

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
October 4, 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:

Melissa Ahern, Vice-Chairman
Phillip Brougham
Diane Ebert
Karen Homiak
Barry Klein
Paul Midney
Bill Vonier

ALSO PRESENT:

Heidi Ashton-Cicko, Assistant County Attorney
Ray Bellows, Zoning Manager
Tom Eastman, School District

INTERIM CHAIRWOMAN AHERN: Good morning, and welcome to the October 14th meeting of the Collier County Planning Commission.

If everyone would rise for the Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

INTERIM CHAIRWOMAN AHERN: Roll call, please.

COMMISSIONER HOMIAK: Okay, Mr. Eastman is absent.

Mr. Vonier?

COMMISSIONER VONIER: Present.

COMMISSIONER HOMIAK: Mr. Midney is absent.

Ms. Ahern?

INTERIM CHAIRWOMAN AHERN: Here.

COMMISSIONER HOMIAK: Ms. Homiak is here.

Ms. Ebert?

COMMISSIONER EBERT: Here.

COMMISSIONER HOMIAK: Mr. Klein?

COMMISSIONER KLEIN: Here.

COMMISSIONER HOMIAK: And Mr. Brougham?

COMMISSIONER BROUGHAM: Here.

INTERIM CHAIRWOMAN AHERN: ***Okay, we'll move right into addenda to the agenda.

At this point we are going to be making selections of interim chair and vice chair. And I would make a recommendation --

COMMISSIONER KLEIN: I would like to make a motion that Melissa Ahern is going to continue to be our chairman.

INTERIM CHAIRWOMAN AHERN: Thank you.

COMMISSIONER EBERT: I'll second.

INTERIM CHAIRWOMAN AHERN: Okay, thank you.

All in favor?

COMMISSIONER KLEIN: Aye.

COMMISSIONER VONIER: Aye.

INTERIM CHAIRWOMAN AHERN: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

INTERIM CHAIRWOMAN AHERN: I would like to also recommend that the board -- that we wait until we have a complete seated board to make permanent selection.

COMMISSIONER EBERT: I'll second that.

INTERIM CHAIRWOMAN AHERN: All in favor?

COMMISSIONER KLEIN: Aye.

INTERIM CHAIRWOMAN AHERN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

INTERIM CHAIRWOMAN AHERN: Okay, motion passes 6-0.

MS. ASHTON-CICKO: And we need a vice-chair as well.

INTERIM CHAIRWOMAN AHERN: I'll make a motion --

COMMISSIONER EBERT: No, we don't. We can -- according to Jeff, we can just leave it this way until the first of the year, or whatever.

MS. ASHTON-CICKO: Well, I guess that will depend on what the CCPC wants to do as a majority. Your ordinance does say that you're to select a chair and a vice-chair, since we have a vacancy in the chair. Melissa's been moved up to that position. If you want to leave the vice-chair position vacant by a majority vote, if Melissa's

unavailable for any reason then there's no action or decision-making that could occur until the next CCPC meeting.

COMMISSIONER BROUGHAM: Exactly.

INTERIM CHAIRWOMAN AHERN: Well, I'll make a motion for Bill to be vice chair.

Do I have a second?

COMMISSIONER EBERT: For who?

INTERIM CHAIRWOMAN AHERN: For Bill.

COMMISSIONER EBERT: I'll second that.

COMMISSIONER BROUGHAM: Interim vice-chair?

COMMISSIONER EBERT: Yeah, interim.

INTERIM CHAIRWOMAN AHERN: All in favor?

COMMISSIONER KLEIN: Aye.

INTERIM CHAIRWOMAN AHERN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

INTERIM CHAIRWOMAN AHERN: Okay, motion passes 6-0.

***Okay, Planning Commission absences. Right now we do not have anything scheduled for the October

18th --

MR. BELLOWS: Correct.

INTERIM CHAIRWOMAN AHERN: -- meeting.

We do have a special meeting on October 30th for the EAR-based GMP amendments. Does anyone know if we will not be here?

(No response.)

INTERIM CHAIRWOMAN AHERN: Okay, looks like we will have a quorum.

(At which time, Mr. Eastman enters boardroom.)

COMMISSIONER BROUGHAM: Could we reserve two days for that, Melissa?

INTERIM CHAIRWOMAN AHERN: If necessary it will move to the next day. I don't think it will be necessary, but --

COMMISSIONER HOMIAK: And Mr. Eastman is here now.

INTERIM CHAIRWOMAN AHERN: Good morning.

MR. EASTMAN: Good morning.

INTERIM CHAIRWOMAN AHERN: ***Okay, approval of the minutes. If everyone had an opportunity to review the minutes.

COMMISSIONER HOMIAK: Motion to approve.

COMMISSIONER EBERT: I'll second.

INTERIM CHAIRWOMAN AHERN: All in favor?

COMMISSIONER KLEIN: Aye.

INTERIM CHAIRWOMAN AHERN: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER VONIER: I abstain. I wasn't here.

COMMISSIONER BROUGHAM: As will I. I was absent.

INTERIM CHAIRWOMAN AHERN: So motion passes 4-0, and then two abstentions.

***Ray, BCC recaps?

MR. BELLOWS: Yes. At the last board meeting they approved the variance for -- for the Donald Gray property. And they also approved the PUD amendment for Brynwood on the summary agenda. So that would be subject to the Planning Commission recommendations.

INTERIM CHAIRWOMAN AHERN: Great.

***Chairman's report. I have nothing to report at this time. So let's move on into our advertised public hearings.

Today we will be addressing the consent agenda items at the end of the meeting, so anything that happens with the advertised public hearings can be approved and not delayed, considering we do not have a meeting later on this month.

***So let's start with CUPL2011-0001757, Mac Business Plaza.

MR. MULHERE: Good morning. For the record, my name is Bob Mulhere.

THE COURT REPORTER: Swear?

INTERIM CHAIRWOMAN AHERN: Oh, I apologize. If the court reporter would swear everyone in that will be testifying on this item.

(Speakers were duly sworn.)

MR. MULHERE: Again, good morning. For the record my name is Bob Mulhere with Mulhere and Associates here this morning on behalf of the petitioner. With me this morning is Christopher Shucart.

COMMISSIONER HOMIAK: Oh, disclosures.

INTERIM CHAIRWOMAN AHERN: Bob, let me interrupt you for one minute.

Does anyone on the Planning Commission have any disclosures?

COMMISSIONER HOMIAK: Yes, I spoke to Mr. Shucart.

COMMISSIONER KLEIN: About a week or so ago I spent about an hour at their office discussing it with them.

INTERIM CHAIRWOMAN AHERN: Mr. Brougham?

COMMISSIONER BROUGHAM: Had a meeting with Mr. Shucart and Mr. Mulhere.

COMMISSIONER VONIER: Staff.

INTERIM CHAIRWOMAN AHERN: Okay. And I did not meet with either party.

Sorry, Bob.

MR. MULHERE: That's okay.

COMMISSIONER EBERT: Upside down, Bob.

COMMISSIONER BROUGHAM: We'll actually get going soon.

MR. MULHERE: Is this working?

Okay, just wanted to -- I'm sure you all are familiar with the location, but just briefly, I wanted to point out where the property is. There we go.

It's located on the East Tamiami Trail. The property is -- has got C-3 zoning to the west. Across U.S. 41 is the Eagle Lakes Park. And it's also got C-3 zoning I guess to the south or east. And this RT zoning right behind it here is the recreational facility for the Hitching Post RV Park.

The reason that we're here asking for this conditional use, I just want to give you just a little bit of background. I don't know how many -- I don't think you get all that many conditional uses brought before you, and this is even a little bit more unique. Conditional uses are uses that would otherwise be permitted -- this is by definition; I may not have it exactly right, but I'm pretty close. They would otherwise be permitted, but because of the unique nature of the use, there may be a desire to put some additional conditions or stipulations on that use.

And so it goes through a public hearings process, allowing the neighbors to have a chance to look at it and make comments, allowing the Planning Commission to review it, and allowing the board to approve it with -- or deny it. But if they approve it, they can put conditions on it.

But this type of conditional use that we're asking for is even a little bit more unique than that.

Typically those uses that are conditional uses aren't also permitted uses. But in this case, the uses that we're asking for are permitted uses in the district. But they're restricted. They're restricted as to the square footage that's allowed. So, for example, a restaurant is allowed in C-3, but it's restricted to no more than 5,000 square feet.

Those restrictions were put in place on a number of personal service and retail uses in the C-3 district across the entire spectrum of Collier County, wherever C-3 occurs in order to limit or in order to reduce the possibility of having some singular kind of large use consume that C-3 zoning and in that way really not be consistent with the purpose and intent of the district.

And I'll read the purpose and intent of the district. The purpose and intent of the commercial intermediate district is to provide for a wider variety of goods and services intended for areas expected to receive a higher degree of automobile traffic. The type and variety of goods and services are those that provide an opportunity for a comparison shopping, have a trade area consisting of several neighborhoods and are preferably located at the intersection of two

arterial level streets.

So you can see from that purpose and intent statement that the C-3 district is intended to provide a wide variety of personal services, retail uses, restaurants, those kinds of things, to several neighborhoods in an area where they're located.

And so I don't know exactly when it happened, sometime with the adoption of the Land Development Code in the early 2000's, I think, there were these restrictions put in on square footages so that you wouldn't have a medium box or big box consuming that C-3 property taking away from the purpose and intent of a mixture of personal services and retail uses and those kinds of things.

Our experience, my client's experience has been with this property and with other properties that they own in this neighborhood, in this area of East Naples along U.S. 41, is that -- well, there's a couple of things. Number one, end users -- by the way, I forgot to mention and I think this is also important, those uses that are restricted to square footages, including, like I said, a bunch of -- auto parts stores are restricted, everything that's retail or personal service, most of those are restricted to square footage of either 5,000 or 6,000 square feet. The one exception for some reason was drug stores. I can only think that the drug stores had a strong lobby at the time, but I don't know.

So in any case, we found that the end users that might otherwise be interested in this property or similar properties are not -- are not interested to the extent that they might be because of that square foot limitation.

So if you look at some of the maybe more desirable restaurants that we would be speaking to, they would like to have maybe eight or 9,000 square feet, not 5,000 square feet. They would also in some cases like to own the property, so it would be their parcel with their parking.

The way we've designed the project, there will be cross-easements for parking and water management will be master planned, and landscaping buffering will be master planned, and it's all shown together as one project, but we could still subdivide the parcels.

What I wanted to mention to you was that these restrictions don't apply if you build a shopping center. So all of those uses that are restricted to square footage as a singular use are not restricted if you put those same uses within a shopping center.

Well, what is a shopping center? A shopping center is defined as a retail personal service or office uses in a single -- well, it doesn't have to be single building, but in a unified plan of development that is at least 20,000 square feet in size and has at least eight or more individual retail office or personal service outlets. So you have to have at least eight units that are for sale or for lease and you have to be more than 20,000 square feet.

And that could certainly be the case in this property. There is an approved Site Development Plan on this property today as we speak for some 57,000 square feet, which includes office and retail, and was approved as a shopping center.

So we think that the times have changed quite a bit. We all know that the last four or five years have been pretty tough from an economic perspective. We're asking for this conditional use, for those uses that are restricted to be able to have more flexibility in the marketplace.

We've agreed -- and there were some concerns, and we didn't want to -- we aren't interested in putting a single use on there that's say, 50 or 60,000 square feet. So we agreed to some conditions that we worked out with staff. And those conditions are that we would have no more than four parcels. And your master plan shows a type of development that could occur for which there's sufficient parking, stormwater management and everything like that, subdivided into four different parcels with the parking, so we could have up to four parcels.

There would be a maximum of 15,000 square feet for any singular use and a maximum of 35,000 square feet in aggregate for any of these conditional uses total.

Now, those conditions apply -- those limitations apply to the conditional uses. They obviously don't apply to the permitted uses. Those permitted uses are by right in the district.

We've had a neighborhood information meeting. As a result of that neighborhood information meeting we had a follow -- one of the things that came up in that meeting was the Land Development Code requires a six-foot architecturally treated or masonry wall anywhere where a commercial property is adjacent to a residential property.

And I think this is a little bit unique in that as I said before -- and maybe I can pull out an aerial and use that. This property is, you know, you got U.S. 41 here, C-3 Hitching Post Shopping Center here, C-3 zoning here. And then this little piece of RT right here, and then this is Barefoot Williams Road.

This RT is the recreational facility. And here is an aerial that shows that. You can see, this is the recreational

facility in here.

The approved SDP had with it an administratively approved waiver from the wall requirement. We -- and we would like to have the same relief. And we actually explored that discussion with the neighbors at the neighborhood information meeting and their request that we prepare a landscape plan and then meet with them again. And we did that. We had a plan prepared, and we did meet with them. And a couple of the neighbors are here and they'll speak to those issues.

And this is really a blowup of the plan, and looking at it from the perspective of the neighbors towards our property.

But this really would be finalized at the time of Site Development Plan.

(At which time, Commissioner Midney enters the boardroom.)

MR. MULHERE: But we certainly don't object to these exhibits, these two exhibits, being a condition of the conditional use approval, because they are embellished in terms of the quantity and the size of the plants. And we believe that the neighbors concur but, I mean, we'll let them speak for themselves.

I believe I've covered all the issues. I'm sure you have some questions and I'm available, Mr. Shucart's available to answer any questions that you might have.

INTERIM CHAIRWOMAN AHERN: Bill?

COMMISSIONER BROUGHAM: Several.

When we got together in our meeting, we talked about all of the permitted uses by right, NC-3, and there's quite a list of those, and we went down through some that at least I had a question on. And I'm sure you've had an opportunity to look at those.

And I do understand on this first set that these are permitted, you're entitled to these uses. But they're a little bit of a cause for concern. The first one is loan brokers, which is SIC-6163.

MR. MULHERE: Yeah.

Ray, are you able to pull those up so that we can be sure that we're -- because there's always a little confusion between the SIC Code. And I did look at them and I know Chris has some copies. But just --

COMMISSIONER BROUGHAM: My only concern there is really what is the definition of a loan broker.

MR. MULHERE: Okay, and I've got it right here.

COMMISSIONER BROUGHAM: Is that a pawn shop or --

MR. MULHERE: No, it's not a pawn shop. Here's the definition in the SIC Code. Establishments primarily engaged in arranging loans for others. These establishments operate mostly on a commission or fee basis and do not ordinarily have any continuing relationship with either borrower or lender.

I know they were real popular for a while, but that was a few years ago. I don't know how many of them there are right now, but --

COMMISSIONER BROUGHAM: That's like a payday loan or --

MR. MULHERE: Yeah, it's -- well, I think --

COMMISSIONER BROUGHAM: It's not a pawn shop, that --

MR. MULHERE: No, I think it's really more of a mortgage broker, but I suppose it could be something along those lines too.

COMMISSIONER BROUGHAM: The other one -- the next one is record and prerecorded tape stores, 5735. And again, the concern there is really what does that mean? Is it video rentals or what?

MR. MULHERE: Yeah, we --

MS. ASHTON-CICKO: I'd just like to caution the Planning Commission that you're here today about a conditional use. And if they already have certain uses that are permitted uses under that zoning district, the elimination of that use would not be something that I would recommend that you proceed with. You can place reasonable conditions on the uses that he's requesting, but we can't take away what he's already allowed to do.

COMMISSIONER BROUGHAM: Okay.

MR. MULHERE: In our discussion, one of the things that came up was adult uses. Which there is an ordinance, I think it's called -- the section of the ordinance, the business ordinance that limits and restricts that.

But it isn't our intent to do that. And if that's a condition that you feel is appropriate, I mean, feel free to put that on there.

COMMISSIONER BROUGHAM: Well, taking into account what Heidi just said, certainly I'm not asking

you to give up any rights or any uses that you're entitled to --

MR. MULHERE: And we wouldn't be giving up the rights, we'd just be agreeing that the adult oriented business are not something that we would be --

COMMISSIONER BROUGHAM: I just think in my opinion that's a use that would not benefit that area --

MR. MULHERE: Agreed, agreed.

COMMISSIONER BROUGHAM: Okay, could I ask you one other question --

MR. MULHERE: Sure.

COMMISSIONER BROUGHAM: -- for the record?

On your preliminary site plan, and given what you're proposing is you could actually find a buyer for and construct a building. It could be up to 15,000 square feet maximum, and all buildings to a maximum of 35,000 square feet.

MR. MULHERE: Correct.

COMMISSIONER BROUGHAM: Now, if for example the first building sold was lot three, for whatever reason, would the entire site, conceptual site plan, would that be put into play? Would you pave the entire parking areas? How would that evolve?

MR. MULHERE: Not necessarily. And the way that that works -- that's a very good question. I mean, the way that that works is that you can -- there's two ways that you can only construct a portion. You cannot construct a portion of a stormwater management plan, obviously. The same thing with a buffering.

So you would come in with a phased Site Development Plan. And the first phase would include all those elements that have to be constructed in their entirety plus perhaps lot three.

And then the subsequent phases may be just parking or the actual construction would occur in subsequent phases, which could be but don't have to be also platted, individually platted lots.

COMMISSIONER BROUGHAM: In my example, let's say lot three was sold. It's a 6,500 square foot building. And you have both entrances, the one off 41, the one off of Barefoot. You would have interconnectivity --

MR. MULHERE: Yes.

COMMISSIONER BROUGHAM: -- between -- so you'd have a paved surface --

MR. MULHERE: Yeah.

COMMISSIONER BROUGHAM: -- from those throughout the entire parcel here.

MR. MULHERE: Part of what you'd have to create would be a code compliant access point that would ultimately remain in place to provide access for those other undeveloped parcels, but you'd create it at the initial stage, yes.

COMMISSIONER BROUGHAM: You wouldn't pave over -- you probably wouldn't pave over the area where a potential next building --

MR. MULHERE: Correct.

COMMISSIONER BROUGHAM: -- could go in.

MR. MULHERE: That's correct. But the access -- yes.

COMMISSIONER BROUGHAM: And then the final one is -- and that's on the landscape buffering. If you could put that --

MR. MULHERE: Sure.

COMMISSIONER BROUGHAM: -- aerial back up again, please.

MR. MULHERE: Yeah.

COMMISSIONER BROUGHAM: And I just want to point out something and get concurrence. And I know in a neighborhood information and in this morning you said that the residents of Hitching Post would not prefer to have a wall, and they can confirm that.

I guess my only concern on behalf of them, and I don't mean to speak for them, is if you have only landscaping between the recreational area and this parcel, it's potentially there that there could be foot traffic through the landscaping and so forth and so on. Eventually, you know, destroy the intent of that buffer. And that's only a potential concern I have. If the neighborhoods don't think that's important or a consideration for the future, I certainly haven't got a problem with it.

MR. MULHERE: I mean, again, they'll speak for themselves, but the landscape plan that we designed is pretty substantive. And as long as it's healthy and grows, then it should impede -- I know what happens over time,

though. And then I think, you know, then it becomes a question of the property owner being an appropriate manager. And if anything dies or anything needs to be replaced that it's done and that you have a relationship with the neighbors.

I know that Chris has a very good relationship with them. But you're right, I mean, he may not always own the shopping center, so they have to feel comfortable. And again, I'd let them speak for themselves on that issue.

COMMISSIONER BROUGHAM: Is there any potential of that recreational area ever becoming residences and not a recreational area? I know it's not again the subject, but --

MR. MULHERE: I mean, it's potentially yes. Because it is zoned RT, so it could allow the same uses that are in the rest of the RT. But it's highly unlikely, because it's used -- it's used by two different legal entities that have created a third entity that manage that. So it's just highly unlikely.

COMMISSIONER BROUGHAM: That's all I have, Melissa.

INTERIM CHAIRWOMAN AHERN: Anyone else have questions?

COMMISSIONER HOMIAK: I just wanted to -- the wall, I don't know, I think it probably was required there for noise more than -- I mean, if you have a row of dumpsters back there, those things are going to be banging and it might --

MR. MULHERE: They don't -- that wall -- I didn't mean to interrupt. Go ahead. I apologize.

COMMISSIONER HOMIAK: Well, it might cut down on the noise a little bit for them, but --

MR. MULHERE: Yeah, it doesn't really cut down much on the noise at all. You know, the hours of that kind of stuff is pretty limited. You're next to commercial. You know, I think there's really -- it's not -- the wall in itself will not reduce that noise impact. I mean, you can see the size of the walls that they have to put on highways. They're, you know, 20-foot tall. And that's what keeps the noise from coming over the top of the wall.

Having said that, you know, there's -- the other negative is the loss of movement of light and air through a six-foot wall. Looks like a -- you know, they're close to it. So that's the kind of thing that I think is undesirable. It's sort of -- you're looking out at this large wall. You might have some landscaping to soften it but it's still a large, six-foot when you're very close, you know.

And again, they have their recreational facility there. So I think there's enough room that that will minimize the impacts. And, you know, today we design these commercial facilities pretty well. If you have a garbage dumpster or a recycling bin, you're required to put a wall around the entire thing, plus a gate on the front of it. So it's already got -- and it's higher than six foot, it's probably eight foot. So it's already surrounded by something that -- the truck noise, you're going to hear that. You're going to hear it coming down the back alley there.

COMMISSIONER HOMIAK: Yeah. But I would like to see a condition added for no adult oriented video sales or rentals. Because you are changing that.

MR. MULHERE: Yeah.

COMMISSIONER HOMIAK: That is part of the conditional use for a video --

MR. MULHERE: We would agree to that.

COMMISSIONER HOMIAK: Okay. And then I have concerns about the outdoor music and television. I realize, I mean, you are looking at -- we're looking at a conceptual plan here that could never happen also. I mean, it could be two 15,000 square foot restaurants, one with outdoor music and one with outdoor televisions --

MR. MULHERE: Yeah, I would say --

COMMISSIONER HOMIAK: -- going all the time. I mean, it doesn't mat -- I mean, this means almost nothing, because it --

MR. MULHERE: Let me just throw out a couple of thoughts. Number one, you do have an opportunity here that you wouldn't otherwise have to restrict the location, you know, of those types of uses that would minimize the impact on the neighbors. Because, you know, you could put in three or four restaurants by right that are limited to 5,000 square foot and you'd no restriction on those.

COMMISSIONER HOMIAK: Right.

MR. MULHERE: We feel strongly that by limiting the location, nothing can be in the rear here. And if we have them -- if there is any outdoor seating, it's going to be facing U.S. 41 or, you know, or maybe some of the commercial property over here on the corner.

There's a significant volume of noise already on that highway. I do know that the noise ordinance was strengthened after, dare I mention it, the Stevie Tomato's fiasco or whatever, you know. And that noise ordinance, we

did look at it, and it limits -- or it reduces the decibel volumes that you can -- that can be created through amplified music or anything amplified. Anything amplified. 10:00 p.m. is sort of the -- it goes to a lower number.

We talked before the meeting and what we could agree to would be to limit the amplified sound to 10:00 p.m. In other words, after 10:00 p.m. there's no amplified sound allowed. And it's in the front of the building as well. So I think that would address anybody having concerns of being disturbed.

COMMISSIONER HOMIAK: Okay. Because at night it's quiet. There's --

MR. MULHERE: Yeah, I got it. We respect that.

COMMISSIONER HOMIAK: -- an open park and lake across the street too.

MR. MULHERE: Yeah, we respect that.

COMMISSIONER HOMIAK: So 10:00, you'd agree to --

MR. MULHERE: 10:00 p.m., yeah.

COMMISSIONER HOMIAK: Okay. And then on the conditional uses, on number one and two, it's written as the maximum aggregate gross building square footage. I think it should read floor area on one and two, because that's how it's referred to in the rest of the ordinance and in the LDC.

MR. MULHERE: I agree.

COMMISSIONER HOMIAK: Thank you.

MR. MULHERE: It's better for us, because building square footage would include non-usable area but floor square footage is the usable area, so that makes sense.

COMMISSIONER HOMIAK: Right.

And then on the Exhibit B, on the other side of 41 it says PUD Whistler's Cove. That is Eagle Lakes Community Park, or existing park, however you would want to word it, but that's wrong.

MR. MULHERE: Yeah. And I'll take responsibility for that one.

COMMISSIONER HOMIAK: Okay. You're easy today.

MR. MULHERE: After watching the presidential debates, I'm ready to take a lot of responsibility.

INTERIM CHAIRWOMAN AHERN: Good. We need somebody to blame.

COMMISSIONER HOMIAK: That's it for me.

INTERIM CHAIRWOMAN AHERN: Okay, any other questions?

(No response.)

MR. MULHERE: Thank you. I know you have a couple of public speakers, so --

INTERIM CHAIRWOMAN AHERN: Staff report?

MS. GUNDLACH: Good morning, Commissioners. I'm Nancy Gundlach, Principal Planner, for the record. Staff is recommending approval of this conditional use. It is consistent with the Land Development Code and the Growth Management Plan.

There is just one thing that I'd like to point out to you. The landscape plan that was shown here this morning has not been submitted to us, so I can't tell you whether it meets minimum code or not. But typically a plan like that would be reviewed at the time of Site Development Plan and at the time that an administrative wall variance is applied for.

So if you have any questions, it would be my pleasure to answer them this morning.

INTERIM CHAIRWOMAN AHERN: Anyone have any questions for staff?

(No response.)

INTERIM CHAIRWOMAN AHERN: Nancy, I just had one. On the resolution, it doesn't exclude drugstores. Does that need to be in there? Does that language?

MS. GUNDLACH: I'm looking for the County Attorney.

COMMISSIONER EBERT: She's behind you.

It did say that, that they would not have them.

MS. ASHTON-CICKO: I'm sorry, I didn't hear the question.

MS. GUNDLACH: Would you like for it to be excluded?

COMMISSIONER HOMIAK: I think it is.

INTERIM CHAIRWOMAN AHERN: Well, my question is whether it needs to or if it's just covered by the LDC.

MS. ASHTON-CICKO: For which part?

INTERIM CHAIRWOMAN AHERN: For excluding drugstores --

MR. MULHERE: It's in the LDC.

INTERIM CHAIRWOMAN AHERN: -- in the resolution.

MS. ASHTON-CICKO: We can place it in there in case the LDC gets changed in the future. So if you'd like to do that, that's fine with me.

INTERIM CHAIRWOMAN AHERN: Okay.

COMMISSIONER KLEIN: The odds of a drugstore coming in to that size is very limited.

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

MR. BELLOWS: No one has registered.

INTERIM CHAIRWOMAN AHERN: Is there anyone in the public that would like to come up and speak?

UNIDENTIFIED AUDIENCE MEMBER: No, we're fine with him.

INTERIM CHAIRWOMAN AHERN: Okay. At this point we'll close the public hearing and entertain a motion.

COMMISSIONER BROUGHAM: I'll make a motion to approve with staff conditions and the Planning Commission conditions CU-PL20110001757 Mac Business Plaza.

COMMISSIONER KLEIN: Second.

MS. ASHTON-CICKO: Also, Mrs. Chair, I'd suggest on your conditional use conceptual site plan in the lower corner it indicates, lower right corner, proposed wall to be built in accordance with the LDC. And I'd suggest since the applicants disclosed to you that they plan to get an administrative variance that it indicate on there, however applicant intends to seek administrative variance.

MR. MULHERE: That's fine.

MS. ASHTON-CICKO: Since he's disclosed that, you've reviewed it. And unless you have an objection to that, I'd make that adjustment.

MR. MULHERE: I just wanted to -- is it okay to -- did you --

INTERIM CHAIRWOMAN AHERN: Go ahead.

MR. MULHERE: So I just wanted to say the three additional CCPC --

INTERIM CHAIRWOMAN AHERN: I was going to --

MR. MULHERE: Oh, you got it?

INTERIM CHAIRWOMAN AHERN: -- add those as well. Yes.

We'll add the item Heidi just mentioned. We're going to change number one under the conditions from square footage to floor area.

COMMISSIONER HOMIAK: And number two.

INTERIM CHAIRWOMAN AHERN: And number two as well.

We're going to exclude drugstores. No adult oriented video sales or rentals. No amplified sound after 10:00 p.m. And you will change the Exhibit B to the Eagle Lakes Park.

MR. MULHERE: Got it. Good.

INTERIM CHAIRWOMAN AHERN: Okay.

MR. MULHERE: You did better than I could have.

INTERIM CHAIRWOMAN AHERN: All in favor?

COMMISSIONER KLEIN: Aye.

INTERIM CHAIRWOMAN AHERN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

INTERIM CHAIRWOMAN AHERN: Motion passes 7-0. Thank you.

***Next on the agenda is DOA-PL20120001160, the Town of Ave Maria.

If everyone speaking on this item would stand to be sworn in.

MR. BELLOWS: May I have a question?

INTERIM CHAIRWOMAN AHERN: Sure.

MR. BELLOWS: These are companion items. Do you want to have them heard together?

INTERIM CHAIRWOMAN AHERN: That would be great.

(Speakers were duly sworn.)

INTERIM CHAIRWOMAN AHERN: Thank you, Ray. The other item is SRAA-PL20120000705, also Town of Ave Maria.

COMMISSIONER HOMIAK: Disclosures?

INTERIM CHAIRWOMAN AHERN: Anyone have any disclosures?

COMMISSIONER HOMIAK: I spoke to Mr. Passidomo briefly.

COMMISSIONER KLEIN: Me too.

COMMISSIONER EBERT: I also did.

INTERIM CHAIRWOMAN AHERN: Phil?

COMMISSIONER BROUGHAM: As did I, as well as Mr. Leung.

COMMISSIONER VONIER: Staff.

INTERIM CHAIRWOMAN AHERN: And I spoke to Mr. Passidomo as well.

MR. PASSIDOMO: Good morning.

INTERIM CHAIRWOMAN AHERN: Good morning.

MR. PASSIDOMO: Madam Chairman, Commissioners, my name is John Passidomo. My address is 821 5th Avenue South in the City of Naples.

Our firm represents RES Collier Holdings, LLC as landowner of a 21-acre parcel upon which Arthrex's 200,000 square foot manufacturing facility is being constructed in the Arthrex Commerce Park on Oil Well Road in the Town of Ave Maria.

RES Collier Holdings is the applicant in the companion petitions in front of you as agenda Items 8.B and 8.C this morning.

Our transportation consultant is David Plummer and Associates and Mr. Steve Leung from the firm is available to respond to any questions you may have about the traffic impact statements knitted with our applications and circulated to you with your agenda packets.

Our applications propose to amend the Town of Ave Maria Stewardship Receiving Area Master Plan and Development of Regional Impact, Development Order, Map H, to address -- to add an access point to the Town of Ave Maria on Oil Well Road to and from the Arthrex manufacturing facility approximately 1,430 feet west of an existing approved access point at Arthrex Commercial Drive, as depicted on this overhead.

And what you see here is Camp Keais Road on the far right, Oil Well Road running perpendicular to Camp Keais, as you well know, to the south. And to the two existing approved access points, both at Ave Maria Drive and Arthrex Commerce Park, depicted to the east.

What is proposed is the Arthrex proposed entrance some 1,430 feet due west of what is existing and approved.

The Arthrex manufacturing facility will, upon completion next spring, operate with three shifts per day, employing 250 people per shift. Arthrex anticipates an 85,000 square foot expansion to the facility with a total of 700 employees per day within five years of opening.

Managing traffic circulation. Patterns around these shift changes, with only one point of access onto Oil Well Road, creates daunting challenges to what will be a major employment center.

The proposed directional median opening on Oil Well Road will do three things: It will disburse traffic to and from the manufacturing facility to alleviate anticipated congestion during shift changes. It will divert traffic from the Oil Well Road/Arthrex Commerce Drive intersection, and it will significantly reduce major and minor street delays at that intersection.

It will be limited to eastbound left-in and westbound right-in/right-out.

The traffic impact statement provided to you demonstrates justification for the proposed directional median opening and indicates that it may provide or it may actually delay signalization of the Oil Well Road/Arthrex Commerce Drive intersection depicted on the overhead.

Transportation planning staff has determined three things, and that's reflected in your staff report:

First, that the proposed access point will not create an additional impact on the adjacent roadway network.

Second, that it is consistent with Policy 5.1 of your transportation element of the Growth Management Plan.

And third, that with the addition of the access point on Oil Well Road project traffic distribution may delay the need for a future signalization of the Camp Keais Road/Oil Well Road intersection, what you see depicted on the far right side of the overhead.

The Regional Planning Council has determined that the map change does not create the likelihood of an additional regional impact, and the County Attorney has opined that the criteria described on pages four and five of your staff report guide your deliberations this morning.

Based on that criteria staff has recommended approval and we would respectfully request your recommendation approval. Be happy to respond to any questions.

INTERIM CHAIRWOMAN AHERN: Thank you.

Questions from the Planning Commission?

(No response.)

INTERIM CHAIRWOMAN AHERN: Anyone?

COMMISSIONER VONIER: My only concern would be the left-hand turn, the length of availability for left-hand turn cars so it doesn't block traffic on Oil Well Road. Because when they get up to 700 workers, that's going to be a long line, because all your traffic is coming from Immokalee Road.

MR. PASSIDOMO: We share that concern. It is technically outside the scope of these proceedings, which is limited simply to the access point and the map change.

COMMISSIONER VONIER: I agree.

MR. PASSIDOMO: But we agree, we share that concern. And you'll see that the Traffic Impact Statement anticipates that there needs to be a sufficient length to that access point to make it work.

INTERIM CHAIRWOMAN AHERN: And I'll just reiterate one point you and I discussed about the shift times that you were anticipating some people -- or one of the shifts ending at 4:00. So it won't exactly coincide with rush hour. So I think that should help as well.

MR. PASSIDOMO: We hope so.

INTERIM CHAIRWOMAN AHERN: Any other questions?

(No response.)

INTERIM CHAIRWOMAN AHERN: Thank you.

Kay?

MS. DESELEM: Good morning. For the record, Kay Deselem, Principal Planner, Zoning. I also have me today John Podczerwinsky who can address any transportation issues that you may have.

You do have copies of both the staff reports for the SRA amendment and the DRI amendment. They've been entered into the record. And I won't belabor the issues, you have them.

If you have questions, I'd be happy to address them.

INTERIM CHAIRWOMAN AHERN: Okay. Any questions of staff?

COMMISSIONER BROUGHAM: Just one. I did receive copies, Kay, that you forwarded from Pulte Homes, and I forget the other one. But in any case, those two entities are supporting this petition and -- oh, from Arthrex, excuse me.

MS. DESELEM: Yeah, one letter is from Pulte Homes Corporation, the other --

COMMISSIONER BROUGHAM: Oh, Pacific Tomato Growers.

MS. DESELEM: Yes, Pacific Tomato.

COMMISSIONER BROUGHAM: Was there a neighborhood information meeting on this, or is that --

MS. DESELEM: The Land Development Code does not require a neighborhood information meeting for an SRA or a DRI petition.

COMMISSIONER BROUGHAM: That's what I suspected, but thank you.

INTERIM CHAIRWOMAN AHERN: Any other questions?

(No response.)

INTERIM CHAIRWOMAN AHERN: Ray, are there any registered speakers?

MR. BELLOWS: No one has registered.

INTERIM CHAIRWOMAN AHERN: Is anyone in the public that would like to speak on this item?

(No response.)

COMMISSIONER EBERT: Can I ask one question of Mr. Podczerwinsky?

INTERIM CHAIRWOMAN AHERN: Sure.

COMMISSIONER KLEIN: Did you finish your breakfast, John? I saw you eating there.

MR. PODCZERWINSKY: It's been such a fast meeting, I almost wasn't finished with it.

Good morning, Commissioners, John Podczerwinsky, Transportation Planning.

COMMISSIONER EBERT: John, I'm sure you have worked on this. Can you kind of give everybody an insight as to how this is going to work?

MR. PODCZERWINSKY: I sure can.

If you guys will take a look at the screen there, you'll notice the spacing that they show between the two driveways to the left, the two symbols to the left, 1,430 feet. And bear with me for a moment, I'm going to give you a copy of our Access Management Resolution.

You'll notice in the second column from the right where it says full mile -- full spacing, I should say. It would be -- I'll point it out. For access class five, which is underlined there, the minimum spacing between driveways is 1,320 feet. And basically that's the criteria that we use to allow this new access with potential median opening that they're seeking there.

We also did take a look at the traffic that they're going to put through that intersection, you know, through their private intersection, their private driveway, and we compared that to what would have otherwise gone through the Oil Well Road/Camp Keais intersection, and we realize that it relieves in part the future need for the signal. Probably will delay a need for a signal at the two public roadways, so -- and it will reroute some of that traffic directly into the Ave Maria development at the Arthrex driveway instead of putting it through a public intersection, which would, you know, cause delays for us.

COMMISSIONER EBERT: Okay. This is right-in -- or left-in, right-out only; is there --

MR. PODCZERWINSKY: No, it should be right-in/right-out and a left-in.

COMMISSIONER EBERT: Okay, right-in/right-out and a left.

But is there a road where they can go around, in case they live in Ave Maria? There is an inner road where they can just go around and not even use that?

MR. PODCZERWINSKY: I believe there is, yes. I believe it's accessible. If you go through the development, I believe you can actually access it from Camp Keais.

COMMISSIONER EBERT: Very good.

INTERIM CHAIRWOMAN AHERN: Any other questions?

(No response.)

INTERIM CHAIRWOMAN AHERN: Okay, we'll close the public hearing and entertain a motion.

COMMISSIONER VONIER: Melissa, I move we accept DOA-PL20120001160, Town of Ave Maria SRA -- do I have to add the SRA number to it?

INTERIM CHAIRWOMAN AHERN: I think we need to do two separate motions. Correct, Heidi?

COMMISSIONER VONIER: I move we accept that.

MS. ASHTON-CICKO: Sure, we'll go ahead and do two motions, please.

COMMISSIONER KLEIN: I'll second it.

INTERIM CHAIRWOMAN AHERN: All in favor?

COMMISSIONER KLEIN: Aye.

INTERIM CHAIRWOMAN AHERN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

INTERIM CHAIRWOMAN AHERN: Motion passes 7-0.

COMMISSIONER VONIER: And the second motion, I move we accept SRAA-PL20120000705, Town of Ave Maria.

COMMISSIONER KLEIN: Second.

INTERIM CHAIRWOMAN AHERN: All in favor?

COMMISSIONER KLEIN: Aye.

INTERIM CHAIRWOMAN AHERN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

INTERIM CHAIRWOMAN AHERN: Motion passes 7-0.

MR. PASSIDOMO: Thank you, Madam Chairman.

I respectfully request that the consent agenda be waived so that we can move quickly on to the Board of County Commissioners.

INTERIM CHAIRWOMAN AHERN: Yes, you may.

MR. PASSIDOMO: Thank you. We've got a road to build.

INTERIM CHAIRWOMAN AHERN: ***Okay, we're moving on to consent agenda. We have one item from our previous meeting, Mirasol. And that item is PUDZ-A-PL20120000303.

COMMISSIONER BROUGHAM: Move to approve.

COMMISSIONER EBERT: I have one quick question on this one.

Nobody's here from -- oh, okay. I have one question.

INTERIM CHAIRWOMAN AHERN: You were sworn in prior, correct?

MS. CRESPO: Yes, I was sworn in.

Alexis Crespo with Waldrop Engineering.

INTERIM CHAIRWOMAN AHERN: Hi, Alexis. I have one question each unit going to have their own garage?

MS. CRESPO: Which type of dwelling unit are you referring to?

COMMISSIONER EBERT: All of them. Because it talks about garages, and that's one question I forgot to ask but -- at our other meeting. But it looks like there's garage mentioned as a use there, and I just -- so there will be no outside parking per se if you --

MS. CRESPO: As currently planned per our preliminary site plans, the multi-family unit does include a garage feature. But we certainly would like the flexibility to do conventional multi-family without the garage in the future.

COMMISSIONER EBERT: Okay. So on these, as you called them, or they called them row housing, there will be no garages with those, the townhome?

MS. CRESPO: The townhome, which is a separate product type from the multi-family, will have a garage.

COMMISSIONER EBERT: Okay.

MS. CRESPO: Yes, ma'am.

INTERIM CHAIRWOMAN AHERN: Does that address your concerns?

COMMISSIONER EBERT: Yes, it does. Thank you.

INTERIM CHAIRWOMAN AHERN: Okay, so we had a motion -- oh, you have a question, Phil?

COMMISSIONER BROUGHAM: No, I made the motion.

INTERIM CHAIRWOMAN AHERN: Do we have a second?

COMMISSIONER KLEIN: Second.

INTERIM CHAIRWOMAN AHERN: All in favor?

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

INTERIM CHAIRWOMAN AHERN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER VONIER: I'm abstaining because I wasn't here.

INTERIM CHAIRWOMAN AHERN: Okay, motion passes 6-0 and one abstention. Thank you.

And Bob, we'll move to your consent. CU --

MS. ASHTON-CICKO: The reason this is on the consent agenda is because on October 18th, which is your next meeting, I don't know that you mentioned this earlier --

INTERIM CHAIRWOMAN AHERN: I did.

MS. ASHTON-CICKO: We're not having a meeting on the 18th.

INTERIM CHAIRWOMAN AHERN: Yes.

MS. ASHTON-CICKO: Okay, thank you.

INTERIM CHAIRWOMAN AHERN: CU-PL201100017, Mac Business Plaza.

I think everyone was sworn in, correct?

MS. GUNDLACH: Correct.

MR. MULHERE: So I'm assuming what we just need to do is reiterate the conditions that were attached to this.

And one was to amend this note here to indicate that the applicant intends to seek an administrative variance for the landscaping wall.

MS. GUNDLACH: And put the name of the park on the master plan as well.

MR. MULHERE: Oh, yes, thank you. Eagle Lakes Community Park. Thank you. I was trying to absolve myself of that responsibility.

And then we've handwritten in here condition number one will read: The maximum aggregate gross floor area.

Condition two will be changed similarly, or in the same way.

Condition four will have an additional sentence added: There will be no amplified sound after 10:00 p.m.

And there will be a new condition six which says: There shall be no adult video/book stores.

MS. ASHTON-CICKO: And there needs to be one more condition, that there will be no drugstores.

MR. MULHERE: No? There will be no drugstores? I thought the exclusion in the LDC is that drugstores are not subject to the square footage. I mean, we're not planning on building one, but the LDC doesn't have a restriction on drugstores. So you'd be able to build it under the permitted use section. I thought that was the intent of the -- did you want to eliminate our ability to build a drugstore, which is already a permitted use and isn't subject to the square --

INTERIM CHAIRWOMAN AHERN: No, I don't think that was the intent.

MR. MULHERE: Right, that's what I thought. I thought there was a little confusion there, so --

INTERIM CHAIRWOMAN AHERN: No, my concern was --

MR. MULHERE: -- I thought what you wanted was where it says the square foot limitations says excluding drugstores.

INTERIM CHAIRWOMAN AHERN: Exactly. Exactly.

MR. MULHERE: The same as it reads in the LDC.

INTERIM CHAIRWOMAN AHERN: You got it.

MR. MULHERE: So I don't think you have to add anything.

INTERIM CHAIRWOMAN AHERN: Does anyone have any questions?

(No response.)

INTERIM CHAIRWOMAN AHERN: Do I have a motion to approve the consent?

COMMISSIONER HOMIAK: I make a motion to approve.

COMMISSIONER EBERT: Phil had done that.

COMMISSIONER HOMIAK: Sorry.

INTERIM CHAIRWOMAN AHERN: Okay, Phil made a motion to approve the consent. Do we have a second?

COMMISSIONER KLEIN: Second.

INTERIM CHAIRWOMAN AHERN: All in favor?

COMMISSIONER KLEIN: Aye.

INTERIM CHAIRWOMAN AHERN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

INTERIM CHAIRWOMAN AHERN: Motion passes 7-0. Thank you.

Okay. There's no need for consent; we waived on Ave Maria.

***Old business? We were going to review some LDC amendments, and that is being continued to the November 1st meeting.

***New business? I want to bring up to the board for the Hussey approval or -- I apologize, the Hussey settlement agreement, thank you, Phil had mentioned this at one of the our previous meetings, that we would like to not hear this until we had a full board. And I think staff needs direction on whether to bring that before us. So I wanted to see if we could get a consensus of the board to --

COMMISSIONER EBERT: Full board.

INTERIM CHAIRWOMAN AHERN: -- not bring that forward to the Planning Commission until we have a full board seated.

COMMISSIONER VONIER: I would agree with that.

COMMISSIONER HOMIAK: Heidi's got something.

INTERIM CHAIRWOMAN AHERN: Oh, sorry, Heidi.

MS. ASHTON-CICKO: I don't know that we can honor that commitment. I mean, you can recommend that you don't want to hear it but, I mean, we have a settlement. We don't want to wait months and months and months until decisions are made. So you could maybe schedule it in November, if you want. But I know that Mr. Klatzkow had asked that it go forward in October.

COMMISSIONER EBERT: What?

MS. ASHTON-CICKO: You're talking about the Hussey settlement.

INTERIM CHAIRWOMAN AHERN: Correct.

MS. ASHTON-CICKO: Yes.

INTERIM CHAIRWOMAN AHERN: It is not currently on the agenda.

MS. ASHTON-CICKO: But I don't know when --

COMMISSIONER EBERT: Wait, wait. It's not on our agenda, but we don't have very much information on this. We got that one --

MS. ASHTON-CICKO: Well, you're not hearing it today.

COMMISSIONER EBERT: I understand. But Heidi, we got one little package. I think we need to -- I was not on this board when that was originally heard. I don't know, I just think we need some more information on this.

COMMISSIONER BROUGHAM: Melissa, if I might?

MS. ASHTON-CICKO: Well, you will get more information. You don't have your package yet, and staff is in the process of preparing an analysis to be provided.

INTERIM CHAIRWOMAN AHERN: Heidi, you said to move forward in October, but we don't have anymore meetings scheduled, so --

MS. ASHTON-CICKO: The next one is the 30th. I know that Mr. Klatzkow --

INTERIM CHAIRWOMAN AHERN: No.

COMMISSIONER EBERT: That's a workshop.

MS. ASHTON-CICKO: -- has recommended it be heard in October.

COMMISSIONER HOMIAK: It's not a workshop.

MS. ASHTON-CICKO: No, it's not a workshop, it's a special meeting. But, you know, staff is who's setting the schedule. So I guess Mr. Bosi's more appropriate to answer the scheduling question.

MR. BOSI: I'm not sure if I'm able to solve this problem. I just wanted to reiterate a statement that Mr. Weeks had made when he provided the package to you at the AUIR hearing last Friday. It was -- that package that was provided was the same package that was provided to the Board of County Commissioners related to the issues.

Staff is preparing some additional information, charts, relative to the intensities of the locations of both

proposals and some of the other issues surrounding the settlement. And also providing some guidance -- guiding statements towards how the Planning Commission should be reviewing the settlement based upon the purview of the Planning Commission.

That's in the process of being formulated. So I think the 18th would have been too premature to -- it's -- we're kind of stuck in a rock between a hard place. The Planning Commission would like a full membership seated. We're not quite sure when that membership is going to be completely seated, based upon the actions of the board. So that's an unknown.

The one known that we do know is that the County Attorney's Office would like to see this moved at somewhat of a more -- of a brisk pace without an uncertainty towards the delay within there.

What I would suggest, or what we'll do as staff, is we'll get together and put that additional information, get that to the Planning Commission's hands towards where you'll have the ability to have some additional information, additional guidance in terms of how we're going to review it.

But based upon the need for action on this item related to the other -- the residual issues that are associated with it, I would suggest or would recommend that meeting of the 30th for the EAR-based amendments that we have a little bit more of a concrete discussion. I think we -- based upon the County Attorney's Office, we need to hear this.

So I'm not sure if we can put this off indefinitely. Based upon that, there will be opportunities between your two meetings in November to hear the item. And obviously, you know, I can't force the Planning Commission to hear it, the item, or acknowledge that you want to receive the item, but there has -- there is some consideration I'm sure on the Planning Commission's part about the situation and the views of the County Attorney's Office regarding this issue.

So what I think is we probably need a little bit more debate and discussion on the merits of moving forward.

INTERIM CHAIRWOMAN AHERN: Phil?

COMMISSIONER BROUGHAM: Heidi, what's the legal notice required for placing something on the agenda as far as public notice is concerned?

MS. ASHTON-CICKO: There's no legal advertisement requirement, so it can just be placed on the agenda and noticed like any other regular non-advertised agenda item.

COMMISSIONER BROUGHAM: There is, if we potentially would hear this on the 30th -- and I think what the elephant in the room is, what decisions are going to be made at the next BCC meeting concerning the advertised vacancies on the board. We could add this for the 30th, if that's appropriate and we all get the necessary background information from staff. Because that would have at least been through at least one BCC hearing and potentially they could fill the vacancies at the next BCC meeting. There's also the potential obviously that they could not. And we can't continue to beat the drum forever on this.

I exchanged several emails in the last couple of days with David Weeks and Ray and Mike along the same lines, we need additional -- in my opinion, additional guidance from all parties as to exactly what the Planning Commission is being asked to review and what authorities do we have even to make suggestions. Because as I understand it, it's a legal settlement that was negotiated between the two parties. Everyone's agreed to the conditions in the settlement. And I'm not quite sure, and that's why we need guidance as to can the Planning Commission legitimately recommend to change conditions in a settlement agreement? I'm not saying one way or the other, but those are the gray areas that I think we really need some advice from staff on.

INTERIM CHAIRWOMAN AHERN: Paul?

MS. ASHTON-CICKO: Well, your first question was when are the applications going back to the Board of County Commissioners. And at least at the last meeting the direction was that it be -- the vacancies be advertised and brought back to the last meeting in October.

COMMISSIONER BROUGHAM: Right.

MS. ASHTON-CICKO: So assuming it's still on schedule, that would be the 25th.

MR. BOSI: 23rd.

MS. ASHTON-CICKO: Oh, 23rd that the BCC would hear that again. So you could potentially have a full board at the next meeting.

The other question as to what's the scope of your review for the Hussey settlement, I don't think the board is looking for you to look at it and weigh all the merits of the settlement, you know, the fiscal impacts and all the implications. I think what they're looking for is for you to look at both the sites that are involved in the settlement and look at things that you would ordinarily look at like compatibility and consistency with the other provisions of the

Land Development Code and the Growth Management Plan and see if there are any stipulations or anything that you think need to be added. If you think that those kind of land use changes should be made to each -- the site.

So it's kind of what you would typically do what you analyze things that come before you and not so much as looking at, you know, the whole deal.

INTERIM CHAIRWOMAN AHERN: Does that answer your question, or help?

COMMISSIONER BROUGHAM: Yeah. I'm looking forward to the staff analysis that's going to be forthcoming with basically a score card on TDR's and so forth and so on and so on. And I think that will help.

INTERIM CHAIRWOMAN AHERN: Paul?

COMMISSIONER MIDNEY: Yeah, I would like to request -- I have a conflict for the 30th. Could we move it to the regular meeting on November 1st, two days later?

COMMISSIONER EBERT: Yeah.

MS. ASHTON-CICKO: That's fine.

COMMISSIONER EBERT: If we have to hear it that soon.

INTERIM CHAIRWOMAN AHERN: Correct.

COMMISSIONER BROUGHAM: Well, we can't --

COMMISSIONER EBERT: I understand. I understand where everybody is coming from.

COMMISSIONER BROUGHAM: Melissa, is there a consensus then on November 1st?

INTERIM CHAIRWOMAN AHERN: Do we have a consensus on November 1st? So hopefully we'll have a full board seated in October.

COMMISSIONER BROUGHAM: Gives everybody a target then.

COMMISSIONER VONIER: When can we anticipate getting the report from Weeks?

COMMISSIONER BROUGHAM: Go ahead and commit for him.

MR. BOSE: Well, it will have to at least -- it will have to be at least two weeks. I mean, it has -- we'll have to give you at least two weeks before the 1st so the deadline that we're going to place on Mr. Weeks' schedule. We'll have that information to you, you know, with at least two weeks to be able to factor into your considerations.

COMMISSIONER BROUGHAM: That will be delivered or emailed separately? I mean --

MR. BOSI: It will be provided to you hard copy or electronically, based upon the availability of staff. We'll make sure. If it's up until the last minute, we will email the electronic version and follow it with a hard copy.

INTERIM CHAIRWOMAN AHERN: Okay.

Anything else under new business?

(No response.)

INTERIM CHAIRWOMAN AHERN: ***Any public comments?

No one's here.

***Discussion on addenda, we already did.

So do we have a motion to adjourn?

MR. BELLOWS: I have one quick question.

INTERIM CHAIRWOMAN AHERN: Sure.

MR. BELLOWS: On our discussion early this morning on the future meetings, the October 18th meeting, we don't have any items. I just wanted to officially have it announced that there will not be a meeting.

INTERIM CHAIRWOMAN AHERN: We will officially announce we will not have a meeting on October 18th. And we will meet next on October 30th for the GMP amendments. Okay?

Motion to adjourn?

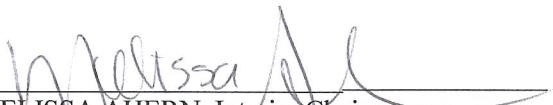
COMMISSIONER VONIER: So moved.

COMMISSIONER HOMIAK: Second.

INTERIM CHAIRWOMAN AHERN: We are adjourned. Thank you.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 10:04 a.m.

COLLIER COUNTY PLANNING COMMISSION


MELISSA AHERN, Interim Chairwoman

These minutes approved by the board on 12/6/2012 as presented or as corrected .

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