: I don't know if putting the language back into the way you want to put it gives credence to the former zoning director's opinion which is if you -- you know, if you met them, you get it. And that's what we were trying to do was get away from that.

COMMISSIONER SCHIFFER: Well, yeah, and we have exactly the same intent here. So maybe the -- the wording "in order for the Planning Commission" versus "provided" four of the five, I mean, I think -- when you have the words "in order for the Planning Commission, the criterias have to be met," I think that establishes a baseline from which we can move forward. We don't want it to be a scorecard. So if you think --

MS. ASHTON-CICKO: Okay.

COMMISSIONER SCHIFFER: -- the "in order" causes scorecard, I don't think so. I think -- because that was always the words that gave us the strength to say that no, no, no, this is not a scorecard. It's a condition that has to be met before we could give approval.

MS. ASHTON-CICKO: I'll work with Caroline to work out the language. I hear what you're saying, we thought we'd resolved that, but you're saying. You know, that you still think it's a scorecard.

So we'll work the language. Can we work it out and bring it next time?

COMMISSIONER SCHIFFER: Right. Because what you're saying is it may be approved provided, and then that sets up the scorecard to me.

MS. ASHTON-CICKO: Yeah. Well, that's why we put "may" instead of "shall."

MS. CILEK: Right.

MR. BELLOWS: Yeah. The "may," I think, gives you more flexibility.

CHAIRMAN STRAIN: Yeah. "May" doesn't mean it's mandatory, so that's --

COMMISSIONER SCHIFFER: No.

CHAIRMAN STRAIN: I'd certainly think from a legal perspective, Heidi, you need to weigh in on the two when it comes back next time. If it needs a change, make it. So I understand Brad's point, and it should be considered for sure.

One other thing, and it's a sidebar, really. This section of our code allows for up to two boats for a single-family residence. Somehow the reference to "up to two boats" has become a hardship if you can't fit two the boats on there, and I don't understand how we've gotten there. And I just want to make sure that this doesn't make it easier to provide a hardship that doesn't exist.

I mean, I don't know -- I'm actually puzzled, because we say "up to two," so somehow that's been construed to mean if you don't get two, you poor person, you've got a hardship, and I don't see how we've gotten there.

It could be better written; maybe you should consider it. If not, just leave it as it is. But I just keep seeing that in here, and it bothers me because we've always -- we're now looking at it differently than what I've ever perceived it to be.

Phil?

COMMISSIONER BROUGHAM: I would support that, your point there, and maybe we could put in "up to two" subject to some conditions that exist or so forth in the request. I don't know if -- I think your language would help.

What -- my other question here is what happened to three of the secondary criteria?

MS. CILEK: We consolidated criteria.

COMMISSIONER BROUGHAM: Okay. I didn't get that link. All of a sudden we went from six to three.

MS. CILEK: Right. We consolidated site conditions into certain -- so some of the secondary criteria were actually brought into the primary criteria because they were all seen as site conditions.

COMMISSIONER BROUGHAM: Okay.

CHAIRMAN STRAIN: Okay. I -- Caroline, this one's going to have to come back because of the rewrite with you and Heidi, so --

MS. CILEK: Anything else that you wish to be adjusted before we bring it back?

CHAIRMAN STRAIN: Mine isn't something that I'm telling you to adjust. I'm just suggesting to you, it's been a strange interpretation that -- in regards to hardship. It's just not one that I've seen before, and lately it's come up twice.

COMMISSIONER EBERT: Recently.

CHAIRMAN STRAIN: Yeah, recently.

MR. BELLOWS: Yeah. I think we can make it clear that if this -- all site conditions are met and there's no navigational issues, then up to two is appropriate. But if there are variances required then, you know, maybe you size the dock to fit the one boat.

MS. CILEK: Right. And any boat dock that has a variance attached to it will have to come before the Planning Commission.

MR. BELLOWS: Definitely.

COMMISSIONER SCHIFFER: Mark, one more question on it. We're eliminating the requirement that used to be there for 50 percent would be the maximum amount of boats. So now we have unlimited boat length on the docks.

MS. CILEK: We don't have unlimited boat length. You just have to outline the envelope of your dock facility area, which would include where your -- the length of your boat.

COMMISSIONER SCHIFFER: Well, no. There's a phrase that's crossed off. Petitioner exceeds 50 percent of the subject property's, linear waterfront footage, the applicable maximum percentage should be maintained. So in other words --

MS. CILEK: Can you give me where you are, and speak into the microphone.

COMMISSIONER SCHIFFER: That's on Page 5 up at the top. It's in C up there.

MS. CILEK: Right. And we actually talked about this at the last meeting, I believe.

COMMISSIONER SCHIFFER: But do we really -- I mean, that's a requirement that --

MS. CILEK: What we're doing is, we're not asking the petitioner to provide the length of their boat, and this was basing -- this criteria is actually looking at the length of the boat, the length of the vessel itself.

COMMISSIONER SCHIFFER: Right.

MS. CILEK: And we're no longer wanting to include that in the section.

COMMISSIONER SCHIFFER: You know, in -- I think the original ordinance was -- really had in mind the wharf dock, which would be like a four-foot dock running parallel with the seawall or parallel with the property, and

then the boat could go out past that up to 20 feet. But they did not want to block more than 50 percent.

So can we maintain that 50 percent of the width of the thing is still in there? I mean, What's the advantage of getting rid of that other than people could really put some big boats out there?

MR. BELLOWS: Well, that would still be part of the boat-dock extension. But I think if -- your concern is mostly to address how much width of the lot is covered by a dock, then maybe the 50 percent should be addressing that more clearly. Is that your intent?

COMMISSIONER SCHIFFER: Yeah. I mean, in other words, they don't -- if -- sideways, I think is the original intent, but they could be perpendicular, not covering more than 50 percent, and that gives them plenty of room. You know, a 100-foot lot, that's 50 feet.

MS. CILEK: Right. And this historically hasn't been applied even keel, so sometimes it's looking at 50 percent of the linear waterfront footage, looking at the 50 feet on 100, or the extension, which a lot of them didn't meet simply because they're going to be over. If they have a 60-foot parcel, then they're over 30; they don't meet it.

COMMISSIONER SCHIFFER: Right. But I'm kind of okay. I'm not really worried about the length sticking out. I'm worried about the width at the lots, and really thinking of the neighbor, if you're up against the right property line. Okay. Thank you.

MS. CILEK: We can look at that.

MR. BELLOWS: Definitely.

CHAIRMAN STRAIN: Phil?

COMMISSIONER BROUGHAM: On Page 5 -- I just noticed this now. On Line 13, petitioner shall demonstrate, and then struck out, whether seagrass beds are located within 200 feet of the proposed dock facility. What we're left with is the petitioner shall demonstrate compliance with, blah-blah-blah-blah, if seagrass beds are present within 200 feet of the proposed dock facility.

And I'll harken back to quite a few meetings ago, how will they demonstrate? Because in prior -- in some prior dock petitions before us, it was merely a statement by the petitioner, "there are none," and we've since learned that seagrass beds can be evident or not evident depending upon the time of year, the salinity, the warmth of the water, et cetera.

How shall they demonstrate or how should we require that they demonstrate?

MS. CILEK: I believe it's a submerged survey that is provided at the time.

MR. BELLOWS: Building permit.

MS. CILEK: At the time of the building permit.

COMMISSIONER BROUGHAM: At the time of the building permit, which may be subsequent to any hearing before this board, correct?

MS. CILEK: I'm going to let Ray speak to when they provide the -- whether they have identified if there's seagrass beds or not, and someone who works with that --

CHAIRMAN STRAIN: Well, one thing -- now, this says, though, shall demonstrate in compliance with Subsection 5.03.06J. So I guess, really, we need to read that in unison with this particular application to understand how they're going to -- what compliance they're demonstrating for.

MS. CILEK: Right. And I read that a while back, but that is just the seagrass bed provision.

COMMISSIONER BROUGHAM: Which says you have to have grading and so forth and so on and so on if seagrass beds are present. I'm earlier in the timeline than that.

MS. CILEK: Right.

COMMISSIONER BROUGHAM: I'm very uncomfortable with the petitioner just saying there are no seagrass beds.

MS. CILEK: Well -- so that would be adding a new element to the current --

COMMISSIONER BROUGHAM: And we're not here to add to it.

MS. CILEK: -- process, which would be adding a survey at the time of submittal for this. This is just following. We just treat the language on that criteria. We didn't intend to change it.

CHAIRMAN STRAIN: I mean, I think -- yeah, what you're saying is Phil's statements would add criteria that we've not vetted.

MS. CILEK: Correct.

COMMISSIONER BROUGHAM: So that would be another --

CHAIRMAN STRAIN: Be a whole 'nother process, yeah. Maybe that's something --

MS. CILEK: And I'm not prepared to speak on that fully.

COMMISSIONER EBERT: But did we not learn in the past that they can skip a year and not be present but -- I mean, so -- and you're right, if people know when to go out, which would be your submerged, they would go out during the time seagrass beds weren't there.

MS. CILEK: Correct.

COMMISSIONER EBERT: So that is -- we're kind of caught there in between.

COMMISSIONER BROUGHAM: Well, we're striking --

CHAIRMAN STRAIN: Well, wait a minute. You could just change the language "are present or have been present within 200 feet of the proposed dock facility" or put a time frame in there in which they have to look back or have been present within the past two years or something like that, or have been known to be present.

COMMISSIONER AHERN: How would you know?

MS. CILEK: A survey would still be submitted at this time which, I mean, we can discuss. I'm just not fully prepared to discuss that since I'm not as familiar with that part of the process.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER AHERN: Usually we receive something from environmentalists that show whether they're present at the point they bring it to us. So it seems like there's quite a bit of time that lapses between the time they come in for a permit and then they have to submit a revised one, correct? Or can they use the one that they --

MS. CILEK: Revise following --

COMMISSIONER AHERN: For showing if there's beds there or seagrass there.

MS. CILEK: I mean, they have to submit anything that would show that there are seagrass beds.

COMMISSIONER AHERN: I'm just saying if they have to do one at this point, then they have to do a revised one at the time of permit, then that's going to cover a wider area if they --

MS. CILEK: They'd have to redo.

COMMISSIONER AHERN: -- right, if they were there and/or will be there.

CHAIRMAN STRAIN: Caroline, this is a hard one for anybody to do on the fly. And you guys are in kind of an awkward position now that we've brought it up as questioning. But now that you know it's an issue, similar to the research that David did or the way that Bill Lorenz -- I mean Steve Lenberger does, his studies and analysis back to us, you could ask that this one be looked at that way to explain to us how seagrass beds are protected through a demonstration in compliance with this. That might solve the issue, and you'd have time to digest it before we have to discuss it again at the next meeting, and everybody then would be on the same page.

COMMISSIONER BROUGHAM: I would add, Mark, protected and/or defined, because there seems to be some looseness there as well. I mean, if it's going to be a major criteria for us to consider, I would like a lot more specificity in terms of what we're going to evaluate.

CHAIRMAN STRAIN: Well, I could fully expect that this issue's going to be hot again when the Dunes comes back for its resubmittal, because they didn't appeal, so that means they're going to resubmit. And if they resubmit, then the whole idea of seagrass beds is going to come back up, and we might as well get it on the table now so we're not -- we're looking at it as a broad spectrum to everybody that comes in instead of just rush to one project, so --

COMMISSIONER BROUGHAM: I agree, thank you.

CHAIRMAN STRAIN: Okay. Well, we didn't finish with that one. Sorry, guys.

MS. CILEK: I will get with environmental and the permit process and be more apt to speak.

CHAIRMAN STRAIN: Okay. The next one up is 5.03 -- oh, 5.06.00. That is sign regulations.

MR. CARROLL: Correct. And this one was also reviewed on April 13th, and I have gone through each of the proposed amendments to the sign code section and outlined exactly what is changing, if it was a correction from the 2009 or if it's a new addition or if it's trying to clarify something.

CHAIRMAN STRAIN: Okay. Anybody have any questions or concerns about the rewrite?

MS. CILEK: Brad, we included language regarding the sandwich board sign and when it should be brought in. That was a good little note to include.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: The only question I had -- and, you know -- and, actually, never mind. It's

something that's a standard. The point was that all of these sign square footages are one side only. We can have V-shape signs, but that's covered someplace in this, correct?

MS. CILEK: Well, this says that they are -- have two sides, two sides. So it's like an A.

COMMISSIONER SCHIFFER: Okay. No, I'm back on some of the other stuff, let's let it go.

MS. CILEK: Sorry.

COMMISSIONER SCHIFFER: I'll move to approve.

COMMISSIONER MIDNEY: Question.

CHAIRMAN STRAIN: Go ahead, Paul.

COMMISSIONER MIDNEY: I've been noticing lately that you're seeing more people walking around with signs. Is that covered by this?

MS. CILEK: No.

CHAIRMAN STRAIN: Well, I mean, the sandwich board ones are. That's what we're -- right?

MS. CILEK: Well, these are designed to be within 10 feet of the front door of the business, so --

CHAIRMAN STRAIN: You're talking about on a street corner.

COMMISSIONER MIDNEY: Yeah, people parading back and forth waving signs.

CHAIRMAN STRAIN: Yeah, I've been seeing it, too. Sign of the times, I guess.

COMMISSIONER MIDNEY: Yeah, labor is cheap.

COMMISSIONER BROUGHAM: No pun intended.

MS. CILEK: Those are directional signs. I'm just going to let Heidi speak to those. It is not addressed in this amendment.

MS. ASHTON-CICKO: I'm really not the appropriate person to answer your question. We can have someone come and address that. I can tell you there's free speech issues involved. And whether they fall under one of the definitions of the sign, that would be someone other than me in the office that could address that issue, if you'd like me to have them come down.

COMMISSIONER MIDNEY: I don't know. I guess why fix a problem if it's not -- oh, if it's not broken, if people are not complaining about it or --

CHAIRMAN STRAIN: That's where I was going to go next. I think your issue is a good question, but it isn't part of this LDC cycle. But it is one that, if it is to be brought up because of the number of stakeholders that would be involved in it, it would have to be initiated, most likely, by the board after a public petition or complaints, and then we'd have to go out and vet it in the public, especially with those business owners. And I've had some of them come to me, because I've told them, you know, what good is those people with those signs out front, and they've actually said -- they've told me their traffic tremendously increases in some instances because of that. I didn't even realize.

So I think it would be a really strong process to get that one through any kind of regulatory process here. So I think that's for another day and another time, to be honest with you. But it isn't regulated at this point to that extent.

Brad?

COMMISSIONER SCHIFFER: And I know I did move to approve, but you dropped the definition of flag.

MS. CILEK: Yes.

COMMISSIONER SCHIFFER: Is that on purpose?

MS. CILEK: Yes. Heidi?

MS. ASHTON-CICKO: Yeah. There was something on flags and also religious symbols and, you know, we've gone through an overhaul a couple years ago with our sign code and with the constitutional law expert. And so I'm recommending, the County Attorney's Office is recommending, that we don't make changes to those sections at this time. They were -- changes were removing the content neutrality from what we had.

COMMISSIONER SCHIFFER: Okay. I just want to make sure it wasn't an accident.

MS. CILEK: Yep, it was --

COMMISSIONER SCHIFFER: On purpose.

MS. CILEK: -- sent in correctly.

COMMISSIONER SCHIFFER: Okay. Still my motion to approve.

COMMISSIONER AHERN: Second.

CHAIRMAN STRAIN: Brad made a motion to approve. Second by Melissa.

Any discussion?

(No response.)

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

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

Next item up is 10.01.02, development order requirements, early construction.

MS. CILEK: All righty. Again, this was reviewed on the 13th of April. The changes are highlighted in yellow, and most of them occur on the last page. We're just tightening up a little bit, making sure the county has enough of a bond to cover all improvement to the land.

COMMISSIONER EBERT: But your --

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: I don't know if I like the way this is written or not, because the county is also putting stuff in here to kind of cover them.

I fought with the county manager for 18 months because they didn't follow this code. I notice they've doubled the time, and that has to do with the clearing early. And you're right, bond money is big on this. That, I know, is going to be taken care of.

MS. CILEK: Can you speak to the doubling the time?

COMMISSIONER EBERT: Well, it's -- maybe it's not this particular one, but it is with the --

MS. CILEK: I don't know if there are any --

COMMISSIONER EBERT: The development order --

MS. CILEK: We have --

COMMISSIONER EBERT: Thank you, Jamie.

MR. FRENCH: Good afternoon. The intent of this language was based off the Florida specialties project that we took to the Board of County Commissioners. The board asked us to come back with an alternative for those companies that wanted to move forward. May have -- you know, talked about business-friendly environment, so you may have a company that says, hey, I want to build here. My zoning is in place, but I'm not quite through the land development process yet, but we'd like to go ahead and go vertical.

The state does address that within the Florida Building Code and allows for an early work authorization, but it only allows for them to work up to that very first inspection. So they can go and maybe pour a slab, or maybe they can go and stub out their plumbing.

But at the end of day, they're stuck at that point until they get their Site Development Plan, their PUD -- or I'm sorry, their Site Development Plan or their Site Development Plan amendment corrected.

This would allow for phasing. It involves both us from the building department side as well as fire district side. And building code -- and I'm sure that Mr. Schiffer is listening closely to correct me if I'm wrong, but -- or Commissioner Schiffer, I apologize. The Florida Building Code allows for six-month provisions, so that permit is active for six months.

In the event that they don't call in an active -- a passing inspection, some sort of passing action occurs; what happens then is that the permit then becomes expired, and we can only extend that permit 120 days, I believe, after that expiration, otherwise they've got to come in and completely re-permit.

So what we were suggesting here is that if we could negotiate some sort of bond in the event that the developer changed his mind, lost his customer, couldn't go vertical, what would happen is that we would have the

engineer of record up front come forward and say, this is our phase permit, here's the cost of what it would take to demo what we've done to lessen the burden back on the county. And whatever the remaining was, much like we've done in other code enforcement type cases, we intended that if there was monies left over, we may possibly lien that property, but yet we would have a mechanism or a dollar in the bank to go ahead and move forward with that. And I know what you were talking about, I believe, with Vita Tescana, but in this particular case we're not talking about a large housing development so much as we're talking about a specific site that would allow for a business where zoning was in place to go ahead and begin their construction project while they're working on their land development work as well.

So it's a simultaneous work. Again, we did incorporate our thoughts with the fire districts, so we've got fire plan review; Ed Riley's office did make comment on this and added some suggestions.

And I'm happy to answer any questions this board may have.

COMMISSIONER EBERT: That's fine. Thank you.

CHAIRMAN STRAIN: Anybody else? Brad?

COMMISSIONER SCHIFFER: Just a couple things. So the limitations on construction activity, essentially what you're doing is allowing them to dig the footing, put the steel in, and that's the first inspection?

MR. FRENCH: Well, currently under the early work authorize under the code, that is all they're allowed to do.

COMMISSIONER SCHIFFER: And then, obviously, they can go on with phase permits and stuff like that?

MR. FRENCH: That's correct.

COMMISSIONER SCHIFFER: Okay. Down at the Procedures B, there's a clause in there that says you can revoke the bond if they fail to get an approved site plan and the building permit expires. So, I mean, you know in the permitting process that's a -- you know, a volleyball game between sides. One side is the people that can forfeit the bond. So, I mean, is there a way -- is that -- I mean, what do you foresee the problem there being? I mean --

MR. FRENCH: Well, I don't foresee a problem, because once the land development order has already been applied, what would happen then is that then they're entitled to their bond back so that we don't create an undue amount of burden on the developer, on the property owner.

Essentially, what happens -- the current process, they go through their Site Development Plan work. Once that's approved, they would come forward and they would get their building permit. There is no requirement currently either at the state level or at our current level that requires them to put up a bond in the event that they abandon that building. That's where your state licensing and your insurances come in through your qualifiers and general contractors.

COMMISSIONER SCHIFFER: Okay. And then the only thing, small thing. Up in -- top of Page 4F, it should be approved by the office of the fire code official and under the Fire Prevention Code. Can we get rid of the word "and" up there? Let's just make it under the Fire Prevention Code. That's enough.

MS. CILEK: Sure, done.

COMMISSIONER SCHIFFER: Okay.

MR. FRENCH: Hold on just a second. Where are we again?

COMMISSIONER SCHIFFER: Up at F on the top of 4. It says it has to be approved by the fire code official and under the fire code. It's only under the fire.

MS. CILEK: Yep, I can do that.

COMMISSIONER SCHIFFER: He should be dealing with this.

MR. FRENCH: Okay.

COMMISSIONER SCHIFFER: That's good.

CHAIRMAN STRAIN: Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: If not, is there a motion, Brad?

COMMISSIONER SCHIFFER: I'll move to approve it.

CHAIRMAN STRAIN: Second?

COMMISSIONER AHERN: I'll second.

COMMISSIONER EBERT: Second.

CHAIRMAN STRAIN: By Melissa, made by Brad.

Discussion?

(No response.)

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

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

Thank you.

MR. FRENCH: Thank you.

CHAIRMAN STRAIN: Why don't we jump down to the one that's kind of like this one, the next one, 10.02.03B, B3, and just get rid of the two SDP ones together.

MS. CILEK: Sure. Number 12 on the agenda.

CHAIRMAN STRAIN: Yeah. Submittal requirements for Site Development Plans, 10.02.03. It's a couple tabs past the one we just heard, and it's similar to the one we just heard. So at least -- similar topic.

Anybody have any issues on this one?

MS. CILEK: This is really reworking the insubstantial change procedure, outlining the different criteria that apply when someone submits an application. It's grouped by type, so transportation, zoning, stormwater.

CHAIRMAN STRAIN: Caroline, on Page 4 of that, under I -- first of all, you crossed out IV, which I think you want to leave in, because then III has to go to -- III goes to V.

MS. CILEK: Oh, I'm sorry, yes.

CHAIRMAN STRAIN: Okay. But then, if you read IV, it says there is no significant change to the required retained vegetation. This may be established by the following, and go to B, a significant change to the reconfiguration of preserves or conservation area.

Wasn't the intention of these subparagraphs, A, B, and C, to really establish what a significant change is?

MS. CILEK: Yes.

CHAIRMAN STRAIN: Okay. Then how can you establish what a significant change is by saying if there's a significant change?

MS. CILEK: You know, that's a very good question. That word was added by an individual, and with good reason. But I do believe that extra word "significant" may not be necessary. It's caught under the umbrella of IV, which is currently struck but should be there.

So it's really -- I mean, we could just keep it to a change or reconfiguration of preserve or conservation area.

CHAIRMAN STRAIN: Okay. Now, this is all under the heading of -- there is -- of evaluation criteria in order to be insubstantial.

MS. CILEK: Correct.

CHAIRMAN STRAIN: So if you were to change that, there is no significant change to the required retained vegetation established by the following: B, to change -- a change to the reconfiguration or preserves or conservation area.

MS. CILEK: Or the reconfiguration.

CHAIRMAN STRAIN: Or what?

MS. CILEK: You could start with the reconfiguration.

CHAIRMAN STRAIN: Okay. So what that means is if you were to change -- if you reconfigure preserve or conservation areas --

MS. CILEK: It would be based on how significant that change is. If you're moving two feet around, you

know, adding two feet here, reducing two feet here, then that wouldn't be considered a significant change.

CHAIRMAN STRAIN: Okay. But wasn't the whole purpose of laying these out in this order that you've done them in -- which I think is a good idea -- is to allow more definition as to what -- take out the ambiguity as to what is insignificant -- or insubstantial versus substantial change? And I'm wondering how that's accomplished by what Paragraph IV provides.

MS. CILEK: Are you looking for like a -- to quantify it?

CHAIRMAN STRAIN: Yes.

MS. CILEK: Yes.

CHAIRMAN STRAIN: Is there -- how -- I mean, wouldn't that be easier for staff, because what is an insignificant change to you may not be an insignificant change to somebody else, and I'm just -- I'm trying to figure out a way to get you guys into a more quantifiable assessment than one that's ambiguous.

MS. CILEK: Well, I can speak to the environmental department and see if we would want to quantify this or if they are comfortable with it as it is.

CHAIRMAN STRAIN: Like a percentage.

MS. CILEK: Okay.

CHAIRMAN STRAIN: And if they feel like you've got to preserve -- no matter what acreage it is, if a certain percentage of it is a threshold --

MS. CILEK: Like 2 percent or more?

CHAIRMAN STRAIN: I think that would keep you guys in a less --

MS. CILEK: Yes.

CHAIRMAN STRAIN: -- problematic position.

MS. CILEK: And we've gone through and quantified several of these since the first version we sent to you. So I think we could work that out, and it would be a low percentage.

MR. BELLOWS: Yeah. And I'd just like to point out, the LDC does have a percentage that would pertain to changes to preserve areas on the master plan that's 5 percent.

CHAIRMAN STRAIN: Five percent or five acres, whichever is greater.

MR. BELLOWS: Yes. So maybe something like that could be --

CHAIRMAN STRAIN: Right. I think that would be a good way to approach it.

MS. CILEK: Good idea.

CHAIRMAN STRAIN: I'd suggest that one needs to come back for that clarification.

Anybody else have anything? Brad?

COMMISSIONER SCHIFFER: First of all, in the old language B was called construction of required improvements. You're calling it something else; is that right? You're calling it final site development?

MS. CILEK: Actually, I believe there was a typo in the first one, in my first draft that I gave to you.

COMMISSIONER SCHIFFER: But it's still here in the -- so in other words, are you retitling B; if so, I guess underline it. If not --

MS. CILEK: Yes, good point. I will make sure that is clear in the next draft.

COMMISSIONER SCHIFFER: Okay. Secondly, you know, all these criteria are here. If we had a change in use in a building, let's say, from one occupancy type to another -- and that could change, let's say, parking, so is everything covered in here? In other words, we're not ever discussing the use of a building; yet, the ramifications of a change could affect some of these items. You may --

MS. CILEK: Sure.

COMMISSIONER SCHIFFER: -- hit the 10 trips limit. You may have to add more pervious area if you're changing the parking layout or something. So in other words, this is for a change of use, and it would be an insubstantial change. So in other words, if I had an SDP for, let's say, some occupancy, and then I want to go back and just change the occupancy, I can do it through this procedure if I don't trigger these thresholds; is that right?

MS. CILEK: I think I follow you. This would be used in any instance where there's an insubstantial change whether you're changing your use or not.

CHAIRMAN STRAIN: So I think the answer is yes to your question.

COMMISSIONER SCHIFFER: Yeah. I mean, the use part of it isn't discussed --

MS. CILEK: Correct.

COMMISSIONER SCHIFFER: -- but the ramifications of use does fall into these categories. Okay, good.

CHAIRMAN STRAIN: Okay. Well, this one's going to come back for a short rewrite.

MS. CILEK: Yeah. Anything else?

CHAIRMAN STRAIN: Other than that, I think we're okay. Anybody else have any other issues?

MS. CILEK: I'll work with the environment, and we'll get --

CHAIRMAN STRAIN: Okay.

MS. CILEK: Okay, great.

CHAIRMAN STRAIN: Let's go back to No. 8, new draft provided 4.06.02 for buffer requirements.

MS. CILEK: 4.06.

CHAIRMAN STRAIN: 4.06.02.

MS. CILEK: All righty. This is a freshly revised amendment. And on Page 6 and 7 is the new language. And what we've done is we've really taken out of -- or we had first amended the exceptions to the landscape buffer section, and now we've really just put together a whole new section so it's very clear as to what will apply for this type of joint project, which enables applicants to remove a side buffer that is shared or a rear buffer that is shared. And in place of that, the square footage and the landscape material will be maintained elsewhere on the joint project. So no net loss of green space. It just provides for some flexibility.

CHAIRMAN STRAIN: Anybody? Bill?

COMMISSIONER VONIER: Yes. It appears that that's a little punitive, because this is directed at people with small properties. That's the idea of common buffer and a connection between the two. And so if the property is properly buffered to begin with and it's a small property, why do we make them take what -- take the buffer material and put it someplace else that they gave up on the combined buffer? I mean, that's punitive.

MS. CILEK: Because they might want to do something else with this.

COMMISSIONER VONIER: Let them --

MS. CILEK: They could create a courtyard.

COMMISSIONER VONIER: But that's their problem. That's interior to their development. That has -- why should we say they have to do it?

MS. CILEK: Well, they don't have to do this. This is an option. And here's Nick.

MR. CASALANGUIDA: How you doing?

One of the works -- Nick Casalanguida, for the record. One of the things we discussed is if you look at shopping centers, southwest corner of Pine Ridge and Airport Road. When a person develops that site, they can keep it as one unified Site Development Plan or they can break out the outparcels.

By breaking out the outparcels and selling them individually, it triggers all these buffer requirements in between the adjacent parcels. So you're almost punishing someone for selling off individual lots because now they've got to do this.

What you're getting at is, okay, so if we allow them as a unified project to say, in between two, the Taco Bell and the Chase building, they are right there, if you're going to eliminate that buffer, what we've heard from the development -- not the development community, but the people that are interested in making that green space, you know, prevalent in Collier County, put those plants someplace else on the site so there's no net loss. But we will give you the ability between two adjacent comparative sites to eliminate at that location, but we don't want to, all of a sudden, people doing that purposely and eliminating the need to do landscaping and keeping that level of landscaping on the site.

So it's a flexibility issue for the developer. It's a compatibility thing that we support as staff. And from the community, their concern that it will be taken advantage of and will eliminate plantings in Collier County.

So where it makes sense two -- in a unified project, two side-by-side sites, the Taco Bell and the bank, you can eliminate that buffer between you because it's a unified site, but take those plants and put them someplace else so we see a lot of green space or a lot of green, you know, in Collier County, because that's what they want.

CHAIRMAN STRAIN: But I think the -- what Bill's point is, he saw this as punitive, but really what happens is by allowing the reduction of the landscape buffers, it becomes -- it isn't punitive. It provides them with the flexibility --

MR. CASALANGUIDA: Yes.

CHAIRMAN STRAIN: -- to put that elsewhere on the property, but it takes away the requirement. So it may

be actually beneficial for some of those outparcels.

COMMISSIONER VONIER: All right.

MR. CASALANGUIDA: Yeah, it's meant to be not punitive but beneficial. We keep the green space. You get to that use of that adjacent property line without having to put those buffers in, and it looks kind of silly.

CHAIRMAN STRAIN: But, see, Bill's point about the smallness of the acreage is another -- is a question I had, too, and I tend to -- why are we limiting it to three acres? Because, for example, the site you just used as an example, it would be a joint project. So that means you say you have a Taco Bell with the overall shopping center. You're in excess of three acres. So you couldn't -- this couldn't apply then.

MR. CASALANGUIDA: I didn't add the three acres. I don't know where --

MS. CILEK: That three acres -- so this went through, in a sense, a review by local landscape architects and stakeholders, and the concept of adding a limitation to the acreage was so that you wouldn't have vast expanses of parcels, 10 acres, five acres, that wouldn't have any green space.

CHAIRMAN STRAIN: No, not any. We're not reducing it to zero. Reducing it to 15 out of 30.

MS. CILEK: But it wouldn't have -- they wouldn't have any buffers. They wanted to maintain that green space that you would see after a certain size, so that was where that came from was from stakeholder input.

COMMISSIONER AHERN: Do we have stakeholders other than the people who make their living off of doing this?

MR. CASALANGUIDA: I'm not sure I would like to put the reduction on there, but that was something --

MS. CILEK: It's something we can discuss, most certainly. And I did do a review of parcels in the area, and most parcel sizes are an acre, little over an acre.

CHAIRMAN STRAIN: But, see, Bill's point about being punitive --

COMMISSIONER VONIER: I have no problem with a larger parcel.

CHAIRMAN STRAIN: I don't either.

COMMISSIONER VONIER: But with three acres, you know, they're under the gun to begin with. And the joint buffer is fantastic; they get a little more room. And then we say, okay, you know, let's plant -- you have to plant something someplace else. I don't -- for a small parcel, I think that's -- I think it is punitive. I still think so.

MS. CILEK: Designed to help those small parcels so that they have that extra flexibility. But if the Planning Commission would like to make a recommendation to remove the size limitation, that is just fine.

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: You know, maybe what it is you note that you're going to have two parcels, maybe more than two, but at least one of them has to be three or less, then that cures the small piece on a big piece, and that's kind of the intent of this anyway.

MS. CILEK: Sure. That's a good idea.

CHAIRMAN STRAIN: Anybody else?

MR. CASALANGUIDA: I'm trying to process it.

COMMISSIONER EBERT: He's trying to process.

CHAIRMAN STRAIN: No. What he's saying is that you've got to -- you can't have two big parcels take advantage of this.

MS. CILEK: You can't have a 10-acre parcel --

CHAIRMAN STRAIN: You could have a smaller parcel take advantage of it in relationship to a bigger parcel. And that makes sense.

MS. CILEK: Benefitting the small parcel, and they can work with the larger parcel.

CHAIRMAN STRAIN: And you do have -- this does -- has no effect on the perimeter buffers.

MR. CASALANGUIDA: No.

MS. CILEK: No.

CHAIRMAN STRAIN: This is an internal issue to the project itself.

MS. CILEK: Correct.

MR. CASALANGUIDA: You could have two developers; one side of the road who doesn't break up his lot and doesn't have to do this, and you have the developer on the other side of the road who does outparcels and is stuck with all these interior buffers.

CHAIRMAN STRAIN: Yeah. That doesn't make sense. I don't know why we've limited it to three acres. I

think that's a mistake.

MS. CILEK: I think the recommendation of --

CHAIRMAN STRAIN: Brad?

MS. CILEK: Yeah, brad's recommendation is a good one, because it is designed to help out those little guys.

COMMISSIONER SCHIFFER: Another point. Nick, in your presentation you said the unified site plan, but these could definitely be independent owners, correct?

MR. CASALANGUIDA: Yep.

MS. CILEK: Yes. We describe in the header of like the different ways to submit them, and that's just the --

MR. CASALANGUIDA: Right. Five different owners along a property street, that's kind of unified in our view.

COMMISSIONER SCHIFFER: I'm good with it.

CHAIRMAN STRAIN: Okay. And I think the shared buffer that remains, instead of 30 -- 15 and 15, it goes down to 115.

MR. CASALANGUIDA: Right.

MS. CILEK: It does, and that's --

CHAIRMAN STRAIN: I think that's the appropriate way to go.

MS. CILEK: -- already provided for in the exceptions above this.

CHAIRMAN STRAIN: So you've still got the green space. It's just half as wide, but the balance that is missing, say, could be contributed to the outside buffers if they wanted --

MR. CASALANGUIDA: You got it.

CHAIRMAN STRAIN: -- or some other open courtyards.

MR. CASALANGUIDA: Yeah.

CHAIRMAN STRAIN: That's all positive.

MR. CASALANGUIDA: It's all good stuff.

CHAIRMAN STRAIN: Yeah.

MS. CILEK: It provides a lot of flexibility.

CHAIRMAN STRAIN: I think you need to make some tweaks to it, like were identified.

COMMISSIONER EBERT: Just some tweaks, yeah.

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

MR. CASALANGUIDA: Thank you.

CHAIRMAN STRAIN: Well, that one will come back.

MS. CILEK: Just to note, it also won't apply to any of the interior main accessways. So if you have a road along that way, you still have a buffer.

CHAIRMAN STRAIN: Right. That's just between parcels, yeah.

MS. CILEK: Correct.

CHAIRMAN STRAIN: Next one up is landscape requirements for vehicle use areas and rights-of-way, buffer requirements, requirements of continuation of nonconformities. It would be 4.06.03, 4.06.02, and 9.03.02. I think they all are found under 4.06.03 --

MS. CILEK: Yes.

CHAIRMAN STRAIN: -- if I'm not mistaken, the second 4.06.03 in our book.

MS. CILEK: All right. And this is the first time we're reviewing this amendment.

CHAIRMAN STRAIN: Okay.

MS. CILEK: And the overall goal here is to provide for one year through all of these different amendments. So in the first one we're looking at -- update revising the 90 days to one year before the listed site designs shall be brought up into conformance.

CHAIRMAN STRAIN: Anybody have any issues or questions involving this? It just basically gives it more time.

MS. CILEK: It does. It grants a larger grace period before things are brought into the code, and that would apply to the buffers, from 60 consecutive days to one year, and the same for nonconformities.

CHAIRMAN STRAIN: Anybody have any issues?

COMMISSIONER SCHIFFER: Well, I have a comment. I think it could even be longer. What we've just

experienced, you know, even one year's not a big benefit. I mean, this is important, and this is some of the things some of the study groups have come up with as a problem with the LDC, but why do we pick a year? In other words, why do we pick --

MS. CILEK: Well, the year was first picked as a good time period. So a yearly time frame would be what we would look for because of the occupational license. It's when we -- the best way of tracking when a business has ceased and when a new business would begin. But if you're talking about one year versus two years, that would be a different issue.

COMMISSIONER SCHIFFER: Yeah.

CHAIRMAN STRAIN: But we're going from 60 days to one year, and from 90 days to one year, right?

MS. CILEK: Correct.

CHAIRMAN STRAIN: I mean, we're already tripling and --

MS. CILEK: We are. We are --

CHAIRMAN STRAIN: -- quadrupling. That's quite a bit.

MS. CILEK: -- extending it double or more. And we did a little bit of research. And the one-year time frame does work for a lot of smaller businesses.

If you just take a quick glance on Pages 4 and 5, those bigger stores that are -- have a lot of square footage, they take a lot longer to fill. But the mom and pops and the ones that are a little bit smaller do -- a year would be a good time -- I mean, is more applicable to that, to being filled.

COMMISSIONER SCHIFFER: Have any realtors weighed in on this? Because it's really a problem for them if these --

MS. CILEK: Yes.

COMMISSIONER SCHIFFER: -- if these projects are losing --

MS. CILEK: They were in support of a year or greater, as you mentioned before. But, yeah. It was earlier. It was last year we spoke with them. But they are in support of this change.

CHAIRMAN STRAIN: Anybody have any comments or questions?

COMMISSIONER AHERN: Motion to approve.

COMMISSIONER SCHIFFER: Well, I just wonder, is there any other way to do it than a time frame? I mean, I guess -- because what -- these could be very considerable expenses to a property owner. It will devalue his property if he loses the grandfathering of his buffers. It will devalue his property if he loses any of these, because he has to redesign them -- in other words, if he has a property that was built without buffers. Some properties might not even have them --

MS. CILEK: Right.

COMMISSIONER SCHIFFER: -- and then this will eliminate parking, this will eliminate elements of his property which will maybe make it so he can't even -- you know, he may have to tear out a piece of building because he doesn't have enough parking anymore.

MS. CILEK: Well, I do know that for landscaping it -- you know, an option would be an SIP, which would be to the greatest extent possible. So there is a little bit of flexibility currently there, just with when you submit your application for redoing your landscaping. Parking might be more difficult, but there is some flexibility.

MR. BELLOWS: And we're just extending the time frame. They're still going to have to provide it when a new business comes in and they're ready to do it within that time frame.

MR. SCHMITT: Right.

CHAIRMAN STRAIN: Have you had any -- have there been any issues with this that wouldn't have been cured by the time frames you're recommending today?

MS. CILEK: I can't speak on behalf of, you know, if there have ever been any time frames.

CHAIRMAN STRAIN: No, that you know of. I mean, Ray's been here longer than you, obviously.

MR. BELLOWS: Not that I know of.

MS. CILEK: I mean -- and the goal is to really help --

MR. BELLOWS: I'm not sure why board directed this. This was a board-directed change.

COMMISSIONER SCHIFFER: Well, it came -- there was some task force --

MS. CILEK: Right.

COMMISSIONER SCHIFFER: -- vacant property, and this was one of the major things is people would

have to walk away because they can't make the property useful in its present condition because it lost the grandfathering of these requirements.

And not every property has a, you know, Site Improvement Plan. There's conventional zoned property that have been long built that don't have that --

MS. CILEK: Sure.

COMMISSIONER SCHIFFER: -- and don't have -- and are the ones most affected maybe.

MS. CILEK: Sure. This is -- you know, 90 days to a year, 60 days to one year. So we went out and we suggested a year. If the Planning Commission wants to go beyond that, that's just fine.

We do have support for this from the realtors, and we do know that this will accommodate some of the smaller businesses. It won't get to all the square footage of the big box stores, but --

COMMISSIONER SCHIFFER: I mean, the advantage of this, what this is for is to bring all of the parts of the county that are below our standards up to date. And I can remember conversations with people who no longer work for us that they were pretty aggressive in doing that, and that's why they liked these 60-day things.

MS. CILEK: Right. This is --

COMMISSIONER SCHIFFER: I mean, the architectural standards drop somewhere in here, too, and that could be a, you know, disaster to the building, structurally, and everything.

MS. CILEK: Well, we didn't include the architectural in this amendment.

COMMISSIONER SCHIFFER: No, but there is a time frame in there.

MS. CILEK: There is a limit, and I think it's -- I think it's 180 days.

COMMISSIONER SCHIFFER: Right, which -- and I don't know. I mean, it's a punitive thing. I'm just -- I don't know what the right answer is. I don't know if it's -- you know, we're in an economy where projects are easily off -- vacated for easily a year. I mean, you could -- if you did a count, you could probably find a lot of properties that have totally lost their grandfathering.

MS. CILEK: Are you saying you would like a longer time period?

CHAIRMAN STRAIN: Well -- but, see, then we're going to end up having to go back through the process again. I think it's a start to get something changed now. This works the fastest. And if we have an issue that seems to warrant more, the board can so direct it or defer it until it is corrected further. But right now, this is six times the 60 days, and four times the 90 days.

MS. CILEK: Right.

CHAIRMAN STRAIN: So we're already quite a bit --

MS. CILEK: I think this provides a balance for, still, you know, bringing sites up to code and always giving people a larger grace period to get in.

COMMISSIONER SCHIFFER: Well, my point is that, you know, the one year -- most of the projects have been vacated for a year already. I mean, current buildings that are dropping out aren't as great as the ones that dropped out two, three years ago, so --

MS. CILEK: Right, but how do you --

COMMISSIONER SCHIFFER: So we're not helping them at all.

COMMISSIONER AHERN: How do you figure out a time, though; three years, five years?

MS. CILEK: And you have to look at the code as dealing with, you know, the current situation as well as the future. In five years, you know, some of those buildings will be full, some of them won't, but this provision will, you know, still be there likely. So finding a balance is important.

COMMISSIONER SCHIFFER: Okay. I mean, it's an issue the realtors should be in here discussing, but they never show up.

CHAIRMAN STRAIN: But you said you did meet with them?

MS. CILEK: We did.

COMMISSIONER SCHIFFER: But what does that mean you did? You went to the board of realtors and they had a straw vote amongst the people at that meeting, or what happened?

MS. CILEK: We had one of our staff reach out to a realtor, and we provided them this amendment. And they said that they supported it, and they were even in favor of a longer time period. But this is what we had proposed moving forward after discussions with staff, because we were looking for a balance overall. Yes, we might be in a downtime now, and we need to address that, but this is a code provision.

So, I mean, if you want more input from realtors, we can definitely find that.

COMMISSIONER SCHIFFER: I mean, this is better than what's there. But, again, it doesn't help anybody that's had a problem over a year already, and that's most of the vacant buildings.

MS. CILEK: Right, but --

MR. BELLOWS: I'm not aware of anybody pushing the county to provide more for any specific site. So staff does work with them on a case-by-case basis when they do come in and want to move into a new property that is nonconforming in other ways and so --

CHAIRMAN STRAIN: Have you had any issues with -- I mean, Brad made a good point. He says there's been some that may have been in this situation already for a year. Are you looking at any that are already going to -- that are going to be triggered into noncompliance?

MS. CILEK: I mean, I don't think we keep an inventory of buildings that are -- already have the use ceased. That's not something that's tracked by the county or staff. But staff does work hard to help these people out and get them --

CHAIRMAN STRAIN: But, see, the assumption would be that if a year goes by and they want to reactivate their empty building, that the buffers and parking spaces and everything that are currently in place a year ago are inadequate for the rules today. How much of that has changed in the last year?

MS. CILEK: That's a good question. It's going to depend. You know, if it was done 15 years ago, well, then it might be more out of date. If it was just a new building, it was built two years ago, it's ceased for, you know, a year and a month, well, then the buffers are not going to be out -- are not going to be that off of code, if at all. So there's going to be a mix.

CHAIRMAN STRAIN: And there's no grandfathering in for the older projects once they lapse in this time frame.

MS. CILEK: They would be subject to this provision, from what I understand.

CHAIRMAN STRAIN: Right.

COMMISSIONER SCHIFFER: Question, Mark.

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: Why isn't the architectural standard included in this?

MS. CILEK: That's a good question. But given the recent -- I think it might be best to include that in a larger review of 5.05.08 altogether, so --

CHAIRMAN STRAIN: So they could, in a year's time -- or they could lapse from -- say, a 15-year-old project could lapse and not be grandfathered. There are -- not only would they come under the buffer issues and the parking issues that may have changed in 15 years, but now they would come under architectural standards as well?

MS. CILEK: Yes, yes.

CHAIRMAN STRAIN: Well, why don't we look at this more comprehensively and bring in the realtors and people -- more than just one phone call to one realtor who may not be as -- let's say, as tuned into things as a broader base might be.

MS. CILEK: I think that's a really good idea. And in general, redevelopment in Collier County is something that we need to take a look at, and all of these -- these apply as well, and that would be part of architecture.

I think for the purposes of this amendment, we're just looking to help those people out right now who may be subject to recently going under or -- you know, just extending this period and granting more in general, but that is something we could also address in the next cycle when we look at more redevelopment as well as 5.05.08, which in -- you know, looking at all of those combined are big redevelopment issues.

CHAIRMAN STRAIN: When's the next cycle?

MS. CILEK: After this one.

COMMISSIONER SCHIFFER: Well, when does --

COMMISSIONER EBERT: This year?

MS. CILEK: No.

COMMISSIONER SCHIFFER: If this thing went smoothly through, when would it go into effect?

MS. CILEK: This amendment was scheduled to go to the board this summer/fall.

COMMISSIONER SCHIFFER: And it would immediately apply upon their passing?

MS. CILEK: I'm actually not in tune with how quickly --

COMMISSIONER SCHIFFER: So let's assume that -- they don't meet in August, so let's say the end of July they cover this.

MS. CILEK: Right. We're planning --

COMMISSIONER SCHIFFER: So all's we're helping is people whose building have gone vacant from last July?

MS. CILEK: Or people who may go out of business in the future, tomorrow. They have a year to get those building and have someone new in that business. So I think this can really help out businesses now, and then we can definitely take a look at this section again in connection with 5.05.08 when that time comes. But redevelopment is definitely something that needs to be addressed on a broader scale.

COMMISSIONER SCHIFFER: Then let's not shut it down. Let's -- I think we should approve it as it is, and then come back and study it.

CHAIRMAN STRAIN: This is the first time we've heard this one.

MS. CILEK: This is.

CHAIRMAN STRAIN: Okay. You expressed to us that you went to one realtor.

MS. CILEK: Correct, NABOR, yes.

COMMISSIONER KLEIN: Who did you -- Bill Poteet, was he the person?

MS. CILEK: Actually, I think that might have been him, yes.

COMMISSIONER KLEIN: Bill Poteet would be the best person to be --

MS. CILEK: This was -- I have to be honest, we -- and that's -- I'm 99 percent sure that's who it was. I have to be honest, we wrote this amendment in November and December of last year, so my recollection on, you know, his exact phrasing is not there, but I believe it was him.

COMMISSIONER SCHIFFER: And what you're saying is he said a year or more.

MS. CILEK: Yes.

COMMISSIONER SCHIFFER: Remember, and I'm coming in here for "or more."

MS. CILEK: He did. Again, I don't have his email in front of me, but, yes.

CHAIRMAN STRAIN: That's where I was trying to go, but let me finish my thought. You went to one realtor. I would prefer you to go to quite a few others, maybe the Chamber of Commerce, maybe someone like -- just ask them, talk to them about it.

But we have an opportunity to have this -- we're going to hear -- this isn't the end of our LDC cycle. We've still got another meeting or two before we finish. So why don't you come back and check on that time frame. And if the two years or three years works better, why don't we just consider it? And it wouldn't hurt to change that one number.

MS. CILEK: That's fine. I guess I'm just apprehensive of taking this off this cycle.

CHAIRMAN STRAIN: No. I don't think we're suggesting that.

MS. CILEK: Okay.

CHAIRMAN STRAIN: I think as a minimum this would probably pass. But since we have a luxury of a time -- because we're going to have to have another continuing of this LDC review anyway --

MS. CILEK: Sure.

CHAIRMAN STRAIN: -- why don't you come back with some more input from more realtors.

MS. CILEK: I can do that. I can do that.

CHAIRMAN STRAIN: And you have people that sell commercial properties. I think Ross McIntosh does that. He's well known in the business. Call people like him and find out what they're looking at from sales perspectives, some appraisers that -- like -- well, maybe the tax assessor's office. What is their -- how many properties have they seen going out of business that could benefit or have problems with this kind of an operation.

MS. CILEK: And that's why we did supply these tables. I mean, we did do a little research before we said a year, because a year will cover a lot of the smaller square footage of buildings. And you have to recognize we are in a bad economic time period. So we did do work, but we will reach out to some of these realtors and the Chamber of Commerce.

CHAIRMAN STRAIN: But the year covers half of them basic -- less than half of them if you count the big ones.

MS. CILEK: If you count the big ones, which is a lot of them, yeah.

CHAIRMAN STRAIN: But, I mean, if they went to the trouble to put their infrastructure in their site work and everything else and they got a valid permit for it, I'm not sure it's fair to cut that permit off.

MS. CILEK: I am just fine bringing this back with more support. I just want to keep it in the cycle.

CHAIRMAN STRAIN: Okay. Let's do it then. Is that okay with everybody?

COMMISSIONER SCHIFFER: It is okay, then. And maybe what you do is you come up with time frames for projects in different periods; in other words, give some amnesty to some of the projects that went down in the middle of the crisis. And also the other things, too, is some of these projects are on conventionally zoned land versus -- you know, I think the PUDs would be fine, but it's the people with the old conventionally zoned commercial properties --

MS. CILEK: Straight zoning.

COMMISSIONER SCHIFFER: -- that are going to be the problem, yeah.

CHAIRMAN STRAIN: Okay. And I think what we'll do is, before we just go to lunch, we'll end our LDC review with this, but I have one question.

Patrick, has his eminence bothered to show up yet, or are we --

MR. VANASSE: Be ready at one o'clock.

CHAIRMAN STRAIN: We're able to make sure -- okay. Bruce is going to be back at one, so I'd like to get back on our regular agenda now that he's graced us with his presence. He's so popular. I hope he's listening.

But we'll come back at one o'clock, and we'll resume with our regular hearing agenda, finish up that one in north county.

MS. CILEK: Are we going to finish these today or --

CHAIRMAN STRAIN: We're going to finish these right after that. We're going to go into the regular agenda first, finish it up, then kick back into where we left off here, and then we've got our Master Mobility Plan to the extent we're going to have time today to get into it, and we will probably not finish that today.

MS. CILEK: Busy day.

CHAIRMAN STRAIN: Yep. Okay. We're adjourned till one o'clock.

(A luncheon recess was had.)

CHAIRMAN STRAIN: Okay, everybody, if you'll please take your seats. Welcome back from the lunch break. But I really don't know if we can proceed unless Mr. Anderson says we can. Let's see. Is his eminence here? Oh, he's here, good.

Bruce, you think we were allowed to start now? We don't want to upset the apple cart at all.

MR. ANDERSON: Thank you very much for allowing me to go the Regional Planning Council to take care of my other client needs there. I very much appreciate it.

CHAIRMAN STRAIN: Oh, we see you as rarely as we do see Nick. So like we give him a bad time, we have to give you a bad time once in a while.

So with that in mind, will all those wishing to testify on behalf of this item please rise to be sworn in by the court reporter.

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

CHAIRMAN STRAIN: Disclosures on the part of the Planning Commission? I had a conversation with Mr. Anderson, and I'll be going over all the issues that he and I talked about. During break I had a conversation with Patrick Vanasse on the same kinds of issues, so we'll hear them all during the course of this event.

Okay. Bruce, it's all yours.

COMMISSIONER EBERT: I just had a quick conversation with Bruce during lunch break.

CHAIRMAN STRAIN: It's all yours, sir.

MR. ANDERSON: Thank you. Good afternoon. My name is Bruce Anderson from the Roetzel & Andress law firm. I'm pleased to be here today to represent Centerline Homes. They are new to the Naples market. They are a Florida-based homebuilder with successful communities on both coasts of Florida; Tampa/St. Pete, Fort Lauderdale, West Palm Beach, Vero Beach, Daytona, Jacksonville, and Orlando.

I want to introduce some of their officers that are here today. Rob Stiegele, the executive vice president; Jonathan Keith, the vice president of land acquisition and development; and Jeff Kronengold, the executive vice president and general counsel for the company.

Also here to help me are Chris Wright, chief executive officer of RWA; and Patrick Vanasse, the Director of

Planning at RWA.

And this property is located on Immokalee Road east of the intersection with Collier Boulevard. It's directly across from the Quarry, and it's approximately 138 acres.

The current zoning is as the Summit Lakes PUD with 968 homes; 200 of those homes were to be affordable housing. That was approved in 2006. All interconnection and access points that were previously approved for this PUD will remain as they are.

I'll briefly summarize the most important changes to the PUD and, really, the most important one is reducing the number of homes by more than half. It's going from 968 to 450.

And in connection with that, the affordable housing provisions would be removed. And we are adding a reference in all appropriate places to -- we've had -- everything that was in there was based on zoned height, and we have now added actual height for everything as well. The only height change is for the clubhouse. It can now be 50 feet zoned height as compared to the presently-approved 35 feet zoned height.

We're also switching to the new PUD format. And there are three deviations that have been requested.

We've spoken with Ms. Deselem and reached some modifications of the language to address any concerns that staff had. I'll deal with the first one about the number of model homes. We're asking to be allowed to have as many as 15 model homes to account for variations either in the interior or exterior of the homes.

We worked out with staff -- the language was kind of unclear where it says we have to provide the number of model homes every time a development order is issued. Well, if you read that very broadly, every time someone bought a home, we would have to provide that information and, frankly, that's not what staff intended.

And so the wording would be changed to require that we provide the number of model homes that have been approved and are continuing to serve as model homes every time we come in for a building permit for another model home.

On the second one about boundary marker signage, we have agreed to the staff condition to limit the signage to the frontage along Immokalee Road.

And the third deviation is to allow 8-foot fences or walls in the interior of the project and 18-foot wall berm or a combination along public roads to reduce -- to provide visual screening and reduce sound.

We are modifying that in two instances. Well, we are -- we are proposing to only allow 12 feet along Woodcrest Drive. We would like to keep the 18-foot option along six-lane Immokalee Road.

COMMISSIONER SCHIFFER: Bruce, excuse me.

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: Excuse me, but in our report it says 15 feet. Is it 18 or 15?

MR. ANDERSON: Eighteen.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: The one I've got says -- what page are you reading 15 on?

COMMISSIONER SCHIFFER: Eight of 17.

CHAIRMAN STRAIN: Eight. Nine of 17 has 18. Deviation No. 3.

COMMISSIONER SCHIFFER: Oh. I'm on Deviation No. 2 then. Okay. Got it, thank you.

CHAIRMAN STRAIN: You're okay, then, right?

COMMISSIONER SCHIFFER: I'm okay. Well, maybe not, but I'm okay with 18, you know.

CHAIRMAN STRAIN: Okay. Go ahead, Bruce.

MR. ANDERSON: And, Chairman Strain, based on the discussions you and I had, I do have some proposed modifications to language. I can go ahead and go through some of those now or answer in response.

CHAIRMAN STRAIN: We'll probably walk through that thing anyway. So as we get through the pages, that would probably be easiest. Is that it?

MR. ANDERSON: That's it.

CHAIRMAN STRAIN: Short today, Bruce.

MR. ANDERSON: They're not paying me by the word.

CHAIRMAN STRAIN: Oh, that's good. They're harder negotiators than the local guys, huh? Okay.

Are there any questions of the applicant at this time? Go ahead, Phil.

COMMISSIONER BROUGHAM: Just one. With respect to the clubhouse -- I may have overlooked it -- where are you potentially planning to construct that? It's in an area designated as R, but there's Rs all throughout the

plan here.

MR. ANDERSON: I've got my pen at it.

COMMISSIONER BROUGHAM: So that's designated RA?

MR. ANDERSON: Yes, sir.

COMMISSIONER BROUGHAM: Okay. I thought I read that a clubhouse would be constructed in an area designated as R, but perhaps I'm mistaken, at least in the staff report.

CHAIRMAN STRAIN: Well, the way this is currently written, Phil, all the uses of RA can be in R. So, technically, you're right. You can put the clubhouse anywhere on this project, which is one of the issues we're going to be discussing --

COMMISSIONER BROUGHAM: Okay.

CHAIRMAN STRAIN: -- because the way it's written, they're not limited to RA by the way the language is. So the language has to be amended to reflect what they really intend to do.

COMMISSIONER BROUGHAM: And -- okay, thanks for designating that. And just from the perspective of development sequence, when do you anticipate the clubhouse would be constructed; early on, midway through, after so many residences are constructed?

MR. STIEGELE: Historically, in a development like this, the recreational facility will be a big selling benefit for us, so that would commence construction early on with the models and the finishing up with the entry features, the buffering, the berm. So I would tell you in the first 10 percent of the development we would have that -- we would have the recreation facility up and running.

CHAIRMAN STRAIN: You need to identify yourself for the record, please.

MR. STIEGELE: Oh, I'm sorry. Robert Stiegele, Centerline Homes, one of the principals.

COMMISSIONER BROUGHAM: Could you -- would you agree to stipulate that?

MR. STIEGELE: Sure. You know, this -- and I guess it's just stipulated to what and how many COs or at what point in time, just simply because it's going to be a pretty extensive recreational facility, so it's going to, you know, take a little bit of time in the process. But, yes, we would absolutely be willing to stipulate that.

CHAIRMAN STRAIN: Okay. Anybody else have any questions of the applicant?

COMMISSIONER BROUGHAM: One more.

CHAIRMAN STRAIN: As many as you want, sir. I've got plenty.

COMMISSIONER BROUGHAM: The areas designated around the property as RA, they total 4.59 acres in total; is that correct? And I'm just wondering, we now know where the clubhouse is pinpointed to be, and there's other RA areas spread around the perimeter here. What do you anticipate in those? Are those going to be playgrounds or passive parks, dog parks?

MR. STIEGELE: Yes. Most of them will be open passive areas. We're talking about putting some gazebos in certain areas, perhaps some dog parks in other areas. We're working through all the amenities now on the development.

But at this point in time I would probably tell you they'd be best as open space, open green space.

COMMISSIONER BROUGHAM: Okay.

COMMISSIONER SCHIFFER: Mark?

CHAIRMAN STRAIN: Anybody else? Brad?

COMMISSIONER SCHIFFER: We're going to walk through the PUD page by page?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER SCHIFFER: Okay. Thank you.

CHAIRMAN STRAIN: Anybody else have any questions of the applicant before we get into the pages of the PUD?

(No response.)

CHAIRMAN STRAIN: Okay. Well, let's start with the PUD. Let's go to the first three pages, which is Exhibit A. Anybody have any questions from the first three?

Bruce -- and I expressed this concern to you over the phone. Basically, your tracts RA are supposed to be the recreational tracts, but because you've incorporated all the RA uses as principal uses in the R tracts, the entire project is an RA tract, in essence, as far as uses go to the extent you would want to make it.

I'm not too concerned about the interiors, but if you were to move your clubhouse and things like that closer

to the exterior parcels, they would have more of an impact on the neighboring properties. And for that reason I need to suggest -- need to see if you can suggest some language that would limit the RA uses.

MR. ANDERSON: Yes. The proposed language would go -- we would put it at the end of number -- Section 1A5 where it says, "All principal uses permitted in Tract RA." We would add a new sentence that says, "No principal uses permitted in Tract RA shall be permitted in Tract R where it abuts adjoining offsite lands."

CHAIRMAN STRAIN: Okay. That'll work.

MR. ANDERSON: And we would also make that same change with regard to the accessory-use section to also limit any accessory uses for RA in the same fashion. So that would be 1B6.

CHAIRMAN STRAIN: Okay. That gets us there.

Anybody else in the first three pages?

(No response.)

CHAIRMAN STRAIN: If not, let's move to the -- let's go to the Exhibit B, which is three more pages, and it includes the development-standards table.

Bruce, we talked about the 23 feet being the standard in the code for the 20-foot setback from the front. You have any -- did you make that correction, or did you have any problem with that?

MR. ANDERSON: I'm going to ask Patrick Vanasse to come up and address that, please.

CHAIRMAN STRAIN: Okay.

MR. VANASSE: For the record, Patrick Vanasse.

The distinction that we want to make is that we are requesting 20 feet for the building setback; however, we do acknowledge that the separation from the front of the garage to the back of sidewalk has to be 23 feet. It's in the code. But we can suggest that -- some language to clarify that.

What we have is, under the notes section we could add No. 7, and it would read as follows: "For all residential units, garages must be located a minimum of 23 feet from the back of the sidewalk located in the street right-of-way closest to the garage except for side-loaded garages wherein a parking area 23 feet in depth must be provided perpendicular to the sidewalk to avoid vehicles being parked across a portion or all of the referenced sidewalk," and that's standard language that we've used in other PUDs and had approved.

CHAIRMAN STRAIN: That will work.

MR. VANASSE: Okay.

CHAIRMAN STRAIN: On your notes to your development-standards table, your side yards, no side yard shall be required between units when more than one residential unit is in a single structure. Can we make sure that the word "between units," we're referring to units within the same building?

MR. ANDERSON: Yes, sir.

CHAIRMAN STRAIN: Okay. Number 3, your 85-foot setback from Immokalee Road, in its current six-lane configuration, but your setback is measured from the back of curb, and I just kind of wanted to understand why you picked the back of curb on a public road when it has a right-of-way.

MR. VANASSE: Again, Patrick Vanasse for the record.

When this project was originally approved as Summit Lakes PUD, there was discussion at public hearing regarding two-story structures along Immokalee. And I think part of the concern was that maybe those two-story structures would be looming over Immokalee.

So the idea was to provide a setback, and the language that was recommended by the commission at that time was from the -- not from the right-of-way but the curb.

CHAIRMAN STRAIN: Okay. I'll have to -- when John comes up later, I'll have to understand how the distance between the back of curb and the right-of-way in regards to the width in Immokalee Road -- because you have a travel -- a bicycle lane or a multi-use lane in a grassed area from the back of curb before you even get to the right-of-way. So that doesn't tell me how close this building is then to the right-of-way. That's what I want to see.

MR. VANASSE: Well, at that time there were plans for six-laning of Immokalee, and the idea was that we had to be consistent with those plans. And the idea wasn't to provide back of curb at that time when there's only a four-lane section.

And what's been built since then is the six-lane section. So from what is there in the ground today, we would measure 85 feet from that back of curb. If we were to measure from the right-of-way -- the right-of-way is even larger than the current roadway -- it would really make it that we have to provide a much bigger setback, and it would

really encroach into our development.

CHAIRMAN STRAIN: No. I'm not saying that you have to measure from the right-of-way at 85 feet. I just want to know the relationship between where your houses would be now and the setbacks in your rear yards versus where the right-of-way is, because there's the right-of-way -- between the right-of-way and the back of curb, there is more activity area that could be used in the future and that is used now by the mere fact we have a pathway there of some kind.

So I need to -- and John can tell us that later, and I just want to understand how -- what that's going to be like.

MR. VANASSE: No problem.

CHAIRMAN STRAIN: And I can't tell it by "85 feet from back of curb." On your -- well, that's the next page. Anybody else got anything?

COMMISSIONER SCHIFFER: I do, Mark.

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: In some of this stuff, the rear and side setbacks, could we make that those are measured from the buffer line if a buffer exists? We -- for example, the rear's 15 feet. I would not want the rear of a property to be the buffer.

MR. ANDERSON: You're talking about the minimum rear yard?

COMMISSIONER SCHIFFER: The minimum rear yard. And it could be a side yard, too. The intent is the way this is written, the buffer could be the rear yard, and that would not give the people living in, let's say, a townhouse a rear yard. You don't want them putting their barbecue grill in the buffer.

MR. ANDERSON: My clients have indicated that that would be acceptable.

COMMISSIONER SCHIFFER: Okay. You note here single story for side yard and two story for side yard. Three story would be the same, correct, as the two? So maybe just note it as two and three.

We -- one thing when we do these charts, we don't have any maximum length of any of these units, the townhouse projects or the multifamily.

So is -- I don't think there's anything in the development standards, I can't think of anything in the code -- because you can break buildings up with fire walls -- that would make it so that the building -- and these weren't continuous. They were one giant snake going around the lakes and things.

Would it be okay to somehow put some sort of access at -- come up with something? Otherwise, don't you agree the building could be contiguous for the whole lot? There's nothing to break the building up.

CHAIRMAN STRAIN: That's a massing issue with the size of the building, Bruce. We've done this before in many other PUDs that have come through. In fact, any of them that -- where it wasn't clarified. The buildings can be so long before they -- I mean, you could run a block-long building in there. And I know you don't maybe intend to do that, but --

COMMISSIONER SCHIFFER: But you could do a total circle around the lakes and stuff like that. I mean, obviously, there has to be a utility easement someplace, but --

MR. VANASSE: We just talked with our client, and we'd be amenable to no more than 10 units attached without a break.

COMMISSIONER SCHIFFER: Okay. That's good. And that's for the townhouse and the multifamily?

MR. VANASSE: Yep.

CHAIRMAN STRAIN: Anything else, Brad?

COMMISSIONER SCHIFFER: Well, you know, I'm -- two noted the Immokalee Road thing. If we maybe did measure setbacks from the buffers, do we know how far the curb is to the property line now?

CHAIRMAN STRAIN: That's what John's hopefully going to tell us --

COMMISSIONER SCHIFFER: Okay. I'll wait.

CHAIRMAN STRAIN: -- when he comes up.

COMMISSIONER SCHIFFER: I'm done.

MR. VANASSE: Maybe to clarify something. Along Immokalee, any tract you're going to have there, you're still going to have a rear yard setback. This was an additional setback just for Immokalee Road. And maybe one of the reasons why it was measured from the back of curb and not the right-of-way is because the right-of-way along Immokalee is kind of jagged. It's not one smooth right-of-way. So it would have been difficult to measure directly from that right-of-way. Your setback would have actually been jagged also; whereas, if we do it from the back of

curb, it provides one consistent setback.

COMMISSIONER SCHIFFER: But a jagged setback breaks up the massing of the building, so it's a good thing.

MR. VANASSE: But this would be for -- it's just a separation from the roadway and where your building is going to be. You're still going to have a rear yard just like you have in your table here that we're going to have to abide by.

COMMISSIONER SCHIFFER: Right. But the building would be at that 85 feet the way you had it, face the wall of the building --

MR. VANASSE: At the very least.

COMMISSIONER SCHIFFER: -- and the yard would be front towards that.

Why would you want to measure from something on land you don't control? What if they move the curb?

MR. VANASSE: Well, it does say --

CHAIRMAN STRAIN: It's current --

COMMISSIONER SCHIFFER: The current curb?

MR. VANASSE: -- consistent with the six-lane configuration.

COMMISSIONER SCHIFFER: All right. We'll wait for John, then.

CHAIRMAN STRAIN: Can you show us on this plan -- look at that R tract up along Immokalee Road to the left of your entry lakes. On that R tract, see the dotted line? That's your -- that would be your slope and drainage utility easement for, I guess, the utilities along Immokalee Road.

From that dotted line back, assuming the 85 feet is left intact, where would your house fit on that plan; do you know? Now, if you have -- drawings showing how that 85 feet factors in?

Because I don't know what scale this is to, but I'm not sure those slope easements -- I'm not sure if that's a 10- or 15-foot easement. But at that scale from the back of curb, you might wipe out that R tract.

MR. VANASSE: We -- it would be very difficult to show at that scale.

CHAIRMAN STRAIN: Right.

MR. VANASSE: But we've already done some tentative site planning that hasn't been finalized, and we did factor in the 85 feet, and we did have enough space. What we could do is when we come back for consent, we could have an exhibit that actually shows what that strip would be for the 85 feet.

CHAIRMAN STRAIN: Would be helpful to understand it, yes. Okay.

Anybody else on Exhibit B?

(No response.)

CHAIRMAN STRAIN: If not, we'll move to Exhibit C, which is the master plan. Does anybody have any questions on the master plan?

Bruce, we spoke about a couple of them, I believe. The reference to Tract P in the southern part of the site says the preserve tract may be supplemented without additional planting -- with additional plantings to satisfy both landscape buffer requirements and native-preserve requirements of the LDC.

It shall be supplemented where needed to meet those requirements. Not "may," right?

MR. ANDERSON: That's fine.

CHAIRMAN STRAIN: All right. There is a reference -- at the northeastern side of the project there's a long strip. It's called a county dry detention area. It's off site from your project, and it says it may be excavated by developer. That's an agreement that we're not going to get into, and I don't think it's a zoning issue. So do you mind if we strike that?

I don't care if you work out a negotiated contract with the county to dig that lake, but I don't think it's something we ought to grant any kind of reference into a PUD that's not even part of it. Is that --

MR. ANDERSON: Well, again, it says "may," not "shall."

CHAIRMAN STRAIN: Well -- but you may buy fill from off site. You can do anything you want. I don't care. It's not part of your PUD, so I'm not sure why we would want language referencing somebody else's property in your PUD unless the county wants to give you an affidavit saying you're here to represent them today, which I'm sure they won't.

MR. ANDERSON: Okay. We'll strike it.

CHAIRMAN STRAIN: The entrance lakes. They're sitting on top of an existing drainage easement or

stormwater management pond for Immokalee Road. And I read the easement. It was an either/or condition. You had one drainage lake further to the west or this one. The county chose to build this one, which was their prerogative.

But how do you justify a site plan over the top of an existing easement for -- and it's got an actual drainage basin constructed on top of it? John or Paul or -- I mean, yeah -- Patrick, I'm sorry. Whoever wants to answer it.

MR. WRIGHT: Good afternoon. For the record, Chris Wright.

There are a couple of existing drainage easements along Immokalee Road that are in place now, and they provide for drainage for Immokalee Road.

We are going through the ERP permitting process, and as part of that process we've already provided for all the attenuation and storage within our system which will allow for the vacation of those easements. We anticipate doing that at the time of platting.

CHAIRMAN STRAIN: John Podczerwinsky, have you, your department, verified that the compensating storage that they're going to provide in lieu of that storm drainage easement that's already constructed as part of Immokalee Road is, in fact, equal to what you need?

MR. PODCZERWINSKY: This is for Immokalee Road, that's correct?

CHAIRMAN STRAIN: Yeah. Take a look at the plan in front of out, on the overhead. See that left L, that left -- that lake to the west of the entryway? You see the dotted square around it? That's where you currently have your storm drain already constructed -- your stormwater management system already constructed.

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: They're proposing to eliminate it, build it with houses and move it -- move its capacity to elsewhere. Have you got easements in place for its movement?

MR. PODCZERWINSKY: The easements are not in place yet, but this hasn't been platted yet. We expect those to be in place when this is platted.

CHAIRMAN STRAIN: Okay. So if we approve this today, Heidi, with that kind of configuration knowing it's on top of an existing easement that hasn't been replaced, are there any issues that we have regarding that?

MS. ASHTON-CICKO: Is the easement shown on this master plan? I'm not seeing it.

CHAIRMAN STRAIN: The one on the overhead, it's shown. I'd say -- the alpha (sic) survey showed it, that's how I picked it up. It shows it as a stormwater drainage easement. And the aerial already shows it constructed and functioning for Immokalee Road.

What's going to happen is it's going to, apparently, be reconfigured and then utilized as part of their front interior lakes. Who's paying for the reconfiguration?

MR. PODCZERWINSKY: My understanding is the developer is paying for that.

CHAIRMAN STRAIN: Your understanding, is that going to carry -- I'm sure that's all we need, right?

MR. PODCZERWINSKY: That's the way it's been posed to us.

CHAIRMAN STRAIN: I know, but there's nothing in writing; is that correct? You don't have a signed agreement between the developer to either vacate this or relocate it or to do all the work and costs it takes to move this stormwater drainage?

MR. PODCZERWINSKY: There is currently -- this is something that we've discussed. There's currently a vacation, an easement, right-of-way vacation that's been proposed to the county through the county's VAC process. We've worked on that; we've had some conditions on that, and we've definitely been in contact with the developer about this, about their intention, what our intention of allowing that vacation would be, and what compensation we would need in return for that.

The negotiations that we've had so far have been agreeable that we are aware that they're going to give us in return the stormwater treatment area and volume and capacity that we need. We are comfortable that we're going to get that back out of this.

CHAIRMAN STRAIN: They would relocate the catch base -- the outfalls as well as any RCP or anything else that's coming out from Immokalee Road?

MR. WRIGHT: It's all going to be integrated into the system for Bent Creek.

CHAIRMAN STRAIN: Okay. But we don't have any of that currently in writing; it's not been approved by the board?

MR. VANASSE: Patrick Vanasse.

Just to clarify something, the version of the master plan that you have is a little different than the one that's in

your packet. What we've done on this one is we've actually --

CHAIRMAN STRAIN: Well, the one that we have is the one in our packet, so what do you mean?

MR. VANASSE: The one on the overhead is a little different than what's in your packet. If you look at the one on the overhead, we've actually gone back and added those easements, those drainage easements on there. And the intent is to keep them on there and identify them as "to be modified."

So there would be assurance that as this would be approved those easements will stay there until they get modified. And the idea is that through the DCA we insert some language in there as to how these modifications are going to occur.

MS. ASHTON-CICKO: Yeah, I have concerns if they're going to depict that on the master plan, absolutely.

MR. VANASSE: But this is a carryover from the existing master plan.

CHAIRMAN STRAIN: But, see, you don't have any acknowledgment from the officials in the county, meaning the Board of County Commissioners, that they're going to allow you to modify it. That's negotiations that they have yet to have with you.

MR. VANASSE: (Nods head.)

CHAIRMAN STRAIN: So by us -- and by it going on a plan, it kind of takes the negotiation part out of it. It's going to be done, and that's apparently what you're claiming. I'm not sure that's to the best benefit of the County Commission to have that position, I guess, foretold by them before they hear it publicly through the process that they've got it here for.

Heidi, if it's not shown on the plan but yet it exists, what happens then if we recommend approval on a master plan that is inconsistent with the existing easements that are actually developed?

MS. ASHTON-CICKO: Well, the easements are county easements, correct?

CHAIRMAN STRAIN: Correct.

MS. ASHTON-CICKO: Okay. They'll have problems and conflict with the county, so you'll approve it from a zoning standpoint. But from a building standpoint, they won't -- they should not be able to go forward if it's properly reviewed by staff.

CHAIRMAN STRAIN: Okay. So if they were to take off the references to the drainage easements that they have on here, mostly the ones that they're going to relocate, that removes the problem of having any predetermined judgment on them before it goes to the board. But if we approve the master plan knowing those easements are there and they have to modify them, it's up to them to make sure it gets done before they need it, basically; is that right?

MS. ASHTON-CICKO: Yeah.

CHAIRMAN STRAIN: Okay. I don't want to undermine the board's ability to modify those in any manner that's best for the board to do it in. And that's what I'm concerned --

MS. ASHTON-CICKO: Yeah.

CHAIRMAN STRAIN: -- I don't want to do in a process here today. So if you're comfortable with that, then that's fine. I just wanted to make sure --

MS. ASHTON-CICKO: Yeah, because the easements deal with the land rights as opposed, you know -- development as opposed to the actual uses.

CHAIRMAN STRAIN: Okay. So the master plan that we would be voting on today would be the one that's in our packet, not the one that's on the overhead. Okay. And I think that get us there.

COMMISSIONER EBERT: Mark?

CHAIRMAN STRAIN: Yes.

COMMISSIONER EBERT: There is a better picture of it that where there's a full color picture under sign, sealed, boundary survey. You can really see that detention.

CHAIRMAN STRAIN: Yep.

Okay. The next section -- is there any other questions on the master plan by anybody?

(No response.)

CHAIRMAN STRAIN: The next exhibit is the legal description, Exhibit D, and I'm sure nobody's going to have anything on that. Let's go to Exhibit E, which is the list of requested deviations. We've already talked about some changes that are being suggested, and staff will have to comment on those when they come up for their presentation.

Does anybody else have any questions on it?

(No response.)

CHAIRMAN STRAIN: Exhibit F is a list of developer commitments. Does anybody have any questions on those?

COMMISSIONER EBERT: Um.

CHAIRMAN STRAIN: Were you the "um," Diane?

COMMISSIONER EBERT: I was the "um."

CHAIRMAN STRAIN: Okay.

COMMISSIONER EBERT: I'll wait till transportation.

CHAIRMAN STRAIN: Okay. I'll wait for staff, because my issue is something that needs to be removed. And that's the PUD. Does anybody have any questions of the applicant in any other parts of this particular document?

COMMISSIONER SCHIFFER: I do, Mark.

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: And, Bruce, maybe you can answer this. What is the sale -- what is the sales price of these units going to be? Do you have a range?

MR. STIEGELE: For the record, Robert Stiegele, Centerline Homes. You know, we're still working through the preliminary design of the product right now, but we think it would be very consistent with what we're seeing in the corridors. I'd tell you probably in the three to five hundred thousand dollar price range is where we would probably market the project.

COMMISSIONER SCHIFFER: Okay. All the product will be in that range?

MR. STIEGELE: I'm sorry?

COMMISSIONER SCHIFFER: All the product will be in that range?

MR. STIEGELE: Yes. I would tell you -- you know, by the time you -- you know, and I'm talking base house prices of the homes. Now, by the time you add in options, upgrades, lot premiums, lake premiums, the whole nine yards, it could even escalate from there.

COMMISSIONER SCHIFFER: Okay. All right, thank you.

MR. STIEGELE: Thanks.

COMMISSIONER VONIER: Mark, I have one.

CHAIRMAN STRAIN: Go ahead, Bill.

COMMISSIONER VONIER: I'm a little concerned about an 18-foot wall along Immokalee Road. Have you decided that it's going to be a wall or a berm/wall combination? I don't have any problem with the 18 feet, but I just wouldn't like to see it all wall.

MR. VANASSE: No. The intent is to have a wall/berm combination.

COMMISSIONER VONIER: Okay.

CHAIRMAN STRAIN: Well, if that's the intent, then we need to make sure it's stated as such in the deviation, so the deviation language will have to be modified to reflect the percentages of wall versus berm or heights, or however you want to word it.

I have a question, Bruce, and I mentioned it to you. On your existing PUD you had a couple of deviations that you did not attempt to use this time. One of them was the width of the internal roadways. So does that mean you're not going to change or modify the width of the internal roadways?

MR. ANDERSON: I asked the planner that question.

CHAIRMAN STRAIN: Which planner, your planner or --

MR. ANDERSON: Our planner, Mr. Vanasse, and he advises that those were taken out because they can now be granted administratively. Those are deviations that can be --

CHAIRMAN STRAIN: Oh, okay.

SPEAKER: -- approved administratively.

CHAIRMAN STRAIN: I knew we were working to that. I just don't remember getting it done. I'm glad it did. I'll have to double-check with Kay when she comes up; likewise, with the tangents in between reverse curbs. So if that's what staff's telling us -- because right now we're getting some staff administrative deviations processed for the current land code amendments. That means these would have had to have been done a while back. And I just must have lost memory on those, so -- okay.

COMMISSIONER EBERT: Or didn't see it.

CHAIRMAN STRAIN: Thank you. Anybody else got anything of the applicant?

(No response.)

CHAIRMAN STRAIN: Okay. Is there staff presentation?

MR. ANDERSON: Thank you.

MS. DESELEM: Good afternoon. For the record, my name is Kay Deselem, and I am a principal planner in the zoning section.

And you have the staff report. Here with me also today is Laurie Beard and John Podczewinsky and Chris D'Arco, and they can respond to questions in their particular realm. I believe that Laurie Beard wants to make a brief statement as well.

CHAIRMAN STRAIN: Yeah. Nick said to give her a hard time when she comes up, so we're prepared for that.

MS. DESELEM: As you may -- some of you may remember from the last hearing that we had with another PUD, we did remove some of the utility commitments that were made on that PUD, and to be consistent, staff is offering that we should also remove the Utility Commitments E through H on this PUD as well. And I've spoken with the utility staff members, and they are comfortable with that.

As I said, you have the staff report on file. I won't belabor it by going into all the details of it. We have provided findings of fact for the rezone and PUD in support of our recommendation.

After listening to the applicant's testimony, staff is in agreement with the changes that have been made up to this point, and we are recommending, as noted on Page 16, approval. And we have set forth some changes to the Deviations 1, 2 and then 3 that was addressed today where they were going to make a difference -- a change to Deviation 3 to only ask for 12 feet along Woodcrest, and then the change to Deviation 1, that it won't be per development order. It will be for a model home building permit.

And other than that, I don't have anything else. Like I said, John Podz is here to address transportation issues, and Chris is here for utilities, and Laurie has some other information for you.

CHAIRMAN STRAIN: Well, let me get some clarifications. You addressed that you accepted their new language for Deviation 1 and 3, but what about 2?

MS. DESELEM: Hang on. Let me get to that one.

CHAIRMAN STRAIN: Two, I believe, was that the sign was only going to be along Immokalee Road. I don't know why you wouldn't accept that, but I want to make sure you're in concurrence with it.

MS. DESELEM: Yes, that's acceptable.

CHAIRMAN STRAIN: Okay. And then the question I just asked about the approval of the narrower width on the internal roadway system and the reserve curve, the tangents, I'm -- they're telling me that was done -- that can be done administratively now?

MS. DESELEM: It's in LDC Section 6.06; I believe it's O. And in older PUDs you saw them listed as substitutions, but there is an allowance to have that done as part of the platting process. And at that time they're required to provide engineering information to show that what they're proposing is at least equivalent to, if not better than, what's required. And staff would rather see them done at that stage, because that's when the detail's provided to support it, but some petitioners wish to have that up front so they know that they have it when they go for financing and selling purposes.

CHAIRMAN STRAIN: Okay. So that wasn't a change to any particular code or anything?

MS. DESELEM: No.

CHAIRMAN STRAIN: That's just a different way of approaching it.

MS. DESELEM: It's been there for many years.

CHAIRMAN STRAIN: Okay. That's what I -- okay, good. Then I didn't miss anything. I thought I was getting old and forgetting.

MS. DESELEM: I was looking at an email sent by Jack, and he says it's through the PSP process that they get those approvals.

CHAIRMAN STRAIN: Okay.

COMMISSIONER AHERN: Is that normally granted?

MS. DESELEM: I couldn't answer that question --

COMMISSIONER AHERN: I'm just wondering why --

MS. DESELEM: -- because I don't review them.

COMMISSIONER AHERN: Why not go ahead and put it in if -- I mean, what you said makes sense that they know going in that they can plan on this whether -- rather than waiting and potentially being denied. I guess that's up to the petitioner.

MS. DESELEM: It's the petitioner's choice. Like I said, from my own personal point of view, I would rather see the engineering data to back up what they're asking for. But it has traditionally been the county policy to grant the deviations in most cases when they are requested as part of the zoning.

CHAIRMAN STRAIN: I can't think of a time we turned them down. That's why I was surprised -- okay. Well, that's fine.

Anybody else have any question of staff?

COMMISSIONER SCHIFFER: I do, Mark.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: Kay, did staff have any conversations about the elimination of affordable housing in the development?

MS. DESELEM: Not really, other than the fact that they did request it. And this is being commonly requested now. All of the petitions that I've seen come through that have had that particular thing where they've worked through an affordable housing bonus density agreement, they're asking to have that amended if they come in for amendments.

We did one for a couple more projects, and I think there's several more pending that have had preapplication meetings, and we anticipate they will be submitting their applications seeking to do the same thing.

COMMISSIONER SCHIFFER: Okay. Was there units given to them in the Summit Lakes from -- for affordable housing?

MS. DESELEM: Yes.

COMMISSIONER SCHIFFER: It was a bonus project.

MS. DESELEM: It is affordable housing bonus density agreement.

COMMISSIONER SCHIFFER: And they're eliminating that whole density bonus?

MS. DESELEM: Yes, sir.

COMMISSIONER SCHIFFER: All right. Thank you.

CHAIRMAN STRAIN: Anybody else? Phil?

COMMISSIONER BROUGHAM: Just -- Kay, for clarification, I'm all right with where I see access points on the master plan, but on -- in your staff report on Page 2 you say two points of ingress and egress will be provided to the property, one -- with one from Immokalee Road and one from Woodcrest Drive instead of the originally proposed two access points on Immokalee Road and Woodcrest Drive.

I'm okay with what I see. I just don't understand what your intent of that wording was.

MS. DESELEM: It was trying to explain what changes are proposed as part of this amendment. The original ordinance in '06 reflects two access points on Immokalee Road, and this one only reflects one. This one has one access on Immokalee, as you see from the arrows, and one on Woodcrest.

COMMISSIONER BROUGHAM: Right.

MS. DESELEM: The '06 ordinance showed two access points on Immokalee and one on Woodcrest.

COMMISSIONER BROUGHAM: I was confusing the two and the two. To me it was apples and apples.

Thanks.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Kay, the RV -- actually, it's not just RV, but the storage facility at Crystal Lakes, they have some on -- this project has some residential butted up to that with only a 10-foot buffer. Do you recall the width of the buffer or the buffer requirements for Crystal Lakes?

MS. DESELEM: I do not recall off the top of my head.

CHAIRMAN STRAIN: Okay. And Crystal Lakes was done through a provisional use, if I'm not mistaken; wasn't there -- or a conditional use? I remember it coming forward. I just don't remember what process -- because that -- based on the aerial, that may not be the prettiest of sites to be up against, and I would just hate to see this project go in and then Crystal Lakes start having trouble with something that they've already had existing for a long

period of time.

MS. DESELEM: I believe that is a PUD. If you look at the site plan, it reflects a PUD. I don't have the zoning map. Ray has it there. But I do believe it's a PUD.

CHAIRMAN STRAIN: Okay. Well, I know the Crystal Lakes is. I didn't know if they had gotten a separate use designation for that parcel, because it's a pretty intensive use they've got going on there. I don't know if the buffers are in place or if they're supposed to be.

But the aerial shows that it's pretty jam packed with facilities. And I -- you know, with these -- this project's only providing a 10-foot buffer in the rear yard up against that particular site. And I don't see -- doesn't seem to be much on that site with regards to buffering. They have paved areas, and it looks like buildings as well.

So, anyway, it's just a notation. I don't know if you looked at it and it had any consideration when you allocated the buffers for it.

MS. DESELEM: It really didn't jump out at me as a major concern.

CHAIRMAN STRAIN: Well, if I was living there, it would be jumping out at me. It's a pretty good -- pretty substantial area.

And I think that's all I've got. Yes.

MS. DESELEM: Okay.

CHAIRMAN STRAIN: Thank you.

MS. DESELEM: I don't know that John has anything to present, but I know Laurie does.

CHAIRMAN STRAIN: Okay. John, do you have anything you want to --

MR. PODCZERWINSKY: Good afternoon, Commissioners. I'm answering your question in regards to the measurements back of curb between back of curb and property line along Immokalee Road.

CHAIRMAN STRAIN: Okay.

MR. PODCZERWINSKY: And, Fred, can you zoom in for me a little bit -- please and thank you -- along Immokalee Road.

All right. Mr. Jarvi and myself, we took a look at this on the computer, and those are roughly the distances between the existing back of curb and the property lines in those areas. You'll also notice that that is quite variable, depending on where the property line sits and also depending on where the existing back of curb is.

CHAIRMAN STRAIN: You see that -- to the left of the page, do you see the haunch that goes south and first -- along the right-of-way where it's 20 feet, then it says 35 feet. So you're saying from the back of curb to the bottom side of that deepest point of that haunch that's there is 35 feet?

MR. PODCZERWINSKY: Approximately, yes.

CHAIRMAN STRAIN: Well, that leaves 50 feet then from the right-of-way to where the house could go. How deep are these lots? Does anybody know?

MR. PODCZERWINSKY: That I can't answer for you.

CHAIRMAN STRAIN: I mean, you've got a buffer up there, so you're going to be outside the buffer. But that -- even if your buffer's 25 feet, that means your minimum setback's going to be 25 feet more. You're going to -- how deep are these lots?

MR. VANASSE: Throughout the project we're looking at minimum lot depth of about 100 to 110 feet minimum. A lot of the lots will exceed that. Something to point out is that we have a 20-foot buffer along that boundary also.

CHAIRMAN STRAIN: Okay.

MR. VANASSE: And then we have a 15-foot setback. So just from a buffer and setback, you're creating a 35-foot separation.

CHAIRMAN STRAIN: Right. Plus 35 makes it 70. So you're still 15 feet more before you get to your building.

MR. VANASSE: And, again, we were not suggesting the 85-foot buffer for a separation. It was an issue that came up when Summit Lakes was approved; we were carrying that over. By all means, we would rather do away with that 85-foot requirement.

We believe that the space from the right-of-way to the beginning of our property plus the rear yard setback and the buffer provides ample separation. Also you have to consider that we're going to have a wall/berm combination there. So we really want to have a nice product where the residents don't feel like they're right up against

the roadway and hear the noise.

So by all means, if the commission would recommend removal of that condition, we'd be more than happy to abide by that.

CHAIRMAN STRAIN: I don't know about that so much as understanding it better. I mean, you've got 35 feet plus -- and that's where you'd be talking. So you'd be 75 feet from the back of curb now, and you'd be 35 feet from the back of the right-of-way in that particular location. That's something to consider.

I'm also thinking, price points aren't really an issue, but three hundred to five hundred thousand and a hundred-foot lot along Immokalee Road. I mean, wow.

MR. VANASSE: I said throughout the entire project, that would be minimum lot depth.

CHAIRMAN STRAIN: Right, but --

MR. VANASSE: Along those -- along Immokalee we'd probably go deeper than that.

CHAIRMAN STRAIN: But even -- wow, that's a lot -- you guys are pretty optimistic. I'm glad the market looks that good to you over here. That's steep for along Immokalee Road, but -- I don't know what to suggest on the Immokalee Road setback. Anybody got a feel for it?

COMMISSIONER SCHIFFER: I'd go with some dimension off the buffer.

CHAIRMAN STRAIN: That's what I was thinking, too. I don't like the idea of measuring off the back of curb. That just doesn't --

MR. VANASSE: From the property line?

COMMISSIONER SCHIFFER: Or property line. You know the little knots you're talking about? That would make a building look good. I mean, that's not a detriment.

MR. VANASSE: But the idea is, our setback is measured from property line. So we already have that in place. We're actually talking about --

COMMISSIONER SCHIFFER: Well, wait a minute. We discussed earlier the setback's going to be measured from the buffer. These will probably be rear setbacks.

CHAIRMAN STRAIN: I would hope they are.

MR. VANASSE: The buffers right now as we have them are on the outside of the property line. The rear lot line will begin after the buffer. So that's what I was saying. We have 20-foot buffer --

COMMISSIONER SCHIFFER: Okay. The unit, okay.

MR. VANASSE: -- and then we have 15-foot of setback.

CHAIRMAN STRAIN: When you come back for consent, could you -- you were going to give us a cross-section. Would you detail some of this out? It might help us come back with a recommendation for the setback and what you would think a setback from the right-of-way line along Immokalee Road. I think there's certainly some flexibility needed there. I hate to see you guys locked into a curb location. That just doesn't seem practical. So maybe there's a better way to do it. And I think that's --

MR. VANASSE: And I think we will find a better way, and maybe the 85 was excessive. We just wanted to carry that over. We'll come back with a good recommendation.

CHAIRMAN STRAIN: You might look for the recommendation differing on the height if you're doing single story to two story, too. I think that will -- I think the more flexibility you have along there the better, but at the same time, we can't crowd out Immokalee Road, so --

MR. VANASSE: Sounds good.

COMMISSIONER SCHIFFER: And a question, Mark.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: Sorry. Were you still --

CHAIRMAN STRAIN: Just the last thing, you might want to check on what Heritage Bay is doing on the north side.

MR. VANASSE: Perfect.

CHAIRMAN STRAIN: Because that would -- then you've got justification for it, and that would be a lot easier, then, to put it in a document.

COMMISSIONER SCHIFFER: And I think, you know, that setback could vary on the product, the -- single-family product --

MR. VANASSE: Single-family versus --

COMMISSIONER SCHIFFER: -- which is different than a three. You know, with that 18-foot wall, I mean, with a single-family hidden behind it, you wouldn't see it no matter how close, just the back. So I think you can vary that setback based on product.

MR. VANASSE: Okay. Thank you.

CHAIRMAN STRAIN: Thank you, Patrick.

Anybody else?

COMMISSIONER EBERT: Mark?

CHAIRMAN STRAIN: Yes, ma'am.

COMMISSIONER EBERT: I have a question. To be honest with you, I would really like to see this continued. This is a new developer. I would like him to really just scratch the other PUD and start fresh. It's just -- you know, you're trying to do --

CHAIRMAN STRAIN: That's what they did.

COMMISSIONER EBERT: Well, I know, but there's a lot of going back and forth, and I just would feel more comfortable if they really understood what's going on here, because there is so many different changes in this.

CHAIRMAN STRAIN: Well, Diane, let me -- I was going to suggest, especially since we were just handed DCA today and we were just handed the -- I just received some copies of the vacated easements to see how they match up to the easement locations --

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: -- I was going to suggest that we continue today to do a vote at the next meeting but combine the consent and the final vote in the same meeting; that way your timetable hasn't changed any, and we can get these refinements and feel better about them by the time you come back. And I think that's important, especially with the cross-sections of Immokalee Road because, actually, that's all -- some of that's to your benefit.

COMMISSIONER EBERT: Yeah.

CHAIRMAN STRAIN: So it would be better for you guys to come back with some of this detail and make sure we've got it locked in right.

MR. ANDERSON: Okay.

CHAIRMAN STRAIN: Okay. But before we do that, we've got to finish all the other parts of this hearing first. Did you have more? Go right ahead.

COMMISSIONER EBERT: No, that was part of it, but the other question -- I have a couple questions. One for Mr. Podczewinsky on Transportation Element.

MR. PODCZERWINSKY: Yes, ma'am.

COMMISSIONER EBERT: Good afternoon.

MR. PODCZERWINSKY: Good afternoon.

COMMISSIONER EBERT: It was interesting reading this the way it was put in there about -- that you reviewed everything, and it says, although the per-unit trip generation rate will increase as a function of the changing unit type, the reduction in the total number of units will offset any increases to be experienced; therefore, staff concludes that the adjacent roadway network has sufficient capacity to accommodate this project within the five-year planning period. As such, the subject application can be found consistent.

What if this wasn't? What would you do? Immokalee Road is already in six lanes.

MR. PODCZERWINSKY: That's correct, yeah.

COMMISSIONER EBERT: And it can't go any --

MR. PODCZERWINSKY: Right. It's something we didn't -- we haven't quantified that because, simply put, there's plenty of capacity available on Immokalee Road as part of our concurrency system. We continually monitor that, and we're always looking ahead into the future to make sure that we retain capacity there.

Alternatives to this are to provide alternative corridors, like Woodcrest, Tree Farm, Massey roads. That's why these developers are asked to contribute towards those sort of items to help relieve the primary networks from all of those trips. It gives alternative routes to travel on.

COMMISSIONER EBERT: Okay. The other thing is I notice they're talking about a traffic signal on Woodcrest. So you already are planning for this?

MR. PODCZERWINSKY: At this point, no, we're not planning for it. But should warrants be met in the future, there will be a proportionate-share requirement placed upon the developer, and they've agreed to that in there

contribution.

COMMISSIONER EBERT: Yeah, I don't have any problem. But -- all right. Thank you.

MR. PODCZERWINSKY: Yep.

COMMISSIONER EBERT: Utilities.

CHAIRMAN STRAIN: Hey, John. You don't need to run away too much. Unless Laurie can answer your questions for you. Maybe I'll try that on her.

COMMISSIONER EBERT: Public utilities. Do you have the correct piping to this community already?

MR. CROMER: For the record, Aaron Cromer, public utilities. We do not have the current infrastructure in place to serve this utility -- or this PUD; however, we are negotiating with the developer to have those utilities provided through the DCA.

COMMISSIONER EBERT: You will -- where will they hook up?

MR. CROMER: In the DCA where we've actually talked about this with the developer, there is a temporary means of connection to the north side, which is a temporary option, which public utilities does not really want to do, but we understand the timing constraint of the developer.

So public utilities is also going to the south, looking to the south, going down Tree Farm Road to Massey to do a south connection to the existing PUDs to the south for a permanent fix.

COMMISSIONER EBERT: Which is Habitat?

MR. CROMER: Which is south of Habitat. It goes down to -- I can't remember the exact PUD. I can't remember the exact PUD name. I could point to it on a map, have no problem, but we're trying to develop that route as the primary route for development for the connection to the Summit Lakes/Bent Creek as well as Calusa Pines in the future when those do come online.

So, currently, there's an option to go north, which is in the DCA, which is drawn as temporary. But the primary option for public utilities is to go south. And there are some timing constraints that we're working with the developer on to make sure we meet.

COMMISSIONER EBERT: Okay.

MR. CROMER: Does that make sense?

COMMISSIONER EBERT: And Calusa is just to the east?

MR. CROMER: Yes, ma'am.

COMMISSIONER EBERT: So when that develops, they also need it?

MR. CROMER: Yes. When that develops, they will have an agreement, I believe, with the developer here to ensure that they pay their proportionate fair-share agreement outside of the public utility agreement.

COMMISSIONER EBERT: Okay. Thank you.

CHAIRMAN STRAIN: Okay. Anybody else have any questions? Go ahead, Tom.

MR. EASTMAN: Is the existing cell tower included within the property boundary of the PUD?

MR. ANDERSON: Yes.

MR. EASTMAN: And that cell tower is very close to the road. I assume there must be a variance for the setback, or is that something you guys know offhand or --

MR. ANDERSON: We don't know. It's not our cell tower. It's just located within the boundaries.

MR. EASTMAN: Okay. And then at some point everything within the boundary would be turned over to the HOA unless it's public, correct?

MR. ANDERSON: Yep. I'm not sure if the cell tower would be, no. Cell tower wouldn't be subject to the HOA.

MR. EASTMAN: So the cell tower would be carved out and retained with -- the developer would own the cell tower?

MR. ANDERSON: Yep.

MR. EASTMAN: Thank you.

CHAIRMAN STRAIN: Anybody else have any questions? John?

MR. PODCZERWINSKY: I'm getting used to this today.

CHAIRMAN STRAIN: You're going to wear the carpet out. Hey, on the original PUD, there were three pages of traffic conditions. On this one there's only four paragraphs. Why?

MR. PODCZERWINSKY: Yes, sir. Mostly because of the redundancy with the LDC. The original PUD

was written at a time when all of those conditions were used as, quote-unquote, boilerplate conditions. Most of those have been moved or refined into the LDC and are universally applicable now.

CHAIRMAN STRAIN: Are any of them being relied upon through the DCA?

MR. PODCZERWINSKY: I believe that there are two conditions that were moved to the DCA. One of them had sub-conditions, subparagraphs.

CHAIRMAN STRAIN: Okay, thank you.

Heidi, we've heard from the utility department and from transportation that they're relying on the DCA for some elements that would normally be, I guess, called out for in this PUD process.

Is that then something we need to rely upon by this board as part of the PUD in order to assure that the commitments that are needed for the PUD to function -- which one of them includes utility availability -- is there, meaning does the DCA then have to be signed before the PUD is approved?

MS. ASHTON-CICKO: Well, these should be going to the Board of County Commissioners together, the DCA and the PUD. So if there are -- if you're relying on that testimony regarding utilities and transportation, you could make your -- if you do a condition of approval, it could be conditioned upon the execution of the DCA.

CHAIRMAN STRAIN: Okay, thank you.

Okay. Anybody else have any questions of anyone at this point?

(No response.)

CHAIRMAN STRAIN: Are there any speakers from the public, Ray, registered?

MR. BELLOWS: No one has registered.

CHAIRMAN STRAIN: Does anybody from the public wish to speak on this item?

(No response.)

CHAIRMAN STRAIN: Okay. Well, we're not going to close the public hearing. We're simply going to -- at the applicant's request, or at our request -- I guess it is ours, not his as much. We're going to request a continuance to do a final hearing on this with the reflected changes that we've asked about as well as a consent on the same date when it comes back in -- what would it be, June 7th then. Ray, is that going to work, or it's not --

MR. BELLOWS: We have three items on June 7th. It looks like that would be fine.

CHAIRMAN STRAIN: Okay. Kay, is that going to work for you, since you're the one that's got to review the --

MS. DESELEM: I was going to say, that gives us till next Wednesday to get all the changes made and copies made for you. Hopefully that will work out. I'll just have to rely on the applicant to do a turnaround very quickly to respond.

CHAIRMAN STRAIN: Well, let's get a commitment from the applicant, then. What day can you get Kay the corrections she needs?

MR. VANASSE: We will be working on that tomorrow, so --

CHAIRMAN STRAIN: Okay.

MR. VANASSE: I'm assuming -- either tomorrow or Monday at the latest.

CHAIRMAN STRAIN: Okay. So if you don't get your corrections to Kay by Monday and if she can't get to us in time because of your delay --

MR. VANASSE: No.

CHAIRMAN STRAIN: -- we just want to make sure --

MR. VANASSE: No problem.

CHAIRMAN STRAIN: -- who Bruce gets upset with.

MR. VANASSE: That's it.

CHAIRMAN STRAIN: Okay. And, Bruce, do you have any problem with this continuance under those criteria, under those conditions?

MR. ANDERSON: No, sir.

CHAIRMAN STRAIN: Is there -- Phil?

COMMISSIONER BROUGHAM: Do we need to summarize some additional commitments to be sure that they're included --

CHAIRMAN STRAIN: Well, I think --

COMMISSIONER BROUGHAM: -- in the modification?

CHAIRMAN STRAIN: -- they've probably made pretty accurate notes during our discussion today.

COMMISSIONER BROUGHAM: That's fine, if you think you got everything.

MR. ANDERSON: Yeah. On your question about the clubhouse.

COMMISSIONER BROUGHAM: That's one.

MR. ANDERSON: Yes.

COMMISSIONER BROUGHAM: Okay.

MR. ANDERSON: We would have it read to the effect that construction of the clubhouse will commence prior to the certificate of occupancy for the 45th home, which would be the 10 percent number.

CHAIRMAN STRAIN: And, Bruce, we will be reading the DCA -- it was distributed to us during our lunch break -- prior to the meeting, so we may have some additional questions from that. So -- and hopefully your new language is complete enough we don't have too much more to do with it. So -- okay.

MR. ANDERSON: And if anybody does have questions on the DCA, please feel free to call or email me about them.

CHAIRMAN STRAIN: Oh -- and before we vote on the continuance, did you have any time problems we need to worry about for you? We want to make sure we're convenient for your schedule.

And by the way, this one will be the first one up on the 7th unless Bruce has another conflict.

MR. ANDERSON: That was going to be my request.

CHAIRMAN STRAIN: Yeah, okay. Well, that will be fine.

Is there a motion for that continuance?

COMMISSIONER AHERN: So moved.

COMMISSIONER SCHIFFER: I move -- okay.

CHAIRMAN STRAIN: Well, Brad had raised his hand first, so it will be Brad made the motion, seconded by Melissa.

Discussion?

(No response.)

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

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Any -- okay, 9-0. Yes.

COMMISSIONER EBERT: I didn't get the stuff.

CHAIRMAN STRAIN: What stuff?

COMMISSIONER EBERT: The DCA agreement.

CHAIRMAN STRAIN: Oh, I set it on your desk. It was there. I put one on everybody's --

COMMISSIONER BROUGHAM: Barry probably stole it.

CHAIRMAN STRAIN: Well, we'll get you one.

Okay. Thank you very much. We'll see you guys next meeting for the continuance.

And with that, we'll move back to our LDC hearing which we had -- wait a minute. Laurie, did you have something you wanted to say?

MS. BEARD: No, sir.

CHAIRMAN STRAIN: Come on, Laurie. I forgot all about you.

MS. BEARD: No.

CHAIRMAN STRAIN: Oh, she didn't have anything?

MS. BEARD: If you want to discuss the DCA, I can.

CHAIRMAN STRAIN: What is it you're going to discuss? You're going to have to come up here and tell

us, Laurie, unfortunately.

MS. BEARD: For the record, Laurie Beard, transportation planning. I have a quick overview of the DCA, if you'd like.

COMMISSIONER AHERN: No.

CHAIRMAN STRAIN: We're probably going to be able to read it. I think the next time -- it would be more important to be here next time for that, and then we would have very specific and hard questions for you to address at the next meeting.

MS. BEARD: Thank you.

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

Okay. With that, we will resume the LDC hearing that we had broken off on to come back to this.

Okay. Caroline, thanks for your -- thanks for allowing the interruption.

MS. CILEK: Of course. For Bruce, right?

CHAIRMAN STRAIN: Yeah, it's for Bruce.

MS. CILEK: One last time.

CHAIRMAN STRAIN: Bruce is going to have a terrible reputation for having delayed things, isn't he?

MS. CILEK: But he makes us laugh.

CHAIRMAN STRAIN: Yeah. We all would have got home early had it not been -- but anyway. That's fine. We left off on No. 10 was the next one up on the LDC amendments.

MS. CILEK: Yes.

CHAIRMAN STRAIN: I've got to ask that if you guys are going to converse, please do it out in the hall so we continue our meeting. RWA, you guys -- thank you. Thanks, Bruce.

The next item up was Amendment 6.02.01 and 6.02.03 about transportation levels of service.

MS. CILEK: All right. This is a new amendment, first time to review it. And I can walk through the various amendments. They start on Page 3.

And the first one is really getting to the point of clarifying what the transportation concurrency management system is reviewing for, outlining specifically the final local development's orders, which include those that are underlined. It's not really changing the intent. It's just listing out exactly what is applicable.

CHAIRMAN STRAIN: Okay. Does anybody have any questions?

COMMISSIONER EBERT: Mainly construction materials, it looks like?

MS. CILEK: Oh, that's actually the second one.

CHAIRMAN STRAIN: What are you -- we're on?

MS. CILEK: Yeah, she's on the next transportation one. We're on the --

CHAIRMAN STRAIN: 6.02.01 starts with the word "generally." I think that's the one we're on, right?

MS. CILEK: No, I'm on the wrong one. There we go.

CHAIRMAN STRAIN: 6.02.01 and 6.02.03.

MS. CILEK: Yeah, okay. And then, as you can see, there's -- the biggest amendment that's proposed in this amendment is 6.02.03, which is changing the time frames for the capital improvements schedule, and that would be a pretty big change.

If you have any questions on that, we have transportation planning here to speak to that.

CHAIRMAN STRAIN: You said that would be a pretty big change, and can you explain to us how significant the change is.

MS. CILEK: And I'm going to leave that to the experts. But out of this amendment, that is really the one that would be changing the most.

Reed?

CHAIRMAN STRAIN: Well, I think he's reading something -- oh, hi, Reed. I think he just understood he was being talked about up here.

MR. JARVI: I was listening.

CHAIRMAN STRAIN: Oh, okay.

MR. JARVI: Sir, Reed Jarvi, transportation planning manager.

CHAIRMAN STRAIN: Okay. The statement was made that this is a significant change. Could you tell us why it's a significant change.

MR. JARVI: Yeah. Currently the system allows people -- developers to use the first two years of the Transportation Improvement Program or Capital Improvement Program at -- for purposes of concurrency. That was done probably five or six years ago when the roads -- there were being constant delays because everything was going crazy construction-wise, and there was comments to the effect that we can't depend on when the roads are actually going to be done. So let's wait -- let's make it the first two years rather than the first three years of the Capital Improvement Program.

The DOT historically and traditionally used the first three years in their workings. Collier County has changed it to two years, as I mentioned, and that's been what's been used for, like I said, five or six years, something like that, as the basis for improvements to the concurrency system.

The difference would be, really, that if a road is proposed to be built three years from now, you could not use that expanded capacity for concurrency purposes in today's -- the way it is today. If it was proposed to be built three years from now as a discussion item as it was, then you could use it for concurrency purposes.

Probably from the developer's standpoint, it's -- if I'm using it -- something three years from now, by the time my impacts are really hitting the road -- because it does take some time to build anything they're talking about -- the road will be updated. The county's perspective is, well, what happens with the challenging budgets we have that we have to use the three years to four years, and now you've depended on it -- or it's been depended on for concurrency calculations, and we have to move it out in the program or keep it at three years and, you know, it just doesn't get built, doesn't move forward because of budget issues. So that's the county's concerns.

Nick has talked to us briefly about it, and his discussion was -- or his direction was to bring it up for discussion.

CHAIRMAN STRAIN: So what you'd be doing is if you had a reliance by a developer that you would have the road within three years instead of -- right now it's two --

MR. JARVI: Correct.

CHAIRMAN STRAIN: -- is that correct? So if it was going to go in within two years, the developer would be allowed to go forward, right?

MR. JARVI: Yes, sir, if there was a concurrency problem.

CHAIRMAN STRAIN: Okay. If it was within -- by saying three years, he could still go forward -- how's that -- now, that's worse for us because we'd be -- how is that worse for the -- I'm worried more about what it means from a taxpayers' perspective. How much obligation does it put on the backs of the taxpayers to upgrade this one more year, actually 150 percent of the current process that we have?

MR. JARVI: Yeah. What the -- generally, it wouldn't be a problem, not now, because we're not having the problems at the county that we were several years ago for getting roads built. Before we were having problems with subcontractors. You might remember Vanderbilt Beach Road was, you know, delayed for a couple years because they couldn't get subcontractors to work there. If somebody had depended on that, you would have had the development traffic on the road and, yet, it hadn't been expanded.

So from a taxpayers' standpoint, it probably doesn't make a lot of difference, but -- from spending money perspective, but it does make a difference by -- if it's a two-lane road now and you really need four lanes of capacity, you might put on that -- the development traffic on it before it actually is expanded.

CHAIRMAN STRAIN: Okay. Well, then --

MR. JARVI: So it's --

CHAIRMAN STRAIN: -- why would we want to do that? I mean, who's going to be -- to whose advantage is this?

MR. JARVI: It would be an advantage to the development community, because it would be more consistent with what the state does, or it would be consistent with what the state does.

CHAIRMAN STRAIN: Well, Collier County has always gone with two years.

MR. JARVI: Not always.

CHAIRMAN STRAIN: Okay. Well, what was it?

MR. JARVI: It's relatively -- it's five years ago, six years ago. It's '12 -- '7, probably 2006, 2005. I don't know when it was exactly.

When we first started concurrency around 2000, it was three years.

CHAIRMAN STRAIN: Then we cut it back to two.

MR. JARVI: We cut it back to two.

CHAIRMAN STRAIN: Now we're suggesting going back to three.

MR. JARVI: It's suggested as a discussion item.

CHAIRMAN STRAIN: How do the rate of impact fees influence the reaction to this; anything at all?

MR. JARVI: No, not at all.

CHAIRMAN STRAIN: Okay. Anybody?

COMMISSIONER EBERT: Don't impact fees change?

CHAIRMAN STRAIN: Well, they do, but they don't have any -- he's saying there's no impact on this scenario from impact fees.

MR. JARVI: No. The impact would be, there is a potential that you could have a more congested road because you could put development traffic on it sooner or earlier before it was built, and it may be a year, two years before that road is actually expanded.

CHAIRMAN STRAIN: Okay. If we left it at two but a development came in and we weren't going to have the road improved for three, they would have to wait for a year before they could go forward?

MR. JARVI: Or some other mitigation, yes. I mean, there might be some other ways to do it, but basically the answer would be yes.

CHAIRMAN STRAIN: Okay. So this -- leaving it at two is a more conservative approach for the road system?

MR. JARVI: Two would be more conservative. Now, remember, this is for concurrency, what you see as consistency, so it's a little different, but basically the same idea.

CHAIRMAN STRAIN: Right. Where is the system broken then? I don't understand why we would want to change this.

MR. JARVI: I think -- well, this was part of the developer --

MS. CILEK: Yes, these are staff-sponsored --

MR. JARVI: Or excuse me, not -- the CBIA.

MS. CILEK: -- amendments, but some of these did come from the development community. And so this is one that we would just like to bring for discussion purposes, and that's why I wanted Reed up here, because he's very knowledgeable about this, more so than I am to speak on this amendment and this part of it. So this is a discussion.

CHAIRMAN STRAIN: Well, I'm -- you know, personally I'm in favor of things that are practical, but I don't see the practicality in this. We don't have a system that's broken. This actually makes the roads more palatable when they are used. Why would we -- I don't see the reason why we would change it.

I mean, now in this economy, if a developer has to wait till the roads are better, he's probably going to be better off because he waited because he'll get a better price. It's like the guys in front of us right now who are here telling us they're going to get three to five hundred thousand. My God, if that's -- if they can pull those numbers off right now in Collier County, that's great. But, you know, if they had to wait for a year to get them, they'd be smarter doing it.

MS. CILEK: Nick wanted to just bring this forward as a discussion item, because it was seen as an issue for the development community, but you're making very good points. So just keep that in mind.

CHAIRMAN STRAIN: Anybody else have any comments?

COMMISSIONER HOMIAK: I'd be in favor of leaving it.

CHAIRMAN STRAIN: Melissa and then Karen.

COMMISSIONER AHERN: Reed, not to put you on the spot, but I know you worked with CBIA, too. So do you have a different take? Now being on the county side, do you see anything different than on the development side?

MR. JARVI: I mean, I see the -- I don't think this is probably as big a deal now as it was a few years ago because things were moving much faster and construction was delayed. I think at this present time it's probably not a problem either way. I mean, most of the roads that we're going to develop have been developed or, excuse me, expanded, with exception of some in the -- out towards the eastern Estates area. The interior roads, it's probably not that big an issue.

The thing on the -- from a developer community standpoint, at least my perspective of it, was this would be more consistent with other jurisdictions than with the state. There's nothing that says we have to be consistent. I

mean, we can be more restrictive. We can't be less restrictive. So there's nothing saying we have to change this by any means. It's just -- it was just brought up as a discussion item.

I think from a positive standpoint, it would -- it could possibly lend to economic development where there wasn't some. But like I said, in general, our roads are built out to six lanes with some exceptions of Collier Boulevard in the urban area, and we're not going to be expanding them anyway.

COMMISSIONER AHERN: Wasn't part of the issue or conversation -- and we're going back a little ways -- but having Collier County be more consistent with other areas is more attractive to bring people? Because the perception is, don't build in Collier County; it's a nightmare. And, you know, we had discussions with people that -- or developers that would not build in Collier County because of their experience. So do you think that has an impact in helping?

MR. JARVI: I mean, I can't answer directly to your conversations because I have not been in any that said one way or another. But I could see that perception that would be a possibility, because the rules would be different here than in, for instance, Lee County --

COMMISSIONER AHERN: Right.

MR. JARVI: -- right across the border. Not necessarily wrong, but I'm just saying they're different.

CHAIRMAN STRAIN: I would hope we never get as bad as Lee County, if that's the example you're using.

MR. JARVI: Well, I just used them because they're the next county.

CHAIRMAN STRAIN: Holy cow.

Karen, you had something you wanted to add?

COMMISSIONER CARON: I don't see the need to change it from -- to the three. I thought the whole point of a lot of what was here was to be more restrictive.

CHAIRMAN STRAIN: Anybody else?

COMMISSIONER HOMIAK: I don't see a need to change it.

CHAIRMAN STRAIN: Okay. Well, the consensus from at least -- we can take a poll of the board. I think leaving it as it is is fine. If we see a crisis down the road --

MS. CILEK: And I'll relate that.

CHAIRMAN STRAIN: -- we can do anything. Does anybody else want to chime in differently, go right ahead.

COMMISSIONER VONIER: I think leaving it -- if it doesn't seem to be broken, let's not try to fix it.

CHAIRMAN STRAIN: Well, I think Reed's comment was more appropriate that whether we leave it or don't, it's really probably not going to have much of an impact.

MR. JARVI: I mean, there could be an isolated development here and there that could take advantage of this. But I mean, there's nothing that I know of on the boards right now that this would make a difference to.

CHAIRMAN STRAIN: And we've provided, through our review of the LDC amendments -- and there's been many of them as we've gone -- and we've got more to go -- quite a few advantages or incentives now to help the economic situation. So I think if we don't go too far overboard and just -- and provide the ones we can without any kind of possible consequence that could be negative, we're being conservative, and that's the way maybe we should approach it right now. So I'm all in favor of not seeing this go forward, so --

MS. ASHTON-CICKO: Would you like to make a recommendation of denial then and --

MS. CILEK: If we could maybe do -- there's two others amendments following that, and those are staff supported. They're outdated sections of the codes. Maybe we could do a recommendation to remove just that one amendment but keep the whole LDC, the --

CHAIRMAN STRAIN: The one amendment. Which one -- give me the number you're referring to, the one that you --

MS. CILEK: The next ones --

CHAIRMAN STRAIN: We're only on --

MR. JARVI: 6.02.03E.

MS. CILEK: Well, yeah, the next two on the page. Just to strike that.

CHAIRMAN STRAIN: Okay. So basically the recommendation would be not to accept the change to three years and leave it at two?

MS. CILEK: Yes. And to just strike the amendments, proposed amendment to 6.02.03D4.

CHAIRMAN STRAIN: Right. That changes it to three years, and we're saying we're not going to -- we don't

--

MS. CILEK: Yeah. We're not even going to go there.

CHAIRMAN STRAIN: Is there a motion from someone?

COMMISSIONER SCHIFFER: I just have one question of Reed, because -- Reed, what this means is if I'm going to do a development and the road isn't in the improved or is in trouble, isn't in the improvement plan for two years, is what we're keeping, the alternate here is it could be in the third year of that plan.

MR. JARVI: Correct.

COMMISSIONER SCHIFFER: I mean, it may not be, but -- so that's just letting me out of the gate sooner because it could be in the third year?

MR. JARVI: Yes.

COMMISSIONER SCHIFFER: So I don't see how two years is stimulating the economy. I see how three years is.

MR. JARVI: Well, at the time there was discussions of having actually zero years to -- and I don't know if I'd call it a compromise, but the decision was to be at two years versus three.

COMMISSIONER SCHIFFER: Right.

MR. JARVI: I mean, we have a five-year work program, and so every year we have a different phase, different projects going on, and so this -- the way it was before was that anything that was in the third year of the work program we could count as being on the system.

COMMISSIONER SCHIFFER: Right.

MR. JARVI: Now it's only the first two years on the system.

COMMISSIONER SCHIFFER: And the only thing I think that's important is the length of time to build the project. I mean, you can't even get a project in two years, but that's a joke.

But the -- so I think three years is the one that's the stimulus for buildings, because that means there may be projects that today cannot go and maybe would have to wait a year. So why would the three years be a problem?

CHAIRMAN STRAIN: Well, what Reed said is if the project were to get approved now and they had a three-year window before the road was installed but they got their construction up and ready in one year, they could go on the road system, and we'd have two years of a jammed-up road, which is what I think is a bigger concern than making them wait a year until they are within the two-year window, which is why we went to two years in the first place, so --

COMMISSIONER SCHIFFER: Right. Maybe the concern I don't have, if they got the project done in one year, they'd be so busy going to awards banquets that they wouldn't have time to tardy up our roads.

CHAIRMAN STRAIN: The buyers wouldn't be at the awards banquets. The buyers would be putting their kids on the road and themselves and everything else, so --

COMMISSIONER SCHIFFER: Anyway, just to keep the controversy, I'm a three-year fan.

COMMISSIONER EBERT: No.

CHAIRMAN STRAIN: Okay. Well, do we have a motion of any kind?

COMMISSIONER SCHIFFER: I move we accept the three years.

COMMISSIONER EBERT: No.

COMMISSIONER AHERN: I second it.

CHAIRMAN STRAIN: Is there a second? Motion made by Brad, seconded by Melissa. Is there any discussion?

COMMISSIONER EBERT: No, I will just --

CHAIRMAN STRAIN: Well, I won't support the motion either. But, anyway, anybody else?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: (Raises hand.)

CHAIRMAN STRAIN: Raise your hands. I guess just the two of you.

COMMISSIONER SCHIFFER: Just the two of us.

CHAIRMAN STRAIN: All those against the motion, same sign.

COMMISSIONER VONIER: Aye.

COMMISSIONER MIDNEY: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: (Raises hand.)

COMMISSIONER BROUGHAM: (Raises hand.)

CHAIRMAN STRAIN: Okay. Motion failed for support of 6-2 (sic).

Is there another motion in the affirmative to support the two year over the three year?

COMMISSIONER VONIER: So moved.

MR. EASTMAN: I'll make that motion.

COMMISSIONER EBERT: And I'll second.

CHAIRMAN STRAIN: Okay. Karen made it, Bill seconded it.

All those in favor, signify by saying aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: The motion carries 8-1.

So that takes care of the two- and three-year issue. Now let's move onto the next issue you have.

MS. CILEK: And that is on Page 4, 6.02.03, E and G, and staff proposes striking this language because it is outdated and not utilized. We have new language.

CHAIRMAN STRAIN: Yep, and I don't -- that I didn't see a problem with.

MS. CILEK: Or -- well, new process.

CHAIRMAN STRAIN: Anybody else have any questions or issues on those, 6.02.03E and 6.02.03G?

COMMISSIONER AHERN: Motion to approve.

CHAIRMAN STRAIN: Motion to approve by Melissa. Is there a second?

COMMISSIONER SCHIFFER: I'll second it.

CHAIRMAN STRAIN: By Brad.

Discussion?

(No response.)

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

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: The motion carries 9-0.

MS. CILEK: Yeah.

COMMISSIONER EBERT: One down.

MS. CILEK: All right. The next one is 6.06.01. It should be the next tab in your binder. Street system requirements.

CHAIRMAN STRAIN: This is the cleanup of the last time it came to us, right?

MS. CILEK: Yeah, just a couple tweaks on it. This is the first time that you are seeing this, and the tweaks come from Heidi.

So we are proposing to strike 6.06.01K altogether, and the reason is is that we don't utilize this provision, and it would be at the developer's discretion to do so inside their own development.

And Reed can add, elaborate if he would like.

COMMISSIONER MIDNEY: I have a question about that.

CHAIRMAN STRAIN: Go ahead, Paul.

COMMISSIONER MIDNEY: How did this come up?

MS. CILEK: This amendment was also originally proposed by the development community. We worked with them, and we came to a compromise on those that we wanted to bring forward. And they had originally asked to revise this language, but when staff took a look at it, we actually suggested just removing it in whole because it's not really applicable to what we review for.

COMMISSIONER MIDNEY: So if I'm understanding correctly, you want to put in less materials into their sidewalks; is that what it's saying?

MS. CILEK: Oh, we're above. We're above that under 6.06.01K, which is at the top of the page walking through the different amendments.

COMMISSIONER MIDNEY: Sorry.

COMMISSIONER SCHIFFER: We're walking one set at a time.

COMMISSIONER MIDNEY: Oh, we haven't got there yet. Okay, go ahead. All right.

MS. CILEK: Are there any questions on K?

CHAIRMAN STRAIN: No, anybody?

(No response.)

CHAIRMAN STRAIN: Okay.

MS. CILEK: Okay. The next one we are just making S more clear in what the developer will do during a proportionate-share agreement.

COMMISSIONER SCHIFFER: Question on this.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: As -- so, essentially, he's agreeing to doing things according to a standard that he hasn't seen yet, which is the amended version?

MS. CILEK: That's just language so that if it's amended in the future this will still apply. So their --

COMMISSIONER SCHIFFER: But his contribution will be based on a standard that he hasn't seen yet.

MS. CILEK: But it will be the standard at the time. And then if it's amended and it's changed and you come forward, you know, in five years and there's a new TIS guidelines resolution that has been amended from the one that exists now, that's the one you would use. So it's just whatever is current with your development.

COMMISSIONER SCHIFFER: But you see my problem? When he's agreeing to that, he's agreeing to the future one, which he hasn't seen yet. He may not like something in it. So what you're saying is that he can't base his decision on the current one.

MS. CILEK: Okay.

COMMISSIONER SCHIFFER: It's a floating standard that he hasn't seen.

MS. ASHTON-CICKO: Yeah. The guidelines are adopted by resolution. I'm told it's a 2006 resolution. Caroline may have the number.

MS. CILEK: I do.

MS. ASHTON-CICKO: So just, essentially, you know, the board can amend the resolution and adopt a new standard. It's just going to be whatever the current one is.

COMMISSIONER SCHIFFER: And hold the past agreements to it, right? Is that what --

MS. ASHTON-CICKO: Past agreements?

COMMISSIONER SCHIFFER: Yeah. Isn't that what that's saying is that he has to do things according to

the standard as may be amended, or --

MS. ASHTON-CICKO: I don't think it's talking about impairing existing contracts. It's just talking about what's going to apply. I mean, if there's a contract, you're going to govern by the contract.

COMMISSIONER SCHIFFER: Well, he's making a proportionate share to devices as defined.

MS. CILEK: I see what you're saying. It's like if we have a code right now and a developer, you know, makes a change in five years and the code is changed, then they would be held to that new code standard.

COMMISSIONER SCHIFFER: Right. In the building code world, we're not allowed to do that, you know.

MS. CILEK: This language was suggested by Heidi as amended or superceded just to stay current with the TIS guidelines that are utilized.

COMMISSIONER SCHIFFER: But, again, it's a deal he's made based on a standard that's -- he hasn't read yet because it's in the future.

MS. CILEK: Right. I don't -- I think that the guidelines that were current when they come in to use the proportionate-share agreement would be used even if that language wasn't in there, because that's what would be the current for that day. I don't know if they'd go back 15 years and use what the TIS guidelines were back then.

I think they would use the ones that are current whether this language is in there or not. But I am going out on a limb on that.

CHAIRMAN STRAIN: Why don't we add language that suggests that the guidelines that were current at the time of the agreement or at the time the proportionate share was established?

COMMISSIONER SCHIFFER: Or get rid of the --

MS. CILEK: I'm going to let others weigh in on that.

MS. ASHTON-CICKO: I mean, if you want to take out as amended or superseded, we can do that, but I can tell you when we apply it, we're going to look at the current resolution, and that's what will be applied. But, you know, if you're comfortable taking it out then, you know, we don't often in our code indicate the successor even though we apply it that way.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: I don't have a problem either way, so whatever this board wants to do. Brad?

COMMISSIONER SCHIFFER: Can we do a straw vote to take out the yellow?

MS. CILEK: It's up to you.

CHAIRMAN STRAIN: Okay.

COMMISSIONER HOMIAK: Well, it makes it clearer to leave it in to the person reading it, doesn't it?

COMMISSIONER SCHIFFER: Well, here's the concern I have is, you know, we make a deal with the county. I'm a developer. I'm looking at that standard, and that's fine with me. Since then the standard changes where you have to gold plate all the equipment. Now it's a very expensive deal. That could -- would not be fair to me.

CHAIRMAN STRAIN: But aren't all of our ordinances like that?

COMMISSIONER HOMIAK: But that's what happens --

MR. EASTMAN: You would have received your approval before the gold-plated standard, so you're fine.

COMMISSIONER SCHIFFER: No, this is telling me I'm not fine. This is telling me "as amended."

MR. EASTMAN: No. That's just saying that the next person through who's going to be subject to the gold-plated standard, it would apply.

CHAIRMAN STRAIN: Well, I don't think -- Tom, right now, for example, PUDs, many of them have language in them that they'll abide by the LDC at the time of submittal or development orders. It's no different than this. So I'm not sure how you can design a PUD when you're subject to future development standards any more than you could design to this. So why is there a concern of this language when there never has been in the PUD language?

COMMISSIONER SCHIFFER: Because this is a proportionate share. Well, would I make that before the new standard comes out?

MS. CILEK: Sorry. I don't follow.

COMMISSIONER SCHIFFER: In other words, if I make this agreement and -- or a developer does --

MS. ASHTON-CICKO: But there is no agreement theory here. This is one where they say we want a traffic signal and the county says, okay, you can have a traffic signal but you-all have to pay your fair share, correct?

MS. CILEK: Right.

MR. JARVI: Correct.

COMMISSIONER SCHIFFER: And then we can calculate --

MS. ASHTON-CICKO: Yeah. So that's when it meets warrants that they look at it and the county says, yes, you can put one in, but we're not going to pay for it. You can put it in if you pay for it.

COMMISSIONER SCHIFFER: Okay. And that would be the current standard at that time would determine what it is I have to put in.

MS. CILEK: Right.

MS. ASHTON-CICKO: Correct.

COMMISSIONER SCHIFFER: Okay. Fine, we'll go with it.

MR. JARVI: If I could, this is how you do it. And how you do the proportionate share really doesn't change. The inputs might change, but --

COMMISSIONER SCHIFFER: But aren't some of the agreements where -- especially where developments have slumped around them and they can't fulfill their thing, aren't they being held off for the future, and wouldn't they be caught with the future standards?

MR. JARVI: I don't think it's the future standards. It's just -- it's more of a methodology how you would do it. I mean, if you had a signal in Heidi's example and you had Developer 1, he's got 100 percent. If you have two developers, you know, it might be 50 percent. It might be 75/25, whatever. But how you get that percentage is by doing a proportionate-share calculation.

COMMISSIONER SCHIFFER: With the current standard?

MR. JARVI: Just a proportionate-share calculation. I think this is saying, in accordance with the TIS guidelines, because that tells you how to do it and that TIS guidelines may be amended from time to time, which is --

COMMISSIONER SCHIFFER: Okay.

MR. JARVI: I mean, this is -- I mean, and engineering standards typically are more performance based than I think the building standards are. You know, you have to have a 2-inch member, and if it changes, well, I'm grandfathered in.

COMMISSIONER SCHIFFER: Okay. We can move on.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: I know when to fold.

CHAIRMAN STRAIN: Do you want to go on -- on to 6.06.02, right?

MS. CILEK: Yep, next one.

CHAIRMAN STRAIN: Caroline, are you saying by this that we can't have brick-paver sidewalks anymore?

MS. CILEK: I don't think so, but --

CHAIRMAN STRAIN: Oh, on the next page. You're right, you're right.

MS. CILEK: It's on C. We just made them A, B, and C so they're easier to read. And on the brick-paver sidewalks one, it's really for either one, either public or private.

CHAIRMAN STRAIN: Okay. But then A and B, for sidewalks you're substituting 6-inch-thick concrete over a compacted subgrade. Before wasn't it over a limerock base?

MS. CILEK: Yes, I believe so.

CHAIRMAN STRAIN: And both -- and then the 4-inch concrete over a compacted subgrade whereas before it was over a limerock base. I was here when that came through. Stan Krasowski was concerned about it, and he -- rightfully so, because big trucks, like FP&L and the others, drive over these sidewalks, crush them up and break them and then drive away. And they wanted -- because compacted base is not nearly as sturdy as a limerock base is.

So why would we want to change this?

COMMISSIONER MIDNEY: I have the same concern. They're doing some new roads over in Immokalee now, and we have so many sidewalks that are just deteriorated in just 10 years, and they're having to tear them up, pull them out, and put in new sidewalks because they weren't done right the first time.

CHAIRMAN STRAIN: And when -- this change went in years ago, and it's been pretty effective since then. What's the point?

MS. CILEK: Again, this was put forward by CBIA. Staff does support it. We did tweak it. And I'm going to let Reed really speak to the specific changes and how we're differentiating between the private and local roadways and the 4-inch concrete and the county-maintained roadways, which are remaining at 6 inches of -- thick concrete.

MR. JARVI: If I could, we discussed this at length with the county engineer, with Nick Casalanguida, and

we came to an agreement by looking at what was required from FDOT, the counties in the surrounding area, and what is correct from a construction perspective.

And the limerock base is a flexible -- is a base for a flexible pavement, asphalt. Concrete you don't use a flexible base, because concrete is a rigid material. So the appropriate way to build with concrete is for a compacted base. And this is the way we do buildings.

COMMISSIONER MIDNEY: Can you define compacted base?

MR. JARVI: It's -- what happens with concrete is it breaks when you have a differential pressure, so you don't want to have something that moves. Limerock can move. I mean, you and I, we walk on it, it doesn't move, but if somebody goes over it, it can move, and that's where concrete breaks. Where you have -- asphalt moves with the limerock, so you compact it with a compacting machine to a standard that we set here, I think -- or there is a standard. One's 98 and one's 95 percent. I can't keep them straight.

COMMISSIONER MIDNEY: What is this base that you're compacting?

MR. JARVI: It's a -- the first so many inches, 6 inches, typically, of the dirt, just standard.

COMMISSIONER MIDNEY: Just black dirt?

MR. JARVI: What's underneath.

COMMISSIONER MIDNEY: With roots in it and sand? Because I think that's -- I've seen them pour these concrete sidewalks onto just dirt, and they're just full of cracks now after 10 years.

COMMISSIONER SCHIFFER: Mark, question.

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER SCHIFFER: Yeah, I mean, can't we -- what we're really doing is we're putting specifications in the LDC, so why don't we reference the standard here?

MR. JARVI: What we tried to do is take the specifications out of the LDC because they had -- before they were ASTM, and those things aren't appropriate. It's more performance.

COMMISSIONER SCHIFFER: But you're putting -- I mean, first of all, do we have a standard somewhere that has how to build a sidewalk in Collier County?

MR. JARVI: We would refer to FDOT specifications.

COMMISSIONER SCHIFFER: If we don't, it's the only one missing.

MR. JARVI: I mean, FDOT specifications, all of them are --

COMMISSIONER SCHIFFER: Okay. But somewhere we must have a standard we could reference, and we could reference it for private roads, and we could reference another for public roads. And we shouldn't be doing specifications in the LDC.

MR. JARVI: Yeah. We tried to --

COMMISSIONER SCHIFFER: And I think compacted subgrade isn't specific enough, so, I mean, that's even weaker than --

MR. JARVI: If you look at the FDOT specifications, which I don't have with me, it tells you how to do this and what testing is needed to make sure it is done to correct specifications.

COMMISSIONER SCHIFFER: And is that what you want people to do?

MR. JARVI: Yes.

COMMISSIONER SCHIFFER: Then why don't you reference that?

MR. JARVI: It's, I think --

MS. CILEK: Under F1 it says, all sidewalks shall be designed and constructed --

COMMISSIONER SCHIFFER: Okay.

MS. CILEK: -- in accordance with the latest edition of FDOT design standards. So that is the first thing that would be in the sidewalk section.

COMMISSIONER SCHIFFER: Okay, good. Then how would you differentiate between an A sidewalk and a B sidewalk, since you describe them the same, other than the thickness of the concrete?

MS. CILEK: An A sidewalk is for the county to maintain, which will be capped at the 6-inch thick, and then B is for local or private roadways. That's the distinction. And the local or private can be at a 4-inch-thick concrete.

COMMISSIONER SCHIFFER: Okay. And taking the knowledge of the concrete thickness into the FDOT design standard, I will -- everything will make sense to me from there, right?

MR. JARVI: The FDOT design standard is actually 4 inches with exceptions at driveways.

COMMISSIONER SCHIFFER: Okay. But if I take the 6-inch number with me and go into FDOT, I know I have to meet the 6-inch on the FDOT base, we'll be covered, right?

MR. JARVI: Yes. The base is the same in either case. One just has more concrete.

COMMISSIONER SCHIFFER: Okay. Then I think that's exactly what it's saying then. That's good.

CHAIRMAN STRAIN: We are allowed to improve on FDOT standard, are we not?

MS. CILEK: And we are -- for county-maintained roads, we are doing that.

CHAIRMAN STRAIN: You didn't let me finish.

MS. CILEK: Oh, sorry.

CHAIRMAN STRAIN: The language that we had in here, wasn't it an improvement over the FDOT standards, meaning 6 inches on top of limerock is much better than 6 inches on top of just a compacted subgrade?

MR. JARVI: Not necessarily, because the limerock is not the proper base for concrete.

COMMISSIONER KLEIN: Is it a more solid base than sub -- compacted subgrade? You'll get better compaction of limerock; will you not?

MR. JARVI: Yes, I guess that's a true statement. But from a building standpoint, it's not the correct standard to use.

CHAIRMAN STRAIN: Okay. But it works -- it actually would give the sidewalks what we're trying to accomplish, and that simply is not to have failure when large trucks of differential mass drive over them, as the FP&L trucks do when they fix poles. So how is going to an FDOT standard going to help us accomplish that goal?

MR. JARVI: But the previous standard -- the FP&L truck, typically, would be driving over a county road, which we have 6 inches. The previous standard was 4 inches of concrete over 4 inches of limerock or 6 inches of concrete.

CHAIRMAN STRAIN: Or -- which may be constructed without limerock base --

MR. JARVI: Without limerock.

CHAIRMAN STRAIN: -- must be constructed over a compacted subgrade.

MR. JARVI: Yes, which we are maintaining the 6 inches over a compacted subgrade. We've just taken out the 4 inches over 4 inches.

CHAIRMAN STRAIN: Why would we -- so we're taking out that option. I mean, so if someone felt that was a better option for them, they'd still have to put in 6 inches over compacted subgrade based on this?

MR. JARVI: On a county collector or arterial, yes.

CHAIRMAN STRAIN: What's the county's thoughts on why one isn't equivalent to the other when in the past we had thought they were?

MR. JARVI: Our thoughts are that it's not appropriate to do it the way it was said before, and the county engineer and I and the growth management director and some others discussed this and came to this agreement.

CHAIRMAN STRAIN: Do you know how many times that option has been used?

MR. JARVI: Haven't any idea.

COMMISSIONER MIDNEY: I'm not an engineer, but it just seems like you would get a better -- if you put sand or limerock, you would have control of what was -- you were pouring on. Instead of pouring on -- trying to compact whatever dirt was existing there previously.

CHAIRMAN STRAIN: Yeah. I'm troubled by the change that -- this was sold as a big deal back when it was -- I sat on this board when it was brought to us. We kicked it around for -- quite length, and all of a sudden now it's the wrong thing to do, and we're going back to something that we thought was the wrong thing -- the wrong thing at the time to do. I haven't understood the philosophy in getting there yet.

Currently, if we left the old code in, what would a private roadway require?

MR. JARVI: The same. There wasn't a difference. It just said sidewalks before.

CHAIRMAN STRAIN: So an FP&L truck on a public roadway is going to cause more damage than if it was on private roadway on the same sidewalk. So the same sidewalk on a private roadway being less doesn't -- is there different trucks they drive?

MR. JARVI: Well, the thought is twofold. One is, first off, it's a private roadway, so the county's not responsible for the maintenance. May or may not be a good discussion -- good idea, but that's one of the thoughts. And the second thought is, when the trucks that we're talking about pull off, it's more of a trunk-line issue they're looking at. They're not looking at a private -- community street very often.

And, typically, when I've seen them, they stop on the street. They don't pull off on the side of the road. On a collector or arterial, they quite often pull off to get out of the main travelway.

CHAIRMAN STRAIN: Well, I mean, basically what you'd be doing is for lessening the requirement on private sidewalks, which lessens the cost to somebody, the homeowners' association or the CDD picks up the cost for any future damages because the roads -- because the sidewalks there are less -- have a less standard than the sidewalks in the public system.

I don't know why we wouldn't just insist on the same for the public system. If you want to take out the option to go to 4 inches of concrete and then the limerock but leave in the 6 inches of concrete over compacted subgrade, because that's always been here anyway, that -- but as long as it's attributed to both public and private, I think we're fine.

MR. JARVI: Before we go too far, it's not always been there. It's since the change.

CHAIRMAN STRAIN: Since the change years ago, right.

MR. JARVI: Prior to that we just did the FDOT standard.

COMMISSIONER EBERT: Mark?

CHAIRMAN STRAIN: Yes.

COMMISSIONER EBERT: On private roads, every single one of our sidewalks were ruined with trucks coming in with the building. Because the sidewalks go down first and, you're right, everything, I have to agree, is -- has to be replaced. And it's not 10 areas.

COMMISSIONER SCHIFFER: Question, Mark.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: Yeah. Let me just walk -- so Collier County does not have a standard somewhere showing how to build sidewalks in Collier County other than this verbal description?

MR. JARVI: I think they do not have a specification saying how it's supposed to be done, you know, what --

COMMISSIONER SCHIFFER: There's no drawing anywhere?

MR. JARVI: That says 28-day compressive strength, 3,000 pounds and all that stuff, that's all DOT. What this is -- and I haven't looked word for word, but it's pretty much what DOT says.

COMMISSIONER SCHIFFER: Okay. Then do you have any amendments to the DOT in any other areas? In other words, DOT's the standard you've adopted, or the county has. Do we have any local amendments to that?

MR. JARVI: Not to my knowledge.

COMMISSIONER SCHIFFER: Okay. Because maybe that's what you do here is just make a local amendment to the standard and reference that here and show somebody a drawing with the specification and everything else on it.

MR. JARVI: But, I mean, typically the county has had a standard on how wide the sidewalks will be, and it was -- or it's a five and six depending on what kind of road it's on, and pathways and that sort of thing, which DOT doesn't really have. They do have a standard 5-foot width, and then we changed the thickness with the amendment that Mark was talking about seven, eight, nine years ago.

CHAIRMAN STRAIN: It was quite a while, yeah.

MR. JARVI: Something, early 2000. And we changed the thickness of the sidewalk. We never changed the specification. All the stuff in here is just -- is a standard concrete specification.

COMMISSIONER SCHIFFER: I recall that. I was there, too. But, I mean, for us, I can understand the Land Development Code having the width of a sidewalk, location of sidewalks, the requirements for sidewalks, but to have the -- you know, the depth of the base and the compressive strength of the concrete and all that doesn't make sense in the Land Development Code and, therefore, I think we should have a, you know, sidewalk drawing somewhere that you reference in this. In other words, it has to be 6 feet wide and it has to be built as according to, and reference that standard.

CHAIRMAN STRAIN: Let me make a suggestion, then. Why don't we take part of the sentence in A, this part, and put it in No. 1 as the first sentence. Sidewalks shall be constructed of a minimum 6-inch-thick concrete over a compacted subgrade, then go on with 1, all sidewalks shall be designed and constructed in accordance with the latest edition of the FDOT's design standard, and strike all the rest.

That gets us the 6 -- that gets us the option that apparently has been used the most, that gets us equal treatment for public and private, brings in the FDOT standard, and doesn't have any of the specifications that Brad's

pointing out that's in the code. Does anybody see anything wrong with that?

COMMISSIONER SCHIFFER: No, that's a good idea, because the only thing different is the thickness on the county sidewalk.

CHAIRMAN STRAIN: Well, 2 inch more means that you're going to put a -- instead of using a two-by-four, you use a one-by-six or two-by -- well, which is probably what will be used. So, I mean, I don't see what's wrong with that.

COMMISSIONER SCHIFFER: I don't either.

COMMISSIONER BROUGHAM: Sold American.

CHAIRMAN STRAIN: Okay. Anyway, does that -- anybody? Paul, you have --

COMMISSIONER MIDNEY: That's fine.

CHAIRMAN STRAIN: Why don't you try revising the language and bringing it back.

MS. CILEK: Okay. So we want to keep --

COMMISSIONER MIDNEY: I have something about asphalt sidewalks.

CHAIRMAN STRAIN: Go ahead, sir.

COMMISSIONER MIDNEY: What's the standard -- who gets the asphalt sidewalks and who gets the concrete sidewalks?

CHAIRMAN STRAIN: Immokalee gets the asphalt.

COMMISSIONER MIDNEY: Well, I was going to say that, Mark.

CHAIRMAN STRAIN: I knew you were; that's why I was going to head there for you.

COMMISSIONER MIDNEY: Why are they putting in asphalt sidewalks now and only on the south side of Immokalee?

MR. JARVI: Immokalee town or the city or road?

COMMISSIONER MIDNEY: The town of Immokalee, yeah, where I live.

MR. JARVI: I don't know the answer.

COMMISSIONER MIDNEY: Why aren't we getting concrete sidewalks?

CHAIRMAN STRAIN: Well, I think it's an answer that we would like to have answered when this comes back to us. Could someone find out if there's a difference in specifications in another part of the county? Because if this doesn't apply to the whole county, we need to know why and what does apply to the whole county then. So that might be the way to answer your question.

MS. CILEK: It does. And I know that asphalt pathways are on the second page, Page 4, describes those.

COMMISSIONER MIDNEY: No. I'm talking about on the east side of South 9th Street across from Pine Crest School and the Catholic church.

MR. JARVI: Is it -- and I don't know the answer. Is it greater than 5 or 6 feet wide?

COMMISSIONER MIDNEY: I don't know the width. All I know is that they're putting in new asphalt sidewalks there, and I don't know why.

COMMISSIONER SCHIFFER: So it's a pathway. It's not a sidewalk.

COMMISSIONER MIDNEY: No. It's by the side of the road. It's not a pathway. It's --

COMMISSIONER SCHIFFER: But then it should be concrete.

COMMISSIONER EBERT: No. May I chime in here?

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: To be honest with you, I'd rather have an asphalt pathway than a concrete sidewalk. Several reasons. Joggers do not go on concrete. It's hard to ride a bike. Just -- walkers just prefer the other. And if you get a -- I prefer pathways. They are easier to maintain. If something breaks on them, it's easier to fix than the concrete, and pathways are becoming very big in Collier County right now. People absolutely love it. By the canal on the north side of Immokalee Road, that's 10-foot. There're wonderful comments on it.

COMMISSIONER MIDNEY: Well, I'm not talking about asphalt pathways. I'm talking about asphalt sidewalks.

COMMISSIONER EBERT: Well, I don't know if yours -- the width of it would be the difference, right?

MR. JARVI: Pretty much.

COMMISSIONER EBERT: Would that be right, Reed?

MR. JARVI: If it's wider --

COMMISSIONER EBERT: If it's wider --

MR. JARVI: -- a wider area, 8, 10, 12 feet, typically those are done as asphalt pathways because it's convenient -- it's more -- not convenient.

COMMISSIONER EBERT: Multi-use?

MR. JARVI: More cost effective for it, because it's hard to do asphalt in a relatively thin area, and it becomes a -- it's a more user-friendly surface than concrete. There's advantages to concrete, too. But if it's a wider area, then typically we would do pathway as -- anything 8 foot or above would be asphalt.

I'll check in -- I mean, they're going on -- I just need to make -- find the right person to ask the question, because I don't know.

COMMISSIONER MIDNEY: Which are more expensive to build?

COMMISSIONER SCHIFFER: Concrete.

MR. JARVI: Concrete, typically.

COMMISSIONER SCHIFFER: Which is the answer to your question, by the way, why do you have asphalt.

CHAIRMAN STRAIN: Okay. Well, I think you got direction on that one. And let's take a break for the court reporter. We'll come back at five after three and resume where we left off.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay, everyone. If you'll please remain -- yeah, remain. If you'd move to your seats, we'll resume the meeting.

It's been a long day already. And hoping in an effort to probably shorten it, staff approached me on the Master Mobility Plan during break and suggested that maybe we wait and hold off on further review after they do the rewrite from the direction and drift that we were heading when we reviewed it, the first half of it, a month ago or however long ago it was.

And I know I had a lot of comments on it at that time, and I'll be glad to share those with staff over the next couple of weeks. But they suggested it be more -- may be more productive for this board if we just wait and -- we have a scheduled meeting -- a special meeting on that plan on the 19th of June.

So if we wait till that date to review their revisions as a workshop, we would have the same emphasis and maybe less time if we do it that way.

Sounds like a good idea, but I wanted to make sure any of you, if you had any concerns, we addressed them. What's the rest of the board think?

COMMISSIONER EBERT: No, I think it's a good idea.

COMMISSIONER VONIER: Sounds good.

CHAIRMAN STRAIN: Anybody have any objections to it? Okay. Well, Debbie, that works. So we will -- we'll move along as we just discussed. And so anybody that's here today for the Master Mobility Plan, we're running out of time anyway, so we will not be discussing it today. And we also have it scheduled for discussion on the 6th or 7th of June, our first meeting in June, so we might as well take it off that schedule, too, but leave it on the special session on the 19th.

Okay. Thank you.

And with that, Caroline, we move back to your focus, which is No. 13. We're on 10.02.13.

MS. CILEK: Correct.

CHAIRMAN STRAIN: PDIs.

MS. CILEK: And this amendment was delivered to you at the May 3rd meeting and wasn't originally in your binders. And the intent of this is to allow for an administrative removal of affordable housing commitments to PUDs, which was briefly discussed earlier today.

And in doing so, we took a look at the whole section and made some changes just so that it would be a smoother read. But the new language is on the last page, Page 4.

CHAIRMAN STRAIN: Okay. Does anybody have any questions?

COMMISSIONER SCHIFFER: Well, just --

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: -- so we can celebrate there's no more need for affordable housing?

MS. CILEK: I am not going to speak to that, but --

COMMISSIONER SCHIFFER: But we're making it easy to get rid of commitments people made to provide

that.

MS. CILEK: There's been a direction to put forth this amendment so that we can administratively remove these affordable housing commitments in PUDs, yes.

COMMISSIONER AHERN: Motion to approve.

COMMISSIONER BROUGHAM: Second.

CHAIRMAN STRAIN: Okay. Well, I had some discussion, so --

COMMISSIONER AHERN: Oh, I'm sorry.

CHAIRMAN STRAIN: There's been a motion to approve made by Melissa, seconded by Phil.

Discussion? Under C where you -- the staff -- basically, staff can remove the affordable housing commitments. The problem is these commitments, many times, were part and parcel to a zoning application, and they weighed in with the various boards as to whether or not the zoning application should even be allowed based on mitigation offers by the developer.

In this particular case, and some of them will be affordable housing, I'm not sure that every PUD in this county that has committed to affordable housing has done it in the manner that it isn't -- it might not be considered differently if we didn't have that commitment.

And since -- I've been here for almost 11 years, a lot of the affordable housing commitments were the reason some of these projects were approved. And if they weren't going to make those commitments, then some adjustment to the project would have been needed, such as density and things like that.

How is this taken into consideration of those activities, meaning -- say a housing, affordable housing commitment was made on a percentage of the project. They now come in and say, well, we shouldn't need this anymore because nobody says it's needed, whatever the reason is. Staff says, okay, we'll take it out. Do they still keep the density?

COMMISSIONER EBERT: That's what I was going to ask.

MS. CILEK: As far as this new language is written, yes. And what would happen is the PUD, the residential community, and those outside would be notified of that change, that that PUD went through with that density and gets to keep that density. From what I understand, there would be no changes to the PUD. But Ray may be able to elaborate more on this.

CHAIRMAN STRAIN: But, see, those people that are notified are the adjoining property owners. They aren't the ones that voted on it. We did.

MS. CILEK: True.

CHAIRMAN STRAIN: And we probably heard them come to us during that process and say they don't want affordable housing, because nobody in the county wanted it. So I don't think they're going to object to it. But I think that this board would have a right to want to understand the implications of just wanting to leave -- to completely removing it when it was a commitment that was made. It was a commitment to the taxpayers. It was committed to the people of this county. It was committed to everybody.

And in lieu of that, you're still going to get the density. Well, that's not the deal that was cut. And I'm just wondering why it can be just unilaterally taken away without individual consideration of these actions.

MR. BELLOWS: I think some clarification is necessary. For the record, Ray Bellows.

The -- I believe the intent of this amendment is not to eliminate those affordable housing density bonus agreements that were approved with PUDs, but only those PUDs that had a commitment for the developer to contribute money to an affordable housing trust fund.

CHAIRMAN STRAIN: Ah, that's a different -- that's a different animal, and that one I agree with you on.

MR. BELLOWS: Yes. And this amendment is to allow -- instead of forcing a property owner to come in through an expensive amendment process to eliminate it, to do it administratively.

CHAIRMAN STRAIN: Okay. So this only applies to monetary commitments?

MR. BELLOWS: Correct.

CHAIRMAN STRAIN: So it doesn't apply to density?

MR. BELLOWS: It doesn't.

CHAIRMAN STRAIN: Good. Then I don't have a problem.

COMMISSIONER MIDNEY: Question?

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER MIDNEY: Can you go -- just tell us again what that trust fund is used for?

MR. BELLOWS: That's a good question.

MS. CILEK: Actually, I don't believe --

CHAIRMAN STRAIN: It doesn't exist.

COMMISSIONER SCHIFFER: I can answer that. As a member of the Affordable Housing Commission, I've been told that all money for those thousand dollars, 50 cents a square foot for commercial, has not been spent.

MS. CILEK: Correct.

COMMISSIONER SCHIFFER: It's in a pot somewhere that has never been drawn on. So it's all there, including the -- so, obviously, people have paid, and they will get a refund themselves, anyone that's paid in, so it's an even thing. Everybody that that money was -- you know, and some of us used the word "extraction" at the time -- that that money was extracted, whether they paid in or not -- if they paid in, they get the money back, and if they haven't paid in, it's in their PUD; it'll be eliminated from it. That's what's going to happen, right?

And where Mark was concerned, no density bonuses, has nothing to do with that.

MS. CILEK: Right. I'm so sorry. I didn't understand there was a density bonus that you could apply as well. No, this was just speaking to the monetary and whatever the density in the PUD without the density bonus. Yes, that's going to remain the same, but --

COMMISSIONER SCHIFFER: Has the money been refunded? I mean, this doesn't reference that, and it shouldn't in the LDC, but --

MS. CILEK: Not from what I understand.

COMMISSIONER KLEIN: Is it a fact that if this is done, is the money going to be refunded? I mean, is that -- I mean, Brad said that, but is that what's going to happen? I'm just curious.

COMMISSIONER SCHIFFER: Well -- and it wouldn't be fair if it didn't, by the way. If you took a commitment away from somebody and then made the person who honored that commitment look foolish, that wouldn't be fair.

MR. BELLOWS: We'd have to follow up on that. That wasn't really what I was told how that part of it would work. I was just told that this was a board direction to eliminate the need for property owners to come in to amend the PUD to take out the language since, basically, they feel that that program has no way to implement or spend that money appropriately.

CHAIRMAN STRAIN: Do we know that there's been money collected, and do we know that it's not been spent?

COMMISSIONER SCHIFFER: Yes. It's -- the money -- we got a sheet here ourselves -- or at least I did somewhere -- they had of a printout of all the money that's been collected. And to the best of --

CHAIRMAN STRAIN: Wow.

COMMISSIONER SCHIFFER: -- you know -- and the question was asked, black and white and cold, and they said the money's still there, so --

COMMISSIONER MIDNEY: What was the money supposed to have been used for, and why wasn't it spent?

CHAIRMAN STRAIN: Concrete sidewalks in Immokalee.

MS. CILEK: Those are very good questions and, unfortunately, I don't have the answers.

COMMISSIONER SCHIFFER: It was affordable housing. I think the reason it wasn't spent is people feared this would happen, so --

CHAIRMAN STRAIN: Well, before this is approved, wouldn't it be wise to verify that the money is there and that it -- and how -- what's going to happen with it? Only because if it's -- if we -- if this is voted to be done and that this wouldn't be a requirement anymore but it's only if someone or a designee asks for it not to apply --

MS. CILEK: Correct.

CHAIRMAN STRAIN: So if he doesn't ask for it not to apply but yet we no longer want it to be in place, they can voluntarily pay this money, how do we know that the people that have already paid want their money back? I mean, I'm just wondering how all that -- how that works.

MS. CILEK: There's a lot of other issues that are associated with -- that are still being worked out. And I can have someone come and speak on behalf of the money that has been contributed so far. And there's a spreadsheet. I've seen it. And we can do that at the next meeting, if you'd like, just so --

COMMISSIONER MIDNEY: And I would also like to know, maybe there -- maybe there is a legitimate need for some of that money that really needs to be spent, and I'd like to know about that -- if there is something -- some projects -- you know, with so many people in need now that are in the, you know, very low income and very lacking of housing, maybe we might decide that we want to spend some of that money because it's a worthy use of the money and it's already been contributed towards that.

MS. CILEK: Sure. We can discuss that more when we have the numbers in front of us if you'd like or make a recommendation to the board as well.

CHAIRMAN STRAIN: Okay. I just think we'd like to get a little more clarification --

MS. CILEK: Sure.

CHAIRMAN STRAIN: -- on what's there and what you're going to do with it.

MS. CILEK: Sure. I'm not very knowledgeable about this specific amendment, so -- there's a lot of history behind it.

COMMISSIONER AHERN: And I will withdraw my motion.

CHAIRMAN STRAIN: Okay. And, Phil, do you withdraw your second?

COMMISSIONER BROUGHAM: Certainly.

COMMISSIONER SCHIFFER: And I move to continue.

CHAIRMAN STRAIN: Well, yeah. It will just come back to us again.

COMMISSIONER EBERT: Just bring it back.

MS. CILEK: Yep.

COMMISSIONER MIDNEY: Just as a comment, I mean, the problem of housing is probably worse now than it was four or five years ago in terms of people being without housing, not being able to afford housing, inadequate housing, substandard housing, at least where I live, so --

COMMISSIONER SCHIFFER: And good time for a down payment assistance.

COMMISSIONER AHERN: Paul, I think part of the issue was, is this a legal way, as Brad said. I mean, you're extracting money to get an approval, and is it a legal way of supplementing affordable housing, and I think that was the biggest issue.

COMMISSIONER EBERT: You're right, yes.

COMMISSIONER SCHIFFER: It was deemed --

CHAIRMAN STRAIN: That brings up another --

COMMISSIONER SCHIFFER: -- legal. I mean, no one was sitting up here doing illegal stuff. But it just -- some people felt it was more fair than others.

COMMISSIONER AHERN: Po-tay-to, po-tah-to.

CHAIRMAN STRAIN: Go ahead, Phil.

COMMISSIONER BROUGHAM: Just a comment, I don't understand -- I mean, I understand an LDC amendment, the purpose of all these, but as we all watched a succession of BCC meetings where all of the foofaraw and hoorays and negative comments about the use of these funds and the county trying to extract themselves from the management of these funds and building houses and rehabilitating houses and so forth, what are we -- are we trying to deal ourselves back into the -- into this mess as a Planning Commission?

CHAIRMAN STRAIN: No.

COMMISSIONER SCHIFFER: That's totally different, yeah.

COMMISSIONER AHERN: Different animal.

CHAIRMAN STRAIN: I'm more concerned about how this is going to function if it's approved. And if it's been now determined that this wasn't the right thing to do, then if it isn't, then why are we -- why do we have i, ii, and iii? If it's not the right thing to do, it's not the right thing to do. Give staff permission to amend the PUDs, take it out, and deal with money that we got. Why do we have to worry about people objecting to it if it's not right to begin with?

I mean, what was the decision? Was a decision made that this wasn't something we should have done? Regardless of whether it's technically a legal extraction or not. Let's just say, did the BCC decide this wasn't the right way to approach affordable housing? Is that the synopsis?

MR. BELLOWS: Well, it was my understanding that there were two PUDs that came in for an amendment to eliminate that language.

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Right.

MR. BELLOWS: And the discussion involved, kind of like right now, that this was not really a GMP type of housing element provision that could legitimately require these donations, so they felt a little uneasy about that, is my --

CHAIRMAN STRAIN: Oh, yeah. And I think that's a good thing to recognize that, okay, this may not have been done the right way, so let's correct it.

MR. BELLOWS: Yeah.

CHAIRMAN STRAIN: But how are we correcting it if we leave it up to the neighbors to receive notices and say, oh, I object to it. Then that's not correcting it; it's just enforcing it, I mean. So --

MR. BELLOWS: Yeah.

CHAIRMAN STRAIN: -- maybe we want to make this simpler. It's not the right thing to do. Here's how we should handle it. Let's get it done a little bit simpler than trying to suggest that, oh, we may have not done the right thing, but we're going to let the neighbors decide if we did or not, because if they object to it, we're not going to -- we're going to throw it into another process. That's just going to cost somebody more money and more time on an issue that maybe we shouldn't have gone there in the first place. So maybe that's the better way to consider this.

MS. CILEK: Sure. I do know that that actually was directed by Nick to include a public notice requirement. When he was speaking to the board about this, I recall him asking that that would be a component of it, that people know about it.

So following that directive, that's why those parts were included, but we can have a further discussion on that.

CHAIRMAN STRAIN: Yeah. But thinking out that scenario, require a public notice to undo something that apparently has been recognized as something we probably shouldn't have done.

MS. CILEK: It's still in the PUD.

CHAIRMAN STRAIN: So what good is that public notice then? It only just digs us in a deeper hole.

COMMISSIONER AHERN: Or unaware.

COMMISSIONER MIDNEY: I could be wrong, but my memory of this was that this is when housing, looking back on it, was overvalued. Houses that were projected to be worth \$100,000, by the time they were built, the market had built it up to \$300,000. And so that was where this whole idea that we need help with affordable housing came from. It was sort of almost a reaction to just the general housing bubble.

And, you know, people are assuming that it was the wrong thing to do. But in the context of that time and place, maybe it was the right thing to do, and maybe it should have been used to help people who need housing.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: And then another thing, remember, in the beginning people were asked that they would come up and they were -- I don't want to use the word "ambushed," but they were approached at the meeting with this requirement. It didn't take long for the developers to be volunteering. They, in their introductory statement, tell us that they're going to donate this money. No one ever asked them. They just assumed by behavior of the past application.

So some of this money was voluntarily donated. It wasn't asked for. It was just out of the kindness of their heart, wink, wink, they gave it to us.

MR. BELLOWS: And they don't have to apply for an amendment either. It's only for those who want to apply for the amendment.

COMMISSIONER SCHIFFER: Who would not apply?

MR. BELLOWS: Well, if it was the goodness of their heart, what has changed?

COMMISSIONER SCHIFFER: You're right. Maybe I only should have done one wink. I'm done. Thanks.

COMMISSIONER AHERN: I was just going to follow up with Brad, is it wasn't out of the kindness of their heart, but basically they either had to provide the housing or pay the amount. And the cost of land, it was cheaper to pay a thousand dollars a unit than to try to put the housing in their project.

COMMISSIONER SCHIFFER: It was never a mitigation fee. It was a -- we could -- it's like -- Paul described it best.

CHAIRMAN STRAIN: Okay. Well, I think you're going to come back with some --

MS. CILEK: I am.

CHAIRMAN STRAIN: -- better information, and maybe get with the county attorney to see if there's a --

that this process is the right way to go. When someone wants to remove something, that we question whether or not we should have put it there in the first place, let it be challenged. But anyway, we'll wait to hear what you've got to say in the future.

MS. CILEK: Sure. I will bring back some numbers and some other individuals to elaborate on it, but that sounds good.

CHAIRMAN STRAIN: And I think it's a good thing for staff to be able to do this. It's just a matter of making sure it's done in the manner that is equitable to everybody that got involved in it, so --

MS. CILEK: Great.

CHAIRMAN STRAIN: The next item up is 10.08.00, conditions and safeguard.

MS. CILEK: Can we do 14, which is 9.04.08, administrative adjustment, first?

CHAIRMAN STRAIN: Oh, I'm sorry, you're right. I just skipped one. I thought I was on -- 9.04.08; my fault. Administrative adjustments.

MS. CILEK: This is a new amendment, and it creates a new process to allow for a little flexibility regarding setbacks and some sign adjustments in the future may be expanded. What it does is sets up a process for someone to come in with an SDP or SDPI type of process to work with staff and request an adjustment, provide a reasoning why, justification. It's checked by several individuals, county manager or designee, the county engineer, zoning manager.

They review it, and then there's a public notice process as well so that everyone is aware of the adjustment that is being made, and then at the end there's an appeals process.

CHAIRMAN STRAIN: Okay. Anybody have any questions? This is a -- we've seen this before?

MS. CILEK: Nope. Actually, this is the first time this has been reviewed by the Planning Commission.

CHAIRMAN STRAIN: Okay.

MS. CILEK: And we do also have one public speaker on this amendment.

CHAIRMAN STRAIN: Okay. So it's got to be -- not Jean, because she's here for Bayshore. Bob? Jeremy, okay.

MS. CILEK: Yeah, Jeremy.

CHAIRMAN STRAIN: Well, let's hear what Jeremy's got to say.

MR. FRANTZ: Hi. Jeremy Frantz representing the Conservancy of Southwest Florida.

When this amendment first came through, we were concerned about the provision for reductions in preserve setbacks. We were concerned mainly about the possibility for abuse or maybe for it -- for the language that was previously in there to be used towards an entire PUD or any number of possibilities. We think that the language that is in there now is more restrictive to specific parcels, and that was the intent of the amendment in the first place.

So just want to recognize staff for working with us on that one.

CHAIRMAN STRAIN: Great. Thank you. It's good news.

Does anybody else have any issues with the administrative adjustment language?

COMMISSIONER SCHIFFER: I have one question. Is this --

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: -- intended to be used before or after you build the thing? I mean --

MS. CILEK: It could be used in both situations. So it could be used when you come in for your first SDP, or it can be after the fact as well.

COMMISSIONER SCHIFFER: Okay. So if you make a mistake you can still use this? Now, we have administrative --

MS. CILEK: Yep.

COMMISSIONER SCHIFFER: -- variances and stuff. How does this tie in with that?

MS. CILEK: Well, you have to -- you have to really prove why you need this, and you have to have a design or an engineer kind of certify why you need this adjustment.

COMMISSIONER SCHIFFER: Okay. So it is in line with the administrative variance process, which you have to prove why you need it, or you can't get two boats, one of the two.

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

COMMISSIONER EBERT: Yeah.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: This affects us, again. This was the same -- where they can go in the preserve.

It's administrative. I don't know. This is --

MS. CILEK: So for --

COMMISSIONER EBERT: You weren't here at the time, but it affected quite a few people in Olde Cypress because of the preserves. They weren't 20 -- the accessory structures, some of the homes weren't -- the setback was not there. It did involve quite a bit.

People tried to change lot lines, give part of their land to the next-door neighbor, and -- so they could get these. It's a little troubling to me only because I've lived through it. And it's the administrative part of it that I think I object to.

MS. CILEK: Okay.

CHAIRMAN STRAIN: Does staff have to have a burden of proof as to the need if a request comes in to apply one of these administrative adjustments? Say someone has an SDP coming in, that's the time they do it, and they want to reduce all the front and your rear yards and they've got a bunch of lots on a --

MS. CILEK: I'm so sorry. I'm a little distracted.

CHAIRMAN STRAIN: Okay. Say an SDP comes in, they have a series of lots on a cul-de-sac -- those are irregular lots -- and they want a reduction of five on every one of them as a process. So -- but yet they've got a PUD with those cul-de-sacs on their master plan. They knew darn well they have cul-de-sacs, and that's not how you do front-yard setbacks on cul-de-sacs.

So what would prevent staff from saying, no, you can't have that? I mean, do they have to prove that they have a hardship? Because if that's the case, that's a standard that we understand. There's got to be a need -- well, at least we did understand until boat docks came along. But I'm just wondering -- anybody can just come in and get this as a matter of fact, or they've got to prove something?

MS. CILEK: Under C, which is review criteria, there are four criteria that the applicant will provide, the lanser (sic). They'll provide justification.

So the first one is that the zoning director's going to make sure that the proposed adjustment does not negatively affect the adjacent property and the surrounding neighborhood.

CHAIRMAN STRAIN: Okay. Let's say a cul-de-sac, six lots -- go ahead.

MS. ASHTON-CICKO: If I may. And, again, you know, should you decide to go forward with this amendment, this is how it would work. The outside community would hire somebody under Item D4 and D3. So the outside planner/engineer is going to evaluate the impacts and provide that information to staff, then staff will look at that information, and if they agree, then the zoning director would then issue an opinion.

I don't know that the zoning director would be making their own independent evaluation. They're just going to evaluate what's submitted. And if they agree with it, then they can make that finding. If they don't agree with it, then --

CHAIRMAN STRAIN: Okay. But this is done at the time of SDP.

MS. ASHTON-CICKO: Correct.

CHAIRMAN STRAIN: SDP on a cul-de-sac village, for example, will be done by the developer. They're going to own all the outside properties, so they're going to say that there is no impact on the adjacent properties. As the owner, I have no objection.

They're going to go down the list, and they'll have no objection to doing things that they want to do for the 5-foot deviation in the front of all the lots on a cul-de-sac.

How do we prevent that? That's a blatant misuse of this application. This is supposed to be for areas that were, for some reason, unique and different unknowns (sic) in the planning process, I would assume.

Bob?

MR. MULHERE: May I --

CHAIRMAN STRAIN: Sure.

MR. MULHERE: -- comment on that? I didn't register to speak, but as I heard the discussion unfold -- two things. One, honestly, the Olde Cypress situation was a different situation. It was a question of interpretation. It was a question of interpretation that, you know, one argument versus another argument. I know it was very divisive, but that's what it was.

This administrative variance process is -- has been written to have limitations, criteria, and appeal process, so -- and it is intended to be on a case-by-case basis so that, just like a variance, if somebody came in and asked for a

variance and -- Mr. Strain, and asked for it on five or six lots, I don't know how -- I mean, I assume that staff would say, that's not a variance anymore. That's now -- that's now -- if it was a PUD, it's a PUD amendment, because it's affecting multiple lots. So you would handle that differently.

I would think that that would be the same case here. Perhaps some language could be structured, a sentence could be structured to say this is intended to apply to unique case-by-case, you know, applications. I think that's implied. It's not expressly stated.

CHAIRMAN STRAIN: Because it does -- I don't -- I mean --

MS. ASHTON-CICKO: Well, Mr. Strain, I think the way it would play out is if they request it and they check off all the boxes --

MR. MULHERE: It would be denied.

MS. ASHTON-CICKO: -- they're going to get it. There's no staff discretion here.

COMMISSIONER SCHIFFER: Right.

CHAIRMAN STRAIN: Right. Well, that's what I'm concerned about.

MS. ASHTON-CICKO: So if they ask for it, they'll get it. So you can pretty much consider that A through F

--

MR. MULHERE: Let me ask a question.

MS. ASHTON-CICKO: -- if they ask for it, they'll get it.

CHAIRMAN STRAIN: Wait a minute. Let her finish speaking before you -- you do this a lot.

MS. ASHTON-CICKO: And this isn't a variance. There's no hardship. This is more like a special exception in the planning world.

MR. MULHERE: I understand that. Let me ask a question, then. They're going to provide some information. That information is reviewed by staff to see if staff concurs with the position of the applicant. If staff does not concur, staff cannot deny or not approve the administrative deviation? I think they can. And then there's another process to go through if staff doesn't support it.

CHAIRMAN STRAIN: But what is the basis for the need for it? I think that's where my concern is.

COMMISSIONER EBERT: Yeah.

CHAIRMAN STRAIN: Anybody can walk in and say, you know, I'd like five feet off the front of these irregular cul-de-sac lots because they could fit a house there better. How could staff not say -- turn that down? What is the criteria that staff --

MR. MULHERE: There's four criteria written into the --

CHAIRMAN STRAIN: Well, I know. She started going into them, but they aren't really criteria. The zoning director has reviewed the request and issued an opinion that the proposed adjustment does not negatively affect the adjacent property in the surrounding neighborhood. Well, what --

MR. MULHERE: What if he finds that it does?

CHAIRMAN STRAIN: Huh?

MR. MULHERE: Can he not deny the application if he finds that it does?

CHAIRMAN STRAIN: If the neighborhood --

MR. MULHERE: I'm asking the question, because Heidi said that it couldn't be denied, and I want to get to the bottom of that.

MS. ASHTON-CICKO: No, I'm not saying it can't be denied, but the --

MR. MULHERE: Then I misunderstood.

MS. ASHTON-CICKO: -- but the information in the opinion on how it affects the surrounding property is going to be provided by the owner or developer --

MR. MULHERE: Correct.

MS. ASHTON-CICKO: -- developer's agent, and then staff will review it.

MR. MULHERE: Right.

MS. ASHTON-CICKO: And if they disagree -- but I don't know -- I don't believe, based on this amendment, that staff is going to be conducting an independent evaluation. They'll review what was submitted to them and say, yes, I agree or, no, I don't. If staff doesn't agree, then staff will have to provide some kind of basis why they don't agree. And, you know, that's the way it will work.

MR. MULHERE: Okay. That's --

COMMISSIONER EBERT: Okay, thank you. Because No. C, that all happened in our case where the zoning director, the county engineer, the county manager -- I can't agree with this one.

CHAIRMAN STRAIN: Well, I'm not against the staff having some administrative rights, but I --

COMMISSIONER EBERT: Absolutely.

CHAIRMAN STRAIN: -- think they have to be criteria that are attached to -- somehow to make that decision that isn't arbitrary but that isn't so broad that someone couldn't come in and ask for a slough of these as a routine.

MR. MULHERE: I understand.

CHAIRMAN STRAIN: That's the only thing I'm concerned about, and I didn't see that kind of restriction here.

MR. MULHERE: I understand. So we need to come up with some language that talks about limiting this to unique circumstances on a case-by-case basis.

CHAIRMAN STRAIN: And you did that in one of the other ones today where you got into explaining what was -- this is a substantial impact and you had then criteria --

MS. CILEK: Yep.

CHAIRMAN STRAIN: I think that's the one I corrected where you had the -- for Roman Numeral IV crossed out. That really said, okay, here's what substantial means. Here's what it is, and you can't do it if it doesn't get to this threshold. That's the kind of thing I'm looking for that I think would be beneficial to staff because you guys don't have to have any arbitrary decisions then. You're more locked in, and it's either -- and I don't mind if it's yes or no, but it better be with some good reasons.

Hardship has been one in a typical variance application that has -- normally has to be proven. Maybe that's something you should look at, because we have definitions of hardship. I don't know if that's the right way to go, but it's a suggestion.

Did you have something, Brad?

COMMISSIONER SCHIFFER: I have a comment on B, on B1B. Is your intent to say that the lots or parcels are irregular or the setback's irregular?

MS. CILEK: Setback.

COMMISSIONER SCHIFFER: Because the way -- an irregular setback? What would that mean then?

MS. CILEK: That would mean that it wouldn't be consistently 25 feet, I think it is, all across. So that the parcel, parcel line and the -- and the setback is irregular. It has an odd shape. It's not squared off or it has a change in the -- if it's -- you know, sometimes they're not equal. They're 25 one side and maybe 27 on the other.

COMMISSIONER SCHIFFER: So what you're saying is if the parcel line and the preserve line aren't, you know, colinear, parallel, then the setback for the preserve wouldn't be the same? Why is that a problem, though?

MS. CILEK: Well, we wanted to make sure that we weren't adjusting the actual preserve, impacting the preserve, the edge of the preserve. And so we want it restricted to those that have an irregular setback so they give a little flexibility for those people who have a different type of setback than their neighborhood, per se, who has just a straight edge and 25 feet all across the back of their property.

COMMISSIONER SCHIFFER: Okay. I mean, I think an angular setback from the preserve people could live with and design around, but -- if that's -- if you want to make every building in town square, this is the way you do it, you know.

MS. CILEK: Well, speaking to what Mark said, these are supposed to be for unique circumstances. It isn't intended that a giant swath of them be brought forward. So someone might have a really irregular setback and might need a couple extra feet for an accessory structure or their principal structure.

It's important to keep in mind that, regardless, there is still going to be some setback that is maintained for any of the setbacks, because you can only go up to certain amount, certain percentage, and up to a certain amount of feet.

COMMISSIONER SCHIFFER: I don't know.

COMMISSIONER EBERT: Still bring it back.

COMMISSIONER SCHIFFER: I have great intentions.

CHAIRMAN STRAIN: Well, personally, I'm concerned about the fact that it couldn't be applied -- someone couldn't use it in a more broadbrush application and that there isn't the criteria spelled out as there were in other

examples that I've made, that -- where staff's limitations are and how much they could approve and why they could approve it.

And I think that is to your benefit. You don't want to be arbitrary -- you don't want to be in a position where you're making a decision that you can't defend based on quantification or qualification, and I'm not sure this gives you any of that, so --

MR. BELLOWS: No, I concur. And the idea is maybe to address things like some of the minor variances that came before the Planning Commission and board where the board had questioned why is the county making this person come through this process.

But where do you draw the line? And it needs to be validated in this amendment. So we'll work on it some more.

CHAIRMAN STRAIN: Okay.

MS. CILEK: Yeah. It really is to get to those oddities that happen that -- you know, it's kind of a no-brainer that they should have this looked at and approved.

CHAIRMAN STRAIN: I agree, we should be doing that, but I'm worried that you're not there with this language.

MS. CILEK: Well, I'm going to look into making sure that it isn't used in a broad swath of parcels and lots. I think that's a good point.

CHAIRMAN STRAIN: Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: This will come back for a rewrite.

COMMISSIONER SCHIFFER: This will come back.

(Ms. Ahern is leaving the boardroom for the remainder of the meeting.)

CHAIRMAN STRAIN: Melissa's sneaking out. Nobody notice that Melissa's leaving.

COMMISSIONER MIDNEY: Don't say anything.

CHAIRMAN STRAIN: No, don't tell anybody that she's leaving early.

Okay. Let's move to 10.08.00. Without Melissa here, we'll just go on by ourselves.

COMMISSIONER HOMIAK: Bye, Melissa.

COMMISSIONER AHERN: Bye.

COMMISSIONER SCHIFFER: Where's Melissa?

CHAIRMAN STRAIN: Okay. This is conditions and safeguards, 10.08.00.

MS. CILEK: Right. And this is a combination of board-directed and a developer request. And we worked with it, and the board directed, I believe, to change the time frame for a conditional use from three years to five years and then to allow for two (sic) two-year extensions following that time frame of five years, which would go up to a total of seven years, which I believe is consistent with PUD --

MR. BELLOWS: Correct.

MS. CILEK: -- time frames.

CHAIRMAN STRAIN: And this is written to be one five-year -- it would go to five years with one two-year extension, so it would be a total of seven years.

MS. CILEK: Correct. Sorry, I said two. I meant -- I'm sorry.

CHAIRMAN STRAIN: That's what I thought, so I'm just making sure. A showing of good-faith effort to commence the use. What does that mean? You love this language, don't you?

MS. CILEK: I believe that was added by DSAC, actually, one of the advisory boards. I'm just speaking on -- and that's fine.

CHAIRMAN STRAIN: But it doesn't -- what is a good-faith effort? If I go out and put a -- I mean, knock a tree down or put a shovel on the site, is that a good-faith effort? I mean, how do you prove that?

MS. CILEK: I think they want to see that there has been some progress on the site, that people are doing something. They've either -- I mean, I'm going out on a limb here, but --

CHAIRMAN STRAIN: Yeah, you are.

MS. CILEK: That they are making progress in fulfilling their conditional use application.

MR. BELLOWS: One of the items that I was thinking that meant was obtaining a valid Site Development Plan approval. If you have a -- you spent hundreds of thousands of dollars in some cases on Site Development Plans,

that's a valid attempt to vest the CU.

CHAIRMAN STRAIN: Well, I'd rather you, on No. 3, just put a list of the things that -- upon a written request of petition, you're showing any of the following, and then list the things you think are valid. Why leave it up to subjective decisions by anybody down the future? It only gets you in trouble.

MR. BELLOWS: Yeah. The conditional uses are always kind of -- I thought the three years was shortsighted given they face many of the same problems PUDs do. So one of the attempts was to put it on the same timeline as a PUD sunsetting type of timeline. But, you know, conditional uses also have that language. We want to see some kind of commencement of use in order to vest that CU. And if you don't attempt to do anything with that CU, it will go away.

One purpose of this amendment was to include things such as getting a valid SPD approval. But, you're right, it makes sense to be really clear what we think is a valid attempt to commence the use.

MS. CILEK: I think in some circumstances -- and I'm just speaking from conversations we've had that, you know, if you have a church, they might be saving up money for it, and they've only done an urban garden up until that point but they're really still working on it. So I don't know if we're going to be able to name all the things that would qualify under a good-faith effort, and I know that's really broad.

CHAIRMAN STRAIN: Well, I know -- that language is going to get somebody in trouble. I mean, what one person does for a good-faith effort may not be what anybody else sees as a good-faith effort.

I just suggest you find better language.

Brad?

COMMISSIONER SCHIFFER: I think we should just take the language out of there. And -- because if you do put a lot of requirements on it, then you start to eliminate people who can't forward SDPs and maintain it. I mean, if somebody at church, especially, went in and got the conditional use and can't raise the money and they're going through, they're going to lose in five years. So why put any, you know, requirement on them.

CHAIRMAN STRAIN: That's a good point. And besides, it's going to go for -- if after five years they want the one two-year extension, they've got to go before the board, so they're automatically going to have to justify it in a public meeting, and that's good enough. Why even --

MS. CILEK: They're going to have to explain what they do, so this was added language following stakeholder input. But I think the sentence ended at, "upon a written request of the petitioner."

CHAIRMAN STRAIN: Petitioner.

COMMISSIONER SCHIFFER: The old sentence. So I would favor we cross that off, like we said --

MS. CILEK: That's just fine.

COMMISSIONER SCHIFFER: -- and vote approval of it.

CHAIRMAN STRAIN: I would agree with you. I'm there. Anybody else?

(No response.)

CHAIRMAN STRAIN: Is that a motion, Brad?

COMMISSIONER SCHIFFER: Yes, it is.

CHAIRMAN STRAIN: Okay. There's been a motion to drop the last part of the underlined sentence and for approval -- for recommendation for approval. Is there a second?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Second by Ms. Homiak.

Discussion?

(No response.)

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

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Those opposed?

MS. CILEK: End on a good note.

CHAIRMAN STRAIN: Let the record show -- Huh?

MS. CILEK: I said, end on a good note for me, but I'm going to leave you in the hands of Chris for the --

CHAIRMAN STRAIN: Let the record show that Melissa's not here, and Caroline's abandoning us as well.

MS. CILEK: I'm not leaving.

CHAIRMAN STRAIN: Well, you're leaving, aren't you?

MS. CILEK: No. I'm going to sit back in the audience and watch.

CHAIRMAN STRAIN: Okay. And we have one more up, which is --

MS. CILEK: Thank you for all of your input.

CHAIRMAN STRAIN: You're welcome, it's been -- oh, I should say fun, but I'm not sure that's the right word.

We're at 2.03.0- -- we're on the Bayshore Overlay District.

MR. SCOTT: For the record, Chris Scott, principal planner with the Growth Management Department.

This came before you at our evening meeting last month. We did submit -- there was a revised draft consistent with the changes that were read into the record at the evening meeting and in the format that was discussed at the meeting where we took away the text boxes which showed old language. So this just shows it as clean.

And those changes were highlighted in yellow. And, I apologize, you may note, some of you I talked to as I was dropping them off during the break, since that draft was sent to you, there were a couple minor comments from the County Attorney's Office that came up and then some discussion with the CRA; Jean Jordan is here in the audience, and Patrick Vanasse with RWA, who helped draft these.

So there is a change sheet that I passed out. It's a two-page, double-sided that reflects -- and for the large part they're non-substantive changes. They're more clarification. And I'm happy to proceed however you wish to do, Mr. Chairman. I know you weren't at the meeting last month when this first came forward, so --

CHAIRMAN STRAIN: So you won't get a lot of -- I won't disrupt the game plan here.

COMMISSIONER EBERT: But we expect that.

CHAIRMAN STRAIN: Yeah. Well, I never do such things. Let's work on it. I don't know how you guys want to do it based on your review last time. If you felt comfortable with the thoroughness of the review and you wanted to approach it pages at a time, or you want to just go into the whole document?

COMMISSIONER SCHIFFER: I think, Mark, why don't you give us some of your questions. Do you have comments?

CHAIRMAN STRAIN: No.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: I honestly didn't dive into this one since my original review.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: So I'm kind of looking at you guys to -- I had plenty on the original review, but I did

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COMMISSIONER VONIER: What's the number?

COMMISSIONER SCHIFFER: It's 237G.

COMMISSIONER VONIER: Okay.

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: I have to say this, because I was here; I'm sorry you weren't, Mark.

On this particular thing, on the CRA for Bayshore, it was like we were doing -- we were going along and doing this. We had already heard Bayshore, and now we're going to change the LDC to match what we had already heard. That -- and we were having so many changes that night that we just plain stopped. Remember? We just plain stopped and said, look, just bring it back to us.

MR. SCOTT: Sure.

COMMISSIONER EBERT: And that was a little upsetting, I think, because it was like you weren't prepared for these changes.

So now you're saying that -- how do I want to say this? I don't -- I think Bayshore is great. I think everything is going to be just fine, but it was like we're doing these LDCs to match what we want them to match. In other words,

we're changing the LDC just for this project so we can do what we want.

MR. SCOTT: I don't think that's the case. Are you referring to the cultural arts --

COMMISSIONER EBERT: No. It was just -- there were so many of them and everybody -- and we finally just stopped making corrections, because there were so many correction.

MR. SCOTT: Just as background, the amendments are for the entire gateway triangle and Bayshore overlays. And when they were first drafted, I don't even know if the cultural facility was --

MR. VANASSE: A project.

MR. SCOTT: It wasn't a project at that time. This was well before the Pizzuti group and the CRA were working together on that project. So these amendments were more broad and encompassing than just -- they weren't specific to that project is all I can say.

MR. VANASSE: If I could get a second. If I could just recap my understanding of where we left things off last meeting. And, Brad, maybe you can tell me if I'm right or wrong.

My understanding was that we were going through the detailed amendments, and there was -- there was certain things, certain details that were not substantive, like footnotes, that carries from one table to the next.

And I think there was confusion because of all these small details. But everything that was substantive I think we did address and we got all the way through. And the direction I believe we got was, please come back with a clean copy without the boxes because that's a little confusing to us. And everything that we've asked you to reconsider or change, make the changes, highlight those and come back to us, and we'll review those highlighted areas and those changes.

I don't think the intent was to reopen the entire document and go back and re-examine the entire document.

COMMISSIONER BROUGHAM: I agree with your recollection.

COMMISSIONER SCHIFFER: But here's the problem. We don't have the clean copy. Do you?

CHAIRMAN STRAIN: Pardon me?

COMMISSIONER SCHIFFER: I don't have a clean copy.

CHAIRMAN STRAIN: Well, there's a highlight copy of what he just said was changed based on your guys

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COMMISSIONER SCHIFFER: I have these couple of pages.

COMMISSIONER BROUGHAM: No, no.

MR. SCOTT: No. There should be a clean copy that was in a packet delivered to you. And then I mentioned when I first sat down, there were some subsequent changes that, unfortunately -- not to the extent as last meeting, thank goodness, but there were some subsequent changes that I would like to note. And I'm happy to discuss those and provide the reasoning for why they're there if they're not readily apparent to you.

CHAIRMAN STRAIN: Well, there were 65 pages of -- redistributed on May 3rd, at our last board meeting, and that's what you should -- that's what --

COMMISSIONER SCHIFFER: I was here May 3rd. I've never seen this before.

COMMISSIONER VONIER: I didn't get that.

COMMISSIONER SCHIFFER: And Bill didn't get it.

COMMISSIONER BROUGHAM: I've got it.

MS. CILEK: That's okay.

CHAIRMAN STRAIN: Plus you handed out several pages this morning, four pages this morning of changes to the changes.

MR. SCOTT: Yes. And, again, I do apologize for --

CHAIRMAN STRAIN: I'm not sure what your time frame is, but we have another LDC amendment hearing on which this one will be continued to the next meeting. We may be able -- now that some members didn't even have this, it might be better just to wait till that meeting so everybody can chime in together and we can make it clear at this meeting it's going to be done at next meeting. Is that a direction that Bill and Brad -- and I see Diane shaking her head.

COMMISSIONER EBERT: Yes. I would feel better.

CHAIRMAN STRAIN: Is that a better direction to head in, or are you -- I mean --

COMMISSIONER HOMIAK: I went through all this, and all the changes that we -- everything that we spoke of are in here. And we've had it since May 3rd.

MR. VANASSE: We were hoping to possibly come here today and look at all the highlighted areas and look at those areas, were the correct changes, was it consistent with the discussion that we've had, and if the answer was yes, maybe get done today.

CHAIRMAN STRAIN: I've got no problem going either way you guys want to go. But it's back to what some of the members here may not (sic) or may not have seen in regards to the new changes, so --

COMMISSIONER BROUGHAM: Well, my recollection of the meeting was that, Brad, you had most of the comments, my recollection, you know, regarding facades and cornices and heights and so forth and so on, which I believe, you know, have been incorporated in here and what we asked to be done, in other words, eliminate the boxes and all of that, because it was very confusing whether this was old language, new language, and so forth, that you did that.

I mean, I can respect the fact that you'd like to complete today, but in view of the fact that Brad's comments, in my opinion, drove a lot of the revisions at the last meeting and Brad just received that, I would defer to the board.

But if Brad's comfortable that everything that was discussed is in here, then -- and I've reviewed it, Karen says she's reviewed it, but I'll defer to Brad. If you would like to defer it, Brad, so you can go back to your original notes, then I'm all for that, but --

COMMISSIONER SCHIFFER: I think we can do it. Let's try to do it today.

CHAIRMAN STRAIN: Okay. Why don't you walk through the changes that you've added, and I think it would be the highlighted text.

COMMISSIONER BROUGHAM: Right.

CHAIRMAN STRAIN: We can move through it starting with the first page and walk us through it then.

MR. VANASSE: And if you'd like, what I'll do is I'll turn it over to Chris.

CHAIRMAN STRAIN: One of you --

MR. VANASSE: Chris has been the author of most of this stuff, and I'll be here for support.

CHAIRMAN STRAIN: Okay.

MR. SCOTT: The first change is just for consistency sake. On Page 7, it is B, I, I, C. It is just to clarify -- there was a semi-conflict with the previous citation. But the table of uses --

(Mr. Midney is leaving the boardroom for the remainder of the meeting.)

MR. VANASSE: That's in the green sheet.

MR. SCOTT: And this is on the green sheet -- basically a project can develop either under -- based on the uses allowed by the underlying zoning designation or by the uses allowed in the table. But in either circumstances, they must comply with the site development standards. So we just wanted to clarify at the -- or the following table of uses.

CHAIRMAN STRAIN: Okay.

MR. SCOTT: And then that is also reflected in the headers above the table of uses. We wanted to reiterate that point on the table of uses so somebody didn't have to go back and read the text. And that is also in the gateway triangle mixed-use district, Section 4 -- or 2.03.07, which is shown on Pages 13 in the text and then in the header of the tables on 14, 15, and 16.

So those are all very similar changes.

CHAIRMAN STRAIN: Okay. Take us to the next one.

MR. SCOTT: The next changes -- and these are going to be pretty redundant. But on the next -- when you get into Chapter 4.02.16, which is the design standards, it describes each of the overlay subdistricts. And within those it meant -- references the maximum density allowed. We were trying to simplify it from what was previously shown to you and also make it -- the CRA is currently pursuing or exploring the potential to do an amendment to the Growth Management Plan. So -- and the densities that are allowed on a property are established in the GMP.

So we just wanted to recognize the maximum density, 12 units per acre, and note that it's comprised of density allowed by the underlying zoning and any available density bonuses.

Now, how those density bonuses played out are all set through the Growth Management Plan, so it was a little redundant to emphasize it here in the LDC. And in case of any future amendments to the GMP, we didn't want to create a potential for future inconsistencies. So this way if the GMP is amended in the future, this would still remain consistent.

The maximum density is 12, but it can be comprised of bonus densities in the underlying density.

CHAIRMAN STRAIN: But if -- you can't then increase the GMP above 12 without having to rechange the LDC.

MR. VANASSE: Exactly.

MR. SCOTT: Correct.

CHAIRMAN STRAIN: Okay.

MR. SCOTT: So the 12 units would apply to the BMUD, neighborhood commercial, the BMUD waterfront subdistricts, the other BMUD residential subdistricts. We just added "and any available density bonus" because the GMP does allow for some density bonuses within those subdistricts -- or within the Bayshore redevelopment area.

And then when you get to the Gateway Triangle mixed-use district, the MXD has the same 12 units per acre language proposed, and the residential has the consistent addition "and any available density bonuses."

Are there any questions regarding those changes?

CHAIRMAN STRAIN: Anybody?

(No response.)

CHAIRMAN STRAIN: Nope.

MR. SCOTT: The other changes, the next two changes, Page 62, this is a correcting of a citation. It was identified by the County Attorney's Office, so we -- it used to read Chapter 4. Now we're being specific, Section 4.02.16, which are the design standards for the Bayshore Gateway Triangle overlays.

Page 63 is also a clarification requested by the County Attorney's Office. We are noting for MUP deviations, that they are only available for those MUPs that were approved through a public hearing process.

CHAIRMAN STRAIN: Okay.

MR. SCOTT: And on the back page of the change sheet that was distributed, there's -- these are carried over from the existing overlay provisions. There's a list of administrative deviations for mixed-use projects. There was the landscape and buffer requirements. There was a portion that was not included with the original amendment. That is being added, too, at the request of the County Attorney's Office.

So this is reverting back to the existing LDC language, and that language specifically states that in order to get that deviation on the buffers, you must additionally provide a minimum of 110 percent of the open space requirement for mixed-use projects in addition to other conditions the county manager or designee deems necessary.

MS. ASHTON-CICKO: And I'm not requesting this specific language. I just asked for more criteria.

MR. SCOTT: Criteria.

MS. ASHTON-CICKO: So in most of these instances I'm not advocating specific language. I'm just asking for more criteria. And there is another one -- one other citation correction. Under Item D, the reference should be 4.05.04G2. Instead of F2, it's G2.

MR. VANASSE: And just to confirm, we did have that communication with Heidi, and we agree that this additional criteria with 110 percent is acceptable to us, no problem.

CHAIRMAN STRAIN: Okay.

MR. SCOTT: And then the final changes is in the -- Section C, in 10.02.15. It's the bonus density pool allocation.

The specific number of bonus density units that are available. It's -- 388 units were originally created. That number is specified in the Growth Management Plan. We're proposing to strike it from the LDC which would allow in the future, if the CRA were able to amend the GMP to increase that amount -- for instance, if a public project came in and the density that was associated with a property similar to what happened with Naples Botanical Garden, came about that that residence density could be added to this pool in the future, that would require a GMP amendment.

But should that happen, we're just proposing to strike this so it wouldn't also entail the subsequent LDC amendment.

And then at the final strikethrough the MUP public hearing process was changed to just a public hearing approval process, and that is in -- to make it consistent with an existing GMP amendment being sought by the CRA, how those density units are -- they're specifically -- they're specified within the GMP on how they are available. So the LDC is somewhat redundant to the GMP. But if there's changes to the GMP, we want this to hopefully be consistent with that in the future.

CHAIRMAN STRAIN: Okay. Any questions? Brad, do you have any comments?

COMMISSIONER SCHIFFER: Actually, one simple one. In going through this stuff, it looks like

everything's fine with that. The -- did we decide to have two primary facades for a corner lot with a single-family house, or would that start interjecting porch problems and stuff? Remember the illustrations we -- all the other ones noted -- you know, you've added the note for primary facade.

MR. VANASSE: We placed --

MR. SCOTT: Houses -- I don't believe houses are covered in the architectural section of the LDC as having primary facades, so we didn't add it to the LDC here.

COMMISSIONER SCHIFFER: But you have requirements for porches and stuff on a single-family home. And I guess the confusion could be is you may require two porches if you consider that. So I think we can let that go.

MR. VANASSE: Yeah, we don't have that.

COMMISSIONER SCHIFFER: When you did point to primary facades, there's -- like, some diagrams had multiple buildings, and you didn't point to all of them. Do you think somebody's going to be smarter than us and say, well, look, it doesn't mean all of them have to be? You see what I mean?

MR. SCOTT: The pictures are really for illustrative purposes. The text would be the controlling language. And within the 5.05.08 it specifically states that any facade fronting a street is a primary.

COMMISSIONER SCHIFFER: So you're not worried about that?

MR. SCOTT: No.

COMMISSIONER SCHIFFER: Okay. And then in the deviation process, the old code listed the whole process where you truncated it. There's five components of it. You went one to three. I guess, Heidi, you were going to look at that.

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

COMMISSIONER SCHIFFER: This is the -- well, you can -- the best way to look at it that's a good example of it -- and it's in a couple areas, but in the last sheet of the handout today.

MS. ASHTON-CICKO: Oh, on the last page of the handout.

COMMISSIONER SCHIFFER: Section -- just above the green it says F1, 2, 3, not including 4 and 5. And what 4 and 5 are in the architectural standards is the ability to convene a group of, you know, design professionals to -- I could give it to you in -- would you rather see it in the -- what page it is in here?

MS. ASHTON-CICKO: I just want to make sure I'm referring to where you are.

CHAIRMAN STRAIN: Heidi, you need to pull that mike to you, too, if you don't mind. It's facing away from you.

COMMISSIONER SCHIFFER: If you go to Page 63 in the actual --

MS. ASHTON-CICKO: Are you on the MUP deviations or the asset pool?

COMMISSIONER SCHIFFER: Yes.

MS. ASHTON-CICKO: Okay.

COMMISSIONER SCHIFFER: And do you see -- let's take front setback. It goes down 5.05.08F1 to 3, and there is a 4 and 5 in that section. The old code referenced the whole section. Do you guys know why you didn't reference --

MR. SCOTT: Yeah. I believe I spoke to this at the last meeting. I believe No. 4 -- let me see if I have my old notes. Number -- there was a -- I believe one had to deal with an appeal process, and there's an appeal process built into these MUP deviations, so it was just not to have two separate appeal processes. And then the other -- I don't have that section of the code in front of me. But I thought neither of those applied, so they were just stricken.

MS. ASHTON-CICKO: Then No. 4 deals with applicability, and so I don't think you want to create a conflict for whatever you have in the CRA --

COMMISSIONER SCHIFFER: That's right.

MS. ASHTON-CICKO: -- versus that, and then No. 5 is the appeal process.

COMMISSIONER SCHIFFER: But it's an appeals process for design issues, so you don't want to go there? I mean, where do you go in this process if there's an appeal, to the CRA or to the board or --

MR. SCOTT: Well, these would be administrative. It would follow the procedures of 5.05.08, so it would be to staff, and they can utilize the Architectural Arbitration Board, I believe, is the name they use as a consulting forum.

COMMISSIONER SCHIFFER: That's No. 5.

MS. ASHTON-CICKO: Yeah, that's No. 5.

MR. SCOTT: Well, the -- that board is also set up within the previous earlier text in that section in 5.05.08

that staff can utilize them as a reference when making their decision.

COMMISSIONER SCHIFFER: But the applicant --

MS. ASHTON-CICKO: The appeals process is Section 250-58 of the Code of Laws, which is a different appeal process. It's usually directly right to the Board of County Commissioners.

COMMISSIONER SCHIFFER: Okay.

MS. ASHTON-CICKO: If you look at No. 4 on Page 64, that's where it's talking about the effect of a denial may be appealed under those provisions. That's why.

COMMISSIONER SCHIFFER: Okay. Well, I mean, in the past we stayed with the architectural or the design professionals. That's not all architects, but -- do we want --

MS. ASHTON-CICKO: It's a policy decision where you want to go.

COMMISSIONER SCHIFFER: I do think getting rid of 4 makes sense, but -- and then that can be appealed to the commissioners.

MR. VANASSE: We're trying to pull up 5.05.08 on Bob's tablet so we can look at No. 4 and 5 and get the exact language.

MR. SCOTT: It was deleted specifically from front setback deviations, the landscape and buffer deviations. I -- if -- I don't see it being a problem adding it back to architectural and site design standards, because that's -- as far as having an appeal of an administrative decision regarded to those deviations, go to the -- allow those to be appealed to the Architecture Arbitration Board, I believe, is the correct terminology.

COMMISSIONER SCHIFFER: So you can add 5 to B. And then, obviously, 4, the appeal of that, is still available, and C, put 5 back in there, that would be good. It does not make sense to have 4.

CHAIRMAN STRAIN: So you're saying on B and C, it would be 5.05.08F1 through 3, comma, 5?

COMMISSIONER SCHIFFER: Right.

CHAIRMAN STRAIN: And that would be for both B and C. Is that a problem?

MR. SCOTT: I'm not sure if the Architectural Arbitration Board reviews landscape and buffer deviations.

COMMISSIONER SCHIFFER: Well, it's made up of landscape architects. I mean, it reviews the whole architectural standards, which does have landscaping, landscape requirements in it.

MR. SCOTT: I would look to Heidi to say if it's within their authority to review landscape and buffer deviations. I don't think it is, because I think they're specific to the architectural and site design standards section of the LDC.

So I would limit that, and 5 just being added back to B.

COMMISSIONER SCHIFFER: Okay. That's good. Go ahead. That's fine.

CHAIRMAN STRAIN: Okay. So we're in agreement it's just going to be in B. It will be 1 through 3, comma, 5, just B only.

MR. SCOTT: Correct.

CHAIRMAN STRAIN: Okay. Anything else, Brad?

COMMISSIONER SCHIFFER: Nope, that's good.

CHAIRMAN STRAIN: Anybody else have anything on these?

COMMISSIONER EBERT: No.

CHAIRMAN STRAIN: Okay. Out of 65 pages, anybody got a motion?

COMMISSIONER SCHIFFER: I will move to approve.

CHAIRMAN STRAIN: With the changes -- or the change --

COMMISSIONER SCHIFFER: With the changes noted, including today's.

CHAIRMAN STRAIN: Okay. Is there a second?

COMMISSIONER KLEIN: (Raises hand.)

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Barry already made his second.

Discussion?

(No response.)

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

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

CHAIRMAN STRAIN: Aye.
COMMISSIONER HOMIAK: Aye.
COMMISSIONER EBERT: Aye.
COMMISSIONER KLEIN: Aye.
COMMISSIONER BROUGHAM: (Absent.)
CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: The motion carries, what, 7-0 (sic).

MS. ASHTON-CICKO: Is there a seventh over there?

CHAIRMAN STRAIN: Oh, Phil's gone, 6-0. I believe one -- the rest are not here.

COMMISSIONER EBERT: He's in the restroom.

COMMISSIONER SCHIFFER: He could bang on the wall.

MR. VANASSE: Thank you.

CHAIRMAN STRAIN: Thank you. That wraps up LDC amendments for today.

Caroline drew kind of like even 8-8. So you've got eight rewrites and eight going forward. So that's 50/50.

That's not bad.

Does anybody else have any issues for today?

(No response.)

CHAIRMAN STRAIN: If not, I will certainly --

COMMISSIONER EBERT: I would --

COMMISSIONER SCHIFFER: To continue.

COMMISSIONER EBERT: I have to apologize to Jamie if he's listening. It was not his portion. It was 3.05.07 is the one I was going to -- so, Jamie, I'm sorry. It was not your fault.

CHAIRMAN STRAIN: Well, okay. Thank you.

COMMISSIONER SCHIFFER: What's the date we're going to move this to?

CHAIRMAN STRAIN: Well, we're going to continue LDC amendments to what date, Caroline? What's going to be convenient? Our next meeting is June 7th. If you can have some ready by then, bring them with you.

MS. CILEK: Yes.

CHAIRMAN STRAIN: Get them to us ahead of time; we'll be ready for them.

COMMISSIONER SCHIFFER: And I'll make a motion we continue the LDC amendment meeting to June

7th.

CHAIRMAN STRAIN: Okay. Motion's been made to continue --

COMMISSIONER VONIER: Second.

CHAIRMAN STRAIN: -- the LDC amendment meeting --

COMMISSIONER EBERT: I'll second.

CHAIRMAN STRAIN: -- to June 7th, seconded by Diane.

All in favor, signify by saying aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER SCHIFFER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries.

How about adjourning today's regular hearings.

COMMISSIONER KLEIN: So moved.

COMMISSIONER VONIER: So moved.

CHAIRMAN STRAIN: So moved by Barry. We're done. Thank you all.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 4:12 p.m.

COLLIER COUNTY PLANNING COMMISSION



MARK STRAIN, CHAIRMAN

ATTEST
DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 6-21-12, as presented or as corrected ✓ .

TRANSCRIPT PREPARED ON BEHALF OF GREGORY COURT REPORTING SERVICE, INC.,
BY TERRI LEWIS, COURT REPORTER AND NOTARY PUBLIC.