

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida  
December 6, 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 Keene, Chairwoman  
Phillip Brougham  
Diane Ebert  
Karen Homiak  
Paul Midney  
Brad Schiffer  
Bill Vonier

ALSO PRESENT:

Heidi Ashton-Cicko, Assistant County Attorney  
Nick Casalanguida, Growth Management Division/Planning & Regulation  
Ray Bellows, Zoning Manager  
Mike Bosi, Interim Director Planning and Zoning Department

CHAIRWOMAN KEENE: Good morning, everyone. And welcome to the December 6th meeting of the Collier County Planning Commission. If everyone would rise for the Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

CHAIRWOMAN KEENE: Roll call, please.

COMMISSIONER HOMIAK: Okay, Mr. Eastman is absent.  
Mr. Rankin?

COMMISSIONER RANKIN: Present.

COMMISSIONER HOMIAK: Mr. Midney?

COMMISSIONER MIDNEY: Present.

COMMISSIONER HOMIAK: Mr. Vonier?

COMMISSIONER VONIER: Present.

COMMISSIONER HOMIAK: Ms. Keene?

CHAIRWOMAN KEENE: 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: Present.

CHAIRWOMAN KEENE: Addenda to the agenda. Ray, do you have anything?

MR. BELLOWS: I have no changes.

CHAIRWOMAN KEENE: And Planning Commission absences. Ray, how do we look for our next meeting?

MR. BELLOWS: Well, the next meeting would be December 20th, and at the present time there are no land use items scheduled, so I would ask if the board would consider canceling that meeting.

COMMISSIONER EBERT: Yes.

CHAIRWOMAN KEENE: Do we have a motion to --

COMMISSIONER VONIER: So moved.

COMMISSIONER KLEIN: Second.

COMMISSIONER EBERT: Second. That was difficult -- that would be difficult, four days before Christmas.

MR. BELLOWS: On January 3rd we have the consideration of the proposed settlement agreement for Hussey. And then on the 17th is going to be -- January 17th is going to be the heavy agenda with about six items.

CHAIRWOMAN KEENE: And it looks like the LDC amendments has been continued to January 3rd as well.

MR. BELLOWS: Yes.

COMMISSIONER VONIER: Ray, how soon will we get the Hussey case?

COMMISSIONER BROUGHAM: Materials.

MR. BELLOWS: I'll have to check on that and get back to you. Maybe Mr. Bosi can shed some more light on that.

CHAIRWOMAN KEENE: Some nice holiday reading.

COMMISSIONER RANKIN: Some of us may or may not be gone between Christmas and New Year's.

MR. BOSI: Good morning, Planning Commission. Mike Bosi, Interim Director, Planning and Zoning Department.

We just contacted the agent for the Husseys and we have yet to receive the full package of information. So as soon as we receive it we will provide it to the Planning Commission. But it's been -- it's been anticipated, it just hasn't arrived yet. As soon as we get it, we will get it to the Planning Commission.

And while -- there could be some modifications to the arrangement from our original understanding,

but as soon as that information comes in, as soon as it gets in, we'll make sure we get it to the Planning Commission as soon as possible.

CHAIRWOMAN KEENE: Is there a way to put a deadline on that? You know, as far as -- I don't want everyone receiving it, you know, four days prior.

MR. BOSI: Well, if the material comes in four days prior to the scheduled meeting, the meeting's going to be pushed back.

CHAIRWOMAN KEENE: Okay.

MR. BOSI: We're not going to provide it to you two days before a meeting or four days before a meeting, a voluminous set of information documents and ask you and expect you to turn around -- so if it continues to delay, all that's going to do will delay the time before the item is scheduled for your agenda.

CHAIRWOMAN KEENE: Phil?

COMMISSIONER BROUGHAM: Two clarifications: Who set the date of January 3rd for the hearing?

MR. BOSI: The date was -- it was anticipated that we were going to be able to receive that material and have that to you in adequate time, that's why the date was set.

COMMISSIONER BROUGHAM: As I recall from our last meeting that the way we left it is we did not fix a date because that would be dependent upon when the petitioner could get the proper material to us. And once that material be committed to a certain date then we'd set the date. That's the way I recall the direction.

MR. BOSI: Well, maybe it was -- it was anticipated -- like I said, it was anticipated that it was going to be received as of this date. That's why we set it for after the holidays. It's looking more and more like that January 3rd date probably might not be the date. And unfortunately that second meeting in is January is already populated, so it's going to remain a question as to when that --

COMMISSIONER BROUGHAM: Maybe we can move some of the --

COMMISSIONER RANKIN: The other thing we might want to discuss, because there is a deadline on that at some point, do we want to discuss an alternative meeting in January, just in case?

MR. BOSI: If that is the circumstance, that will be something that will be brought up at that first meeting in January. If it looks like we're going to have to have -- because of an overload from that second meeting in January, we'll discuss with the Planning Commission and see what their desire is.

COMMISSIONER BROUGHAM: I want to have a second -- you mentioned something just now about modifications in the arrangements. What's that mean?

MR. BOSI: There's some original discussion that the applicant was willing to with go or forego the conditional use as part of the settlement and require that the mining application still go through the traditional conditional use public hearing process so all those issues can be addressed because of the compatibility, transportation impacts. Those things I think started to become a little bit realizing that they were probably too much to be able to handle within the period of time associated with the settlement and the time frames associated with trying to get something back to the Board of County Commissioners. There's not a certainty on that. But if that does, it changes their purview of the Planning Commission's review and really focuses -- takes your feet out of the zoning world and puts it squarely within the Growth Management Plan.

COMMISSIONER BROUGHAM: That's --

CHAIRWOMAN KEENE: Go ahead.

COMMISSIONER BROUGHAM: That's really a lot of contradictions in my opinion to what we discussed and agreed and directed in our motions at the last meeting. Number one, because of the arbitrary imposition of a date. Number two, falling back on a deadline of some sort that we have to resolve this by X, Y and Z. And number three, that we were asking the petitioner to bring forward all the materials ordinarily associated with the conditional use and the GMP. And now it looks like there's all kinds of modifications to that motion.

MR. BOSI: Well, if you think about it, it makes your job a little bit more --

COMMISSIONER BROUGHAM: We're not looking for that. In my opinion, we're not looking to make our job easier. We were charged by the BCC to evaluate a conditional use and two Growth Management Plan amendments.

MR. BOSI: You were asked to review a settlement agreement. The settlement agreement was going to be -- if it's modified, it's modified. That's a decision that we don't have any control over.

COMMISSIONER BROUGHAM: Perhaps I'm misunderstanding. But we --

COMMISSIONER EBERT: No, you have it correctly.

COMMISSIONER BROUGHAM: The minutes we received from the BCC citing Mr. Henning, and he reiterated the direction, was that he expected the Planning Commission to review a conditional use and GMP amendments.

COMMISSIONER EBERT: Yes.

COMMISSIONER BROUGHAM: And not to weigh in on the settlement offer, per say. That's --

COMMISSIONER VONIER: That's true.

COMMISSIONER BROUGHAM: That's what I remember, and that's what I read.

MR. BOSI: And I believe that is the case. And if there is a modification to that settlement agreement, they're going to ask you to review what the modified settlement agreement is. It's really -- the direction for the Planning Commission, to be able to dictate what is coming -- this settlement process is such a unique animal because it's between two parties, the Board of County Commissioners and the Husseys and their legal team. Whatever modifications comes from that settlement or what is being proposed is what the Planning Commission's going to be asked to review.

COMMISSIONER BROUGHAM: I'll defer to you, Melissa. That's definitely not my understanding of our charter.

CHAIRWOMAN KEENE: Well, I think part of the issue and maybe how you should view this is any petition that comes before us that we make or require multiple changes, and it has to go back, redone and then it's represented to us and we review it as if it's a new, you know, a new package. There's nothing we can do to, you know, to prevent changes. And it sounds like what I'm hearing from that meeting and the direction that the Planning Commission was going, the petitioner decided that it may be easier to take out some of the portions of the settlement agreement and approach it a different way. Is that --

MR. BOSI: That's exactly the case. It's a dynamic process.

CHAIRWOMAN KEENE: Right.

MR. BOSI: I mean, meaning it's not static. It's not locked into what the discussion --

CHAIRWOMAN KEENE: Right.

MR. BOSI -- was in November that settlement -- it looks like there's some moving parts to it. And I know that it's maybe unsettling to some of the Planning Commission members, but we're only going to be asked to review what's the latest of this settlement --

CHAIRWOMAN KEENE: Right.

MR. BOSI -- proposal is. And if there's modifications based upon some further discussions between the two parties, then that will affect what's being asked for the other planning commission's review.

CHAIRWOMAN KEENE: Heidi, what is the status of the final date this needs to be completed?

MS. ASHTON-CICKO: Initially we were driving for a December or January tentative date so that it would avoid the necessity of filing an opinion in the appeal case. And so we're going to have to file the opinion. So there's not really -- we're not really limited by a date anymore.

CHAIRWOMAN KEENE: Okay.

MS. ASHTON-CICKO: As far as some of the comments on the settlement, remember it was an offer by the owner to try to settle it. It primarily had two components to it: One being it would resolve a GMP issue, which would be equal to or similar to a GMP amendment. And then the second component they were requesting was that it would resolve a conditional use issue.

And we have gotten an indication from the applicant that their intent to withdraw the conditional use resolution through the settlement agreement and if they wanted to go forward with the conditional use, they would go through the full process before the CCPC. So it just eliminates one component. So you'd only be looking at the GMP issue --

CHAIRWOMAN KEENE: Right.

MS. ASHTON-CICKO: -- at this time.

CHAIRWOMAN KEENE: Go ahead.

COMMISSIONER BROUGHAM: That's fine. I'm hearing all kinds of new input this morning. But I would feel more comfortable having, number one, listened to the Board of County Commissioners' hearing and viewed it on videotape and then being presented with a copy of the minutes where Mr. Henning specifically repeated his charter to this commission. I would feel much more comfortable if we got a refreshed set of directions from the BCC then so we don't stumble down a road that they're expecting one thing and we're expecting another. I'm hearing that based upon the last Planning Commission hearing on this, on the Hussey settlement, the applicant decided to change a few things in the settlement offer. Well, okay, but I'm not certain in my own mind that that changed our charter, our direction from the BCC.

CHAIRWOMAN KEENE: I would tend to disagree, because we are reviewing whatever is presented to us. Now, if they're pulling out the conditional use -- I mean, the settlement was basically for them to bypass the conditional use process.

COMMISSIONER BROUGHAM: Correct, that was --

CHAIRWOMAN KEENE: So by pulling that out, now we're not looking at it from a conditional use perspective, just a GMP and then at a future date they'll have to come back in for a conditional use and then everything is reviewed at that point. I don't know that, you know, as the settlement changes that going back to the commission for them to acknowledge we're not reviewing everything initial -- I mean, that's part of the process in the settlement is they're going to go back and forth. So I don't know what the benefit in going back to the BCC --

COMMISSIONER RANKIN: I wouldn't suggest that, Madam Chairman. I look at this as -- I do these kind of settlements all the time in litigation, and sometimes I hire a consultant to review parts of the settlement to advise my client as to whether or not it's something they should do. And that's the way I see our place in this is. We have no control over the terms of this settlement. We never have and we never will. We just need to provide the input to the BCC, as would a consultant. And while this doesn't fit exactly in the round peg hole of what we normally do, that's just part of life.

CHAIRWOMAN KEENE: I agree.

COMMISSIONER BROUGHAM: Well, one final shot. We were specific --

COMMISSIONER HOMIAK: Give it up, Phil.

COMMISSIONER BROUGHAM: We were specifically instructed not to review the settlement offer.

COMMISSIONER EBERT: That's correct.

COMMISSIONER VONIER: That's correct.

COMMISSIONER BROUGHAM: That's all I've got to say.

MR. BOSI: Thank you, Chair.

CHAIRWOMAN KEENE: Thank you.

Okay, approval of minutes.

COMMISSIONER BROUGHAM: I have one correction. On the minutes of November 1, Page 3, under the approval of the minutes of 9/20, and Mr. Schiffer's vote was cited. Mr. Schiffer was not on the commission at that point. So I don't know --

COMMISSIONER EBERT: 9/20?

COMMISSIONER BROUGHAM: One of the minutes was reviewing -- approving the minutes of September 20th -- on the minutes of November 1st, 2012, okay it's --

COMMISSIONER EBERT: He was here on the 20th.

COMMISSIONER BROUGHAM: Excuse me. On September 20th?

COMMISSIONER EBERT: Uh-huh.

COMMISSIONER BROUGHAM: Okay, he was here. But on November 1, he was not here. And the vote to approve the minutes --

CHAIRWOMAN KEENE: Of that meeting.

COMMISSIONER BROUGHAM: -- of September 20th was taken on November 1st, citing Mr. Schiffer's voting. Mr. Schiffer was not here.

CHAIRWOMAN KEENE: Cherie', did you get that? Thank you.

COMMISSIONER HOMIAK: Okay. Well then, if you're on the November 1st minutes, on Page 58

and 68 it references Chairman Strain, where it should be Chairwoman Keene.

CHAIRWOMAN KEENE: Thank you, I didn't even catch that. That's a lot of minutes. Okay. Okay, so do we have a motion to approve October 4th minutes?

COMMISSIONER VONIER: So moved.

COMMISSIONER BROUGHAM: Second.

CHAIRWOMAN KEENE: All in favor?

COMMISSIONER KLEIN: Aye.

CHAIRWOMAN KEENE: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER RANKIN: I abstain, because I wasn't here yet.

CHAIRWOMAN KEENE: So motion approved, 7-0.

And October 30th.

COMMISSIONER BROUGHAM: So moved.

COMMISSIONER HOMIAK: Second.

CHAIRWOMAN KEENE: All in favor?

COMMISSIONER KLEIN: Aye.

CHAIRWOMAN KEENE: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER RANKIN: Same thing.

CHAIRWOMAN KEENE: Motion approved 7-0.

And then the November 1, with the two corrections.

COMMISSIONER VONIER: So moved.

COMMISSIONER BROUGHAM: Second.

CHAIRWOMAN KEENE: All in favor?

COMMISSIONER KLEIN: Aye.

COMMISSIONER RANKIN: Aye.

CHAIRWOMAN KEENE: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRWOMAN KEENE: Any opposed?

(No response.)

CHAIRWOMAN KEENE: So motion approved 8-0.

Ray, BCC?

MR. BELLOWS: Yes, on November 13th, the Board of County Commissioners heard the SRA Amendment and the Development Order Amendment for Ave Maria. That was approved by the board 5-0, subject to the Planning Commission recommendations. Plus they had an additional condition, and that was alternate movements including median openings shall be determined by Collier County in accordance with its access management policy at the time of right-of-way permit approval. And then other one was Collier County retains the right at all times in its sole discretion to open or close or modify median openings.

CHAIRWOMAN KEENE: Okay.

MR. BELLOWS: The board also approved the PUD amendment for Mirasol on the summary agenda, and the Mac Business Center conditional use was continued to the December 11th meeting. That's all I have.

CHAIRWOMAN KEENE: Okay. There's no chairman's report.

And consent agenda items, we don't have anything shown, but I understand that Buttonwood would like to come back at the end on consent if we --

MR. BELLOWS: That's correct, if there are changes.

CHAIRWOMAN KEENE: Yeah. We can do that.

Okay, on to advertised public hearings. First hearing is BDE-PL20120001428, Wahl Boat Dock Extension.

If -- everyone wishing to participate on this item, please stand up to be sworn.

(Speakers were duly sworn.)

CHAIRWOMAN KEENE: Petitioner?

MR. MAXWELL: Good morning. Today we're here to ask for your approval for the additional boat -- Josh Maxwell, from Turrell Hall and Associates. Sorry.

This morning we're here to ask for your approval for the second boat lift at the Wahl's Boat Dock. Previously this year we received approval for the footprint of the dock and the total protrusion, and we later received approval from the BCC for the variance for the side setback. And so we're back in front of you today to ask for the additional boat lift so that they can moor their second vessel more safely than they can now.

Nice, short and sweet. So if you have any questions, we'd be happy to answer them.

CHAIRWOMAN KEENE: Can you go over any changes that have been made since the last time you were here?

MR. MAXWELL: The only changes is we came back on the consent agenda without the side boat lift on, and you guys approved it. And now we're back asking for that side lift. So new configuration.

CHAIRWOMAN KEENE: Okay.

COMMISSIONER VONIER: You mentioned boat safety.

MR. MAXWELL: Uh-huh.

COMMISSIONER VONIER: Explain that.

MR. MAXWELL: Well, presently they can only side tie to the new dock. And with the waters in the Big Marker River reaching, you know, a couple knots during a flood tide, you don't necessarily want to just moor your boat on the side of a dock, you'd like to be able to pull it away either with mooring piles or in an optimal situation on a boat lift. It also allows you to keep the boat moored out of the water, which in essence can help improve water quality, because you don't have bottom paint in the water all the time. And also just improves safety of the boat.

COMMISSIONER VONIER: So it was my understanding that at the BCC meeting safety was bandied about, and it was considered to be safety of people getting in and out of the boat. And I didn't see that as being an issue. However, having said what you just said, there are a lot of people that moor boats alongside of piers safely. You can go any place in Naples and see that. So that isn't an absolute impossibility.

MR. MAXWELL: There's not many places in Collier County where the water velocity reaches what it does in the Big Marker River. And also a lot of those docks also have either mooring piles or boat lifts, you know, to tie the boat up to keep them off the dock.

COMMISSIONER VONIER: Is it difficult to moor a boat because of the current?

MR. MAXWELL: It can be. It can be very difficult to pull in and out of your slip, especially in that area.

CHAIRWOMAN KEENE: Do you have any aerials that show the surrounding boat docks?

Nothing -- we received this in our package.

MR. MAXWELL: Right.

CHAIRWOMAN KEENE: You don't have anything of a larger scale?

MR. MAXWELL: No, not today.

COMMISSIONER VONIER: What's the length of the boat you would propose to put on that lift?

MR. MAXWELL: Right now they don't have a boat in mind because they can't have a lift. But I think the thought is something in the 30 to 35-foot range.

COMMISSIONER VONIER: Well, having said that, in looking at the ability of the county to be fair to everybody, based on the LDC, we have reduced the setback to 9.3 feet. Now, the adjacent property in the future, let's just make an assumption, let's say the owner decides to sell to someone who wants to build a mega house and put in his own boat dock.

MR. MAXWELL: Uh-huh.

COMMISSIONER VONIER: Now, if he was doing proper due diligence, he would find -- he'd say I want to put a 30 or 35-foot boat in there. And he would find that he doesn't have to, he thinks, stick with a 15-foot setback because his neighbor got a waiver.

So let's make an assumption that he puts in a boat dock and he asks for a waiver and we give him the same waiver. That leaves 18 feet between two rigid structures. And we're talking about landing 30-foot boats with 18 feet of clearance in a strong current. I don't think it makes sense.

I think there's a reason why the LDC was written the way it is, and that was to clear up some of the chaos in boat docks. Case in point, the property to the west of the applicant. That's grandfathered, and it severely impinged upon the Wahl's ability to put in a boat dock. The LDC was meant to correct that. What we appear to be doing is perpetrating the chaos by allowing this.

If we allow it here, we should allow it next door if they want to do the same thing. And we had heard at the last meeting when this was presented the first time from yet the other neighbor beyond that, one property beyond the property to the east, who said the same thing. They haven't done their boat dock yet either.

So what it appears to me is we're compounding a felony by approving a rigid structure in the form of a boat lift.

COMMISSIONER RANKIN: As far as the -- I'm sorry.

CHAIRWOMAN KEENE: Phil?

COMMISSIONER BROUGHAM: Several questions. In the application, and this could just be a technicality or semantics, the addition of a second boat slip, define slip versus lift.

MR. MAXWELL: Well, currently we can moor a boat there. So we can moor a boat in the location of the lift.

COMMISSIONER BROUGHAM: Okay that--

MR. MAXWELL: So the lift is just to be able to lift it out of the water when it's not in use.

COMMISSIONER BROUGHAM: So you're not requesting a slip, because you have the ability and you could moor a 30-foot boat on the side of that dock any place you wanted to, you're actually requesting a lift?

MR. MAXWELL: Right.

COMMISSIONER BROUGHAM: Okay. Do you know or not know how many neighbors along that stretch -- I think maybe that's why we could have used a larger aerial -- that moor their dock -- moor their boat parallel to the current?

MR. MAXWELL: Parallel or perpendicular?

COMMISSIONER BROUGHAM: Perpendicular. Excuse me, it's going this way.

MR. MAXWELL: There's numerous ones along the way. As you get further to the east there's a lot of parallel to the current mooring, but those are on wider lots so they can fit, you know, a larger boat. And they can also fit a boat on the back side of their terminal platform.

Unfortunately, due to the configuration of the neighbor to the west, there's no safe way to get a boat on the back side of this terminal platform. So that's why we're left, you know, the two locations we'd like to put the lifts now.

COMMISSIONER BROUGHAM: But going back to the current issue, it's not unprecedented if people will moor alongside of their dock --

MR. MAXWELL: No, it's not.

COMMISSIONER BROUGHAM -- given the current and so forth.



MR. MAXWELL: Right. It's not truly optimal, but --

COMMISSIONER BROUGHAM: But it's not -- we're not setting a precedent here, whatever.

Secondly, if we presume -- I mean, you mentioned a 30-foot boat is potentially the boat that's going to be moored there, today and also in the prior hearing, yet 30 foot in length, what's the, if there is such a thing, average height of a 30-foot boat from top to bottom?

MR. MAXWELL: It's completely dependent on the style of boat. If you were talking about just a center console without any kind of a second station on top of the T top, you're probably looking at seven to eight feet. Anything we put in here, as far as on a lift, unless it was some sort of a small yacht, which would be very difficult to fit into this narrow area in a small slip, would be smaller -- would be lower in a height than the neighboring boathouse. So as far as a visual impact of any of the neighbors, I don't see that being any worse than it currently is.

COMMISSIONER BROUGHAM: If such a boat was put on a -- elevated on a lift, what's the height then?

MR. MAXWELL: Like a center console?

COMMISSIONER BROUGHAM: I don't know, mine I accept 30 foot in length.

MR. MAXWELL: Most boats, you can figure about at maximum seven or eight feet above the waterline. So if you lifted it to the highest you could, say for a hurricane situation, you're probably talking about the top of that boat maybe being --

COMMISSIONER BROUGHAM: Thirteen feet, 14 feet?

MR. MAXWELL: From the water. So I would say probably about five to six feet above the -- maybe seven feet above the seawall.

COMMISSIONER RANKIN: Not a boat with a fishing tower, however.

MR. MAXWELL: Right. If you had a tuna tower on anything, it can definitely get up there.

CHAIRWOMAN KEENE: Phil, do you have anything else?

COMMISSIONER BROUGHAM: No, except in the resolution, which is right after the staff report. The date needs corrected, if this goes forward, to March 15th is the date we heard this, the original, not the first.

CHAIRWOMAN KEENE: We'll address it on the staff report.

COMMISSIONER BROUGHAM: Okay. Other than that, I think I'm done.

CHAIRWOMAN KEENE: Okay, actually --

COMMISSIONER RANKIN: With all this technology, do we have access to the property appraiser's website and get the GIS system up and see any part of Collier County you want to?

CHAIRWOMAN KEENE: I don't think we have that, Doug.

COMMISSIONER RANKIN: Well, they've got a computer sitting up there in the expansion as part of the system.

MR. BELLOWS: At the podium computer we have this.

CHAIRWOMAN KEENE: I don't think it has Internet.

COMMISSIONER RANKIN: It doesn't?

CHAIRWOMAN KEENE: I don't believe so.

COMMISSIONER RANKIN: They have Wifi here.

This whole building and the courthouse is full of free Wifi.

MS. ASHTON-CICKO: And while he's getting that ready for you, yes, the March 1st date was the date of the regular agenda item, and that's the date we go with for the approval, even though the consent agenda would have been on the 15th.

CHAIRWOMAN KEENE: It's difficult to see how the boats are moored.

COMMISSIONER RANKIN: No, that's not great. That's why I was suggesting the property appraiser's, you can zoom in and out as you see fit, and pan.

CHAIRWOMAN KEENE: We'll see what we can come up with.

COMMISSIONER RANKIN: Because I figured this is going to be something we're going to make use of in the future, that GIS system paid for with tax dollars. There we are. And if you just hit to the -- open the GIS link. Oh yeah, you got it. There you go. I use this is all the time.

COMMISSIONER HOMIAK: I just looked at these this morning.

MR. MAXWELL: So currently the arrow's over our subject property. And then as you can see here, six docks down the way there's a boat moored, you know, shore perpendicular. So perpendicular to the current flow.

COMMISSIONER BROUGHAM: As well as to the left?

MR. MAXWELL: Yeah, directly to the west of the boathouse it's perpendicular to the current.

CHAIRWOMAN KEENE: Okay. Doug, did you have other questions?

COMMISSIONER RANKIN: No, I just wanted to see this, and everybody else to have access. Because I imagine not only for this petition, this is going to be a useful tool in the future.

CHAIRWOMAN KEENE: Diane?

COMMISSIONER EBERT: Yes. I have several questions. I won't go into all of them because -- I went back and looked at this. And I'll be very honest with you, I was -- I wanted to see where we went wrong, where all of us thought the same thing.

We have a state rule and we have county rules. This is done by the state where they -- when this gentleman moved in. They had to take off that T. He did not put it there. Everything is grandfathered in. And at this point he can moor two boats there very easily.

A lift, right, is not a safety. A lift is for convenience. And there are tons of boats out there that are not on lifts. If this property had no dock out there, they would have to put up a marginal wharf; is that correct?

MR. MAXWELL: Yes, it is.

COMMISSIONER EBERT: So they only have one way of going to their property. When you put the marginal, you can tie up against the --

MR. MAXWELL: Yeah, you'd only be able to tie up against the dock there. But we would, as we've done in other parts of Isles of Capri, try to permit them a boat lift or at least some mooring piles for the same reason, to try and keep the boat off the dock to prevent damage to the rubbering --

COMMISSIONER EBERT: That's true. But you also have bumpers for a boat. You also have fenders as we call them.

MR. MAXWELL: Yes. Yes, you do have those but it's not optimal to rely on those solely.

COMMISSIONER EBERT: Well, I guess in reading this I was more angry at some of the stuff when you go back and you actually picked up the minutes, the minutes of what we had to say here originally. And then when it went to the BZA, the staff report in the executive summary was lacking a lot of things.

Here's what they said in the executive summary: The CCPC heard the petition -- and I won't read the whole thing -- with a recommendation for denial. The CCPC denied the variance petition because the property owner did not demonstrate there was a hardship to allow the construction of a second boat lift located within the side yard setback. It should be noted that the CCPC approved the companion boat dock extension subject to the elimination of the boat dock lift on the east side.

That's really all they said. And when you go back and read our minutes, like Mr. Vonier said, this is more of a convenience. In having two boats, just because you can, does not mean you have to. You tell all the people that come out of Wiggins Pass down in that area they can have two boats? I mean, there's no way. They're lucky they can have one boat.

And so I guess it's the way that the -- there's more than one reason why we did not do this. The pre-existing conditions that are there now, they can park boats. Nobody's denying that. And we did give them an extension to put the lift out on the -- what would you say, the southern end of it. So he can put a huge boat in there. And if he was just going to have the smaller boat, which I believe was going to be 22 feet, he had some 30 some feet between there.

And yes, I understand there's strong currents. Our boat was on the Mississippi and the same -- we had very strong currents too. So I do understand river currents.

I'm sure he knows how to operate a boat. I think most people that have one in this area should. But we're not going to be going back over this whole thing today. Excuse me. Because when you re-did the criteria, or when they re-did the criteria, there's some things they did not meet.

Waterfront length. He only has 75 feet. He wants to go over what he's really allowed in our Land

Development Code at this point. He should only have half of the 75 feet, and he wants to moor 60 feet of boat. So that's going over the code. That was never brought up.

There isn't a problem with water depth. We deal with so many docks that have to go out over the sea grasses, over the mangroves, where just even to get there is long. They have the water depth. He has everything available to him right now.

And I don't know, I guess the other thing was I was not that pleased with what I saw in the executive report or in the staff report going to the BCC. It was confusing. And when it came back, there were several reasons -- if you read the minutes, there were several reasons why it was not approved, Josh. It wasn't just a hardship. But he can't even prove that. I mean, that's one of the things you're supposed to do is prove the hardship. I want to have a boat. I want to be able to get to the boat. He didn't have that hardship.

And Mr. Brougham even mentioned that his commissioner didn't quite understand, because she was getting stuff and she couldn't understand why we were holding it back. Everybody probably has one boat. We already gave him that lift. So it was very confusing to the way it was presented.

And Commissioner Henning in here asked, where's the hardship? Where is all this stuff that he has a problem with? I have so much information on this, I could probably spend an hour reading to you.

I'll let other people ask questions, but tons of questions on this. There is -- there's just too many in reading this that just does not bode well for this.

MR. MAXWELL: Okay. Just in quick response, in the Wiggins Pass area we have permitted many, many slips. Many, many docks with two boat lifts for the property owners, because it's the optimal way to store your boat.

And I'd also like you just to look in the areas of Collier County, especially around the Isles of Capri, what the percentage of boats that are on boat lifts. One is for environmental reasons, and two is for the safety of the boat. And also in instances on fast moving water it's easier and safer to load on and off your boat when it's on a lift and then put in the water.

I've not boated very many areas outside of Collier County. I've lived here all my life and I can tell you the waters in that area can be very, very swift. And so it's not -- you may not look at it as a hardship but I look at it as a safety factor that if it was my dock I would definitely want the lift because it's much easier to access your boat.

COMMISSIONER EBERT: That's true. And we gave him a lift. We did give him a lift. And I also have a GPS on mine. I looked at this. There are several places that don't even have a dock, and there are several with marginal wharfs out here because of the depth of the water.

MR. MAXWELL: Uh-huh. That's because of the state criteria.

COMMISSIONER EBERT: It's because of the state criteria, you are correct. So there's nothing -- he has a non-conforming dock.

MR. MAXWELL: Uh-huh.

COMMISSIONER EBERT: And he can only put this dock back just the way it was before. He cannot change one or add extra boards. So I do not see us adding another boat lift to a non-conforming structure. And there are several there that are not up on lifts.

MR. MAXWELL: Several, but --

COMMISSIONER EBERT: Yes there are.

MR. MAXWELL: I would say more than 50 percent are.

COMMISSIONER EBERT: I have not been through every one, I just went with the GPS and went all around the thing, and you'd be surprised. Thank you.

MR. MAXWELL: Uh-huh.

CHAIRWOMAN KEENE: Does anyone else have any questions?

COMMISSIONER RANKIN: I have one question. Could you put mooring pilings out without coming back to us?

MR. MAXWELL: No, I could not. I would need a variance -- I would need your approval to put the pilings in for the lift or mooring piles.

COMMISSIONER EBERT: They already have mooring pilings.

MR. MAXWELL: Not for the side lift.

COMMISSIONER EBERT: Not for the side, but they already have mooring pilings there.

CHAIRWOMAN KEENE: Staff report? Thank you.

MR. SAWYER: Good morning, Commissioners. For the record, Mike Sawyer, Project Manager for the petition.

I do have one slight clarification. In the purpose description on Page 1 of the staff report, the petition was continued to the 15th. So if there's any confusion on that, please let me know. But I did check that.

Again, what we're looking at is with the approved variance, in essence what we're looking at is the addition of the second vessel and the lift associated with that. And they are able, because it is an existing dock, to moor the vessel. So it's kind of a question at this point, quite honestly, whether they can have the lift added in.

The initial boat dock that you've already approved is for the one at the end. This will be, if you do approve it, a second boat dock extension for the second lift.

And I'll answer whatever questions you might have.

COMMISSIONER BROUGHAM: Just for the record, and we exchanged some emails on this, Mike, I asked Mike the question of this request is for a BDE, extending 21 and a half feet to a total of 41 and a half feet. Whereas, we had previously approved a BDE to 54.6 feet.

My questions was, does a new BDE supersede a previous BDE? And I'll let Mike answer.

MR. SAWYER: Yeah, in conversations with the County Attorney's Office, we were really looking at the first petition for the BDE as being the one that you've already approved --

COMMISSIONER BROUGHAM: Correct.

MR. SAWYER: -- at that distance. That's the first BDE. This is the second separate BDE, if you will, for just this second vessel and the associated lift.

So it would -- the second would not affect or alter the first.

COMMISSIONER BROUGHAM: I just wanted to --

MR. SAWYER: Correct.

COMMISSIONER BROUGHAM: -- bring it forward.

COMMISSIONER VONIER: Am I -- you said vessel and lift. Actually, the vessel is not in question. They are allowed to moor a vessel. The only thing in question is the boat lift.

COMMISSIONER RANKIN: That's right.

MR. SAWYER: Correct. The reason that I -- and I don't want to confuse anybody. The reason I keep saying, you know, vessel and associated lift is that the criteria in the Land Development Code requires us to -- when we're looking at the actual boat dock extension length to include both.

COMMISSIONER RANKIN: May I, Madam Chairwoman?

CHAIRWOMAN KEENE: Sure.

COMMISSIONER RANKIN: My philosophy is we can't go back and change the past. What's here is what's here. And like you said the man can put a boat here any time he wants. The question is, is which are the neighbors going to be more concerned about, a boat lift being added or a boat maybe cutting loose on the pass that's almost open to the Gulf, or at least a pretty good sized pass. That could cut loose in a quick storm and damage some things or damage the boat at least. And so that's really the question.

And I wish that we all wished probably that we could go back and change the past and put things the way they'd like to be, but the dock's already there, they can already put the boat there. The question is are we going to leave it tied up to the dock or hang it up.

Now, can we put a restriction on how high the boat and the lift can be? Because, I think that would probably be the thing neighbors are most concerned about.

MR. BELLOWS: For the record, Ray Bellows.

The Collier County Planning Commission has the ability to condition a boat dock extension. And if that was an issue, I believe that could be a condition. However, I'm not sure how we would derive at the appropriate height that still makes it --

COMMISSIONER RANKIN: We'd have to ask the expert --

MR. BELLOWS: Yeah.

COMMISSIONER RANKIN: -- because I don't know how high boat lifts have to be to function.

MR. BELLOWS: Correct.

COMMISSIONER RANKIN: These kind anyway. But that was just my thoughts on it.

MR. BELLOWS: It can be conditioned.

COMMISSIONER VONIER: Generally a concern, the height of the boat. And I've been at the site and there's not a line of sight problem from the neighbor. So --

COMMISSIONER RANKIN: Well, I've seen some boat lifts, you know, that can be massive structures. And I've seen others that are relatively unobtrusive. And that's the only thing I would wonder about.

CHAIRWOMAN KEENE: Mike, just to get it on the record, even though this extension is only going to 41.5, it's -- the other one is to 54, so that still remains. So it's still going to be less than the original extension.

MR. SAWYER: Correct.

CHAIRWOMAN KEENE: Okay. Just so everyone understands.

Are there any other questions?

COMMISSIONER VONIER: Mike, on criteria five, whether the proposed location in that facility is such that it would interfere with the neighbors, there's been conversation by this board this morning which would appear to lean in that direction, that there might be interference. Which in fact if that criteria were not met would mean that there were two criteria not met which would be enough to disapprove this.

COMMISSIONER HOMIAK: What interference are you talking about, the one you suggested might happen?

COMMISSIONER VONIER: With a future boat dock.

COMMISSIONER HOMIAK: But that dock on the east has to stay in the same footprint. If anything's ever done to it, it has to stay in the same --

COMMISSIONER VONIER: The dock has to stay, but a boat dock does not have to. That does not define where a boat dock can be, it only outlines where the pier should be if the pier stays in the same position.

COMMISSIONER HOMIAK: Right.

COMMISSIONER VONIER: Okay?

COMMISSIONER HOMIAK: Right.

COMMISSIONER VONIER: But that does not necessarily mean that's where they put a boat dock -- or a boat lift, excuse me, I'm using an incorrect term. The point is that they have a right to do something in the future and we potentially could be taking that right away from them.

COMMISSIONER EBERT: I have a question.

CHAIRWOMAN KEENE: Sure.

COMMISSIONER EBERT: You're correct, Bill. I had this also circled. The proposed location of the design of the dock facility would not interfere with the site.

If you put a boat lift there and you bring this boat up, it will interfere with the site. You will not have that 45. That was one of the reasons that out at the end it would mainly be the owner's, it would be his site, not the neighbors.

There are -- there are so many things in here that I marked up. He can do -- because he is grandfathered with the state and he can moor his boats there, he would be going over his footage that he is allowed. And if you look in this photo -- thank you, Doug, for bringing this up, you look across the -- look at the long, long docks up to the -- I'm going to say the northeast. Those -- look how long they have to come out and what little area they have to put their boats in.

So as far as currents and every -- the other people do it. They do. And if you take -- when I took this and went around with the GPS, if you just kind of go through the islands here, if you go up one, you have a huge boat, which is probably 45, 50 feet that's sticking out there. And they only have -- it looks like a boat dock like this and it's just backed up to it.

So I think we have done what we should do, and he can have his two boats, but not two boat lifts.

COMMISSIONER HOMIAK: I'm just going to say, I don't see the problem with having another boat lift. The boat's going to be there, and it's a lot safer, it's better out of the water. If there's a storm or a

hurricane that should come up and you don't have time -- I've seen new boat lifts go through Charley with the boat still there and the boat lift still there and everybody's else's boat's down wherever, everything's torn apart. It's a lot safer when they're new. So I have no problem with it.

COMMISSIONER MIDNEY: Are there additional criteria that we're supposed to look at for lifts more than what we have to do for docks? I mean, is there a basis for us to deny this?

MR. SAWYER: Again, Mike Sawyer with Planning and Zoning.

No, there is not. With the boat dock extension it includes the boat dock surface itself, any applicable lifts and the vessels. The criteria remains the same. As far as from what the LDC says, as far as using those criteria.

COMMISSIONER MIDNEY: So if you have permission to put a dock, you automatically have permission to put a lift? What basis then do we have for denying it?

COMMISSIONER EBERT: It's more than 20 feet.

MR. SAWYER: Well, with the boat dock extensions, your application needs to include all of those factors in it. And we looked, again, at the same criteria. And that's what the LDC says. I'm just -- I'm trying to call a distinction between what the Land Development Code says and it's been opined before the score card, if you will. And that's what staff puts together with our staff reports. It's the same criteria.

COMMISSIONER MIDNEY: If we were to move to deny this, what basis could we use?

MS. ASHTON-CICKO: Well, you've got your criteria that's in your package that you're looking at, and you've already heard some of the commissioners cite criteria that they don't believe is met. So you would have to identify those that aren't met and move to disapprove.

COMMISSIONER MIDNEY: But in each case the primary and secondary, there's only one criteria that's not met, doesn't there have to be more than one in either one?

MS. ASHTON-CICKO: That's been an ongoing debate. But in order to approve it, they have to meet the minimum. Okay, you can still disprove it, but I think that we've heard some members at least believe that there's sufficient evidence to support some of the other criteria hasn't been met. So you can probably even fall below those thresholds.

COMMISSIONER MIDNEY: Thank you.

CHAIRWOMAN KEENE: Phil?

COMMISSIONER BROUGHAM: Just to comment on that. I mean, the staff report cites certain criteria met or not met in their opinion. We don't necessarily have to agree with the staff opinion.

CHAIRWOMAN KEENE: Correct.

Mike, looking at the layout at the dimension given where the boat dock would be 12.5 feet. So obviously they'll have to get a boat that stays within that -- you know, to get on the lifts.

MR. SAWYER: Correct.

CHAIRWOMAN KEENE: If they don't have a lift, is there any restriction on the width of a boat they could just moor there?

MR. SAWYER: In this case, no, because it's an existing, if you will, non-conforming dock. So correct, they could put whatever vessel --

CHAIRWOMAN KEENE: They could have a 15-foot wide boat and intrude more.

MR. SAWYER: Correct. Look at it as a vehicle, it's not permanent.

CHAIRWOMAN KEENE: Right. So, I just wanted to make that --

COMMISSIONER EBERT: I do have another question.

Mike, I believe when Tim Hall was here, and I can find it in my notes if I need to, he did come up and say can we add two feet to this boat dock extension out front if that's -- if we don't get the variance and stuff for the second boat lift? Because he said we'll take whatever we can get.

They can put that big boat out at the end. And I believe we did give them that extra two feet. Because it is already -- because of the pilings and stuff, I'd have to go back to the notes, but he could actually take his big boat and put out at the end of the -- he doesn't have to put the tiny boat in there. That boat lift does not have to be tiny.

MR. SAWYER: Commissioner, I'd have to look at that. We would have to actually go back to what is included in the resolution. Most of the time when we've got these resolutions, we include the layout that

they propose. And that was for the smaller boat at that time, I believe. But we would have to look at that.

COMMISSIONER EBERT: Josh, were both boat lifts the same as far as they were both 12 feet or 12 feet one way and 12 and a half feet the other?

MR. MAXWELL: The standard size for most of your smaller boat lifts is 12 and a half feet in width. And until you start getting over -- you know, unless you get to a very beaming 30-foot boat, they don't start getting wider to 15 until you probably get closer to 40.

COMMISSIONER EBERT: Okay.

COMMISSIONER RANKIN: While you're here, how high are these?

MR. MAXWELL: Depends on the style of boat.

One thing, if I could just present one exhibit? Just to clear it up for a few people. There has been discussion of what happens if the neighbor to the east wants to put in a lift. They're approximately 35 feet from the riparian line, so that gives them, you know, over 44 feet till the neighboring structure, if this is approved, which is more than adequate.

And for the record, they cannot move that dock further to the west. It has to remain in the same location and configuration.

COMMISSIONER VONIER: Josh, could they put a parallel to the shore boat lift in? Is it possible?

COMMISSIONER BROUGHAM: Which property?

MR. MAXWELL: Are you're talking about the property to the east?

COMMISSIONER VONIER: Yeah.

MR. MAXWELL: It would have to be a minimum of 15 foot off of the riparian line, which would give them approximately 15 feet to put in. So if they wanted to for say a jet ski, they could. It's not optimal. If I was their consultant, I would recommend numerous other locations for them to put it.

COMMISSIONER VONIER: But to my earlier point, though, we could grant them a variance so they could get into the 15-foot setback.

MR. MAXWELL: They would not need a variance to drive the boat through the setback area. They'd only need the variance for any permanent structure in the --

COMMISSIONER VONIER -- correct.

MR. MAXWELL: -- in that setback area.

CHAIRWOMAN KEENE: Any other questions?

COMMISSIONER EBERT: One other thing. The boat to the west, I believe is a boathouse? And it is only one boat there; is that correct? Thank you.

CHAIRWOMAN KEENE: For the record, Josh's response was yes.

Okay, does anyone have any other questions before we go to public speakers?

(No response.)

CHAIRWOMAN KEENE: Ray?

MR. BELLOWS: The first speaker is Arthur Spiegel, to be followed by John Rogers.

MR. SPIEGEL: Good morning, everyone. My name is Art Spiegel. I own a home at 4 West Pelican Street which is east of --

COMMISSIONER BROUGHAM: Can you bring the mic down, please, Mr. Spiegel?

MR. SPIEGEL: Sure. Is that fine?

Which is east of the Wahl residence.

You know, when I bought my property a couple of years ago, and when the adjacent property owners, one of whom couldn't be here today because she's actually been sick to her stomach for three days, but she did write a letter. She asked me to make sure that you have it as part of the record, that's from Joan Evans. And the other neighbor, being Tony Rinaldi, had to be in Pennsylvania.

But when we bought our property, I a couple of years ago, and they, not aging them, but many, many, many years ago, we felt that we paid for and bought certain rights that now we seem to be losing simply because someone has asked for a variance. We knew what the rules were. We lived by the rules. We knew what would happen if someone built on the property next door. But built in conformity with the laws and the regulations and the codes that were established by you and people before you. But we didn't think that we would end up losing rights because now people are given variances.

And I'm going to speak strictly for myself when I say I sit in my front yard, which is my little piece of paradise and I look west and I had a commanding view of the Gulf, the sunsets, the river going into the Gulf. There was no way without variances that anyone could ever stop my view. Now there's going to be a boat. And this fellow is a boat builder. I find it a little difficult to understand how a boat builder doesn't know what kind of boat he's putting in at the end of a dock when in fact he's going to have a small boat in one spot. Well, he's not going to have two small boats, matching his and hers. I leave that to you.

We go to the next point of my other neighbors looking to the west. They have beautiful commanding views of the bridge. Gorgeous. They're totally blocked now. I will look out at a boat.

And I have to tell you, the Wahls built a gorgeous home. It's beautiful. It's an asset to the community. It took every inch of building space on their property. They are trying to put 50 pounds of potatoes in a 10-pound sack. And I don't think it is up to any of us to give variances that will take away rights of other people. And I truly ask that you decline in giving this or not allow giving a variance, as been requested.

Just want to look at my notes here.

Oh, it's my understanding that any boat docks that are to be built today, not non-conforming ones of the past, are to be built parallel to a seawall. Well, in fact, we have a seawall, a brand new seawall where rip-rap was taken out to build a brand new seawall and then rip-rap was put back. Well, that's creating your own problem, in my opinion. Why in fact couldn't a dock been built right along the property? Oh, I know, because the property is only 75 feet wide, and we wanted more dock than that.

This isn't right to the taxpayers of the area who have relied on the codes as they were printed and don't feel that we should lose rights because of a variance. Thank you for your time.

CHAIRWOMAN KEENE: Just for point of clarification, the BZA already approved the variance, so we don't -- we're not in a position to change that. We're looking at the extension.

MR. SPIEGEL: But I have the right to complain.

CHAIRWOMAN KEENE: Sure, sure. I just wanted to make sure that you understood that had already been approved.

MR. SPIEGEL: Yes. But I understand that. But now you're looking for basically another variance.

CHAIRWOMAN KEENE: An extension.

MR. SPIEGEL: An extension, right, and we are against that.

CHAIRWOMAN KEENE: Thank you.

MR. SPIEGEL: Thank you.

MR. BELLOWS: John Rogers.

MR. ROGERS: Good morning, Commissioners. John Rogers. I live at 138 Tahiti Circle.

I'm really down here to speak about consistency on how we're applying this on the Isles of Capri. Three times I've been in this exact situation with a legal non-conforming boat dock: 200 Tahiti Circle, 134 Tahiti Circle and on Capris Boulevard. Three times it's been an absolute rule that you may not change one iota.

And Commissioner Ebert, you were right on it. You may not change the existing non-conformity and then do anything to increase it. And when, Commissioner Ebert, you were referring to earlier we've really got a state issue here and a county issue here, and if you read the record, this is really screwy. You're exactly right. If you read the entire record, which I've done, there's been a whole lot of smoke and mirrors.

And if I may quote the former commissioner, he called it, I think you've given me a lot of crap. He's exactly right. What occurred here is they went to the state and said we're going to be good guys and we're going to remove this T and make it an L. But they didn't say and then we're doing that so that we can pull in and get another extension and have a boat dock to the side.

I'm in favor of boat docks, I'm in favor of boat lifts. I'm just in favor of doing it right. And this has not been done right. I respectfully disagree that he can put a vessel there outside of the 20 feet without the BDE that he's currently requesting. Otherwise he wouldn't be here.

So when you gentlemen say that he can put a 34 or a 44-foot boat there right now, no, he can't. That is not under your code. The BDE includes a vessel. And the gentleman over here that's -- I'm telling you, code enforcement is on Isles of Capri ticketing people whose boats overhang their 20-foot or 25-foot dock if



the boat is sticking out. And they're making my neighbor apply for a BDE for his boat, not for his lift, because it's a 31-foot boat in a 21-foot slip.

So I don't agree. If this man could put his boat there, he wouldn't have to ask you for an extension. Because vessel in your code it's all defined together, vessel, lift, dock, mooring facility. So we're getting a few more smoke and mirrors with regard to that, in my opinion.

You know, I have my boat dock. Actually, Turrell and Associates did it for me. It was a long four-year expensive process. I think this man's entitled to his. But I just think he hasn't properly come forward and told you his plan from the beginning, what he wanted to do.

I want to say when I owned the house at 134 Tahiti Circle, I had three pilings that were out. One that I had a boat dock extension -- I'm sorry, it was a legal non-conforming dock. I wanted to move one of the piles six inches so that a boat could get in and out more easily. And the state said absolutely positively not. Any -- you can remove it but you can't move it anywhere else.

If you look at the end of what you've already approved, and I know we're not reopening that can of worms, but that's exactly what we did at the end of this dock, we allowed him to move the non-conformity. So as Commissioner Vonier, I believe it's pronounced, stated at the beginning of this, we're not fixing it at all, we're perpetuating the problem. And I really hope that you'll stop it here, send it back, maybe he can reconfigure it and come up with his two lifts some other way if he can. But I think this BDE absolutely needs to be denied, thank you.

CHAIRWOMAN KEENE: Thank you.

MR. BELLOWS: No other speakers have registered.

CHAIRWOMAN KEENE: Ray, can you comment on the statement that he cannot moor a boat there and clarify for the record?

COMMISSIONER BROUGHAM: A 30-foot.

MR. BELLOWS: Yeah, for the record, Ray Bellows.

I think he's referring to as Mike Sawyer had previously indicated today, that the measurement for an extension going into the waterway includes the boat. And that's what they're requesting with this boat dock extension, the lift plus the boat overhang.

CHAIRWOMAN KEENE: Okay. So without the --

MR. BELLOWS: Without the boat lift they can still moor the boat there.

CHAIRWOMAN KEENE: Hold on. Phil?

COMMISSIONER BROUGHAM: I think the real question, Mike, is going to Mr. Roger's comment, if he were to moor without a lift, pull in a 30-foot boat which exceeds a 20-foot limit, is that permitted under our code? Without a BDE to allow that.

MR. BELLOWS: Yes. My understanding is the boat is not a structure, therefore it's not subject to the setback requirements that a structure would be, such as the boat lift. So in measuring the depth of the boat dock, it's the dock and the extension of the boat into the waterway. And if there's -- if the boat is moored to the side of the dock --

COMMISSIONER BROUGHAM: That's the question.

MR. BELLOWS: -- then it's not extending out past what was approved.

COMMISSIONER BROUGHAM: Thanks.

CHAIRWOMAN KEENE: Phil, did that help?

COMMISSIONER BROUGHAM: Yes.

CHAIRWOMAN KEENE: Doug?

COMMISSIONER RANKIN: My question then, I'm a little confused here, because we have one branch of government saying that the boat cannot extend past the end of the dock and the other branch of government saying that the boat doesn't count.

My question is, because I can't see in the items I've got, how long can a boat be attached to this dock? Because I don't see dimensions on what I've got here that can tell me that. And before we get into the code enforcement issue that he raised, or is he wrong about that code enforcement issue?

CHAIRWOMAN KEENE: Josh, can you?

MR. MAXWELL: Oh, yeah. We previously received approval for a 54.6-foot boat dock extension.

And as it's been applied in other areas of the county, your dock and boat cannot extend past that 20 feet without that BDE.

Now, we have a boat dock extension for 54.6 feet. So I can't put in a 55-foot vessel. That's how it's been applied to many of our projects in the past.

CHAIRWOMAN KEENE: Doug, does that help?

COMMISSIONER RANKIN: Yeah, but I assume that there is some -- you said there's rip-rap up against the seawall. So I assume the whole 40 feet is not useable.

MR. MAXWELL: I would say -- I mean, the bow of your boat typically draws the least. And that rip-rap is mainly for scour protection, that was brought up earlier. You guys have -- at the end of this dock the waters exceed 20 feet. And I would venture to say there's very few seawall panels on Isles of Capri that extend past maybe 15 feet. So scour protection is not a necessity, but it's highly recommended to ensure the security of that seawall.

COMMISSIONER RANKIN: And the other question is how high -- how short could we live with here in a height?

MR. MAXWELL: Oh, as far as a height, I think it would be very difficult for us to get a boat higher than the neighboring boathouse, higher than the peak of that. And if that is to be a stipulation, that is something that I think the Wahls may be able to live with. But that would be, I would say, a reasonable -- that way we're not asking for anything more than what the neighbors have.

COMMISSIONER RANKIN: What I was listening to is this gentleman saying he's not going to lose this beautiful view and now look at a boat.

MR. MAXWELL: Right now he's got a boathouse to look at. So, I mean, he's not losing any view of the Gulf of Mexico.

MR. ROGERS: Not true.

COMMISSIONER EBERT: I've got a question. In the criteria, Josh, and staff, in the criteria the waterfront length, he does not -- he is not meeting, okay? Because it's only supposed to be half of the 75 feet. He wants to put 60 feet of boat in there. That's number one.

The criteria number two, the water depth. That is not met. He has to bring the dock out so far because of the -- there is so much water here. And this is mainly why we do these boat dock extensions is there is not enough water. So he has not met the criteria to this at all.

And because of the grandfathering of the state where you can't put an extra board or anything on, but they can still put in boats there, that's where I'm going. Because he can still bring a boat on that long side. And if that's grandfathered in, as far as the dock being grandfathered in, you can put a boat there but you need to come to the county for the boat lift. So that's what we're going against. Thank you.

CHAIRWOMAN KEENE: Mike?

MR. SAWYER: Yeah, just to clarify. As the staff report indicates, you are correct, they do not meet one of the primary criterion. In other words, as far as water depth.

And as far as second criteria, they do not meet criteria number three, and that is the vessel length. And then criteria six actually is not applicable in this case. So they don't meet one of the primary and one of the secondary.

CHAIRWOMAN KEENE: Okay. Okay.

MR. SAWYER: Just to be clear.

COMMISSIONER EBERT: Thank you.

MR. SAWYER: I do have a copy of the resolution for the first boat dock. If you want, I can put that on the visualizer.

CHAIRWOMAN KEENE: Please.

MR. SAWYER: I always do this upside down, so I apologize. It does show one vessel at the end.

CHAIRWOMAN KEENE: Okay. And as previously stated, I understand the lift will be the same size, regardless of the side that it's located on. So I don't think changing anything around will change that.

So -- okay, are there any other questions before we close the public hearing?

(No response.)

CHAIRWOMAN KEENE: Okay. Does anyone have a motion?

COMMISSIONER BROUGHAM: I do. I'll make a motion that we deny the boat dock extension on the basis of not meeting criteria number two and five of primary and criteria number three and four of secondary, and that obviously reflects some disagreement I have personally with staff's recommendation.

COMMISSIONER KLEIN: Second.

CHAIRWOMAN KEENE: Okay. So we have a motion to deny the petition and a second. All in favor?

COMMISSIONER KLEIN: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRWOMAN KEENE: All opposed?

COMMISSIONER RANKIN: Aye.

CHAIRWOMAN KEENE: Aye.

COMMISSIONER HOMIAK: Aye.

THE COURT REPORTER: Could I see a show of hands?

CHAIRWOMAN KEENE: Opposed?

Okay, so one, two, three, four, five; 5-3.

COMMISSIONER BROUGHAM: Raise your hands if there's any -- let's do it over again. If there's any --

CHAIRWOMAN KEENE: It's 5-3.

So the petition is denied 5-3.

MR. SAWYER: Sorry, Commissioners, just for the record, if I could get the denial criteria numbers?

COMMISSIONER BROUGHAM: On the basis of not meeting criteria two. On primary of criteria two and five was my motion. And on secondary, not meeting criteria three and four.

MR. SAWYER: Thank you, Commissioners.

CHAIRWOMAN KEENE: Okay. Since we're almost at break time, why don't we go ahead and take a break and then we will pick up with Buttonwood. It's 10:13 so let's return at 10:30. Thank you.

(Recess.)

CHAIRWOMAN KEENE: Welcome back from break. Our next advertised public hearing is PUDA-PL20120001105, Buttonwood Preserve.

And if everybody wishing to testify, please rise and be sworn in.

(Speakers were duly sworn.)

CHAIRWOMAN KEENE: And do we have any disclosure from Planning Commissioners?

Start with you Phil.

COMMISSIONER BROUGHAM: No, nothing.

COMMISSIONER EBERT: Yes, I did speak with Mr. Anderson.

CHAIRWOMAN KEENE: Anyone else?

COMMISSIONER VONIER: No.

CHAIRWOMAN KEENE: Okay.

MR. NEAL: Good morning, Madam Chairman. I'm Pat Neal, Neal Communities, 8210 Lakewood Ranch Boulevard, Bradenton, Florida. I have been sworn.

I would like to do three minutes of introduction of our firm and our team.

I've been building in Bradenton since 1968 and currently build in eight jurisdictions, but I've never built before in Collier County, and I hope to have a -- I hope that you have a happy future with me over the next few years.

Our company has built about 8,700 homes. Mostly we build all-American communities, that is multi-aged communities that has families, people with middle age and income and also active adults.

We have a very strong financial team with professionals who have been in the business for a long time. I've done about 90 approvals in Manatee County. We primarily build in Manatee and Sarasota County.

Oh, I was America's best builder, chosen by the National Association of Homebuilders in 2012.

COMMISSIONER BROUGHAM: It's a commercial.

MR. NEAL: Unlike the other local builders, we prospered through the bust. We actually changed our product. We built a product as small as home sites on 27 by 116 foot lots. In Manatee County we built homes or built homes during the deepest part of the recession from \$106,000. We thought it was a good thing that we could build good housing for America's cottages in Neoclassical style.

We currently build homes for about \$140,000 in Sarasota County. We do not plan to build houses in that price range in Collier County. We do think this is the center of what will be a development universe because of the desirable economic and environmental and physiological characteristics of Collier County. We like it here because it's a good place. And I think that you will find us, after the five approvals that we hope to bring to this year and five years from now, I hope you'll find that we're responsible stewards of your economy and your community, because we're here because Collier County is a desirable place.

We're old. I counted these people. They have 360 years among them in the building business. I have employees of more than 40 years myself. We are skilled in what we do. We're quite active in our business and we're doing well in the communities that we've built.

Again, my most important point is I have two sons in the business, a nephew and my spouse of 35 years. We have a long-term commitment to the communities in which we build. We expect to have a long-term commitment here in Collier County.

I have with me, Michael Greenberg, who is the Vice President who will run our division. He's formally vice president in a very responsible position, more than a billion dollars a year for WCI, and previous to that Toll Brothers and Avatar.

Alexis Crespo is our planner from whom you know, and Jeremy Arnold, from Waldrop. And Alexis Dixon is here to answer questions about the environment.

I'll close by saying it's fun to be here, I plan to be here a lot. And I hope to have a good time with you and you with me. And we hope to bring things to you that you'll find desirable for Collier County.

Bruce Anderson of Roetzel and Andress will start off.

MR. ANDERSON: Good morning, Commissioners. For the record, my name is Bruce Anderson.

And I wanted to read to you some additional language and then post it that we had worked out with your transportation staff earlier this week in response to some concerns. And it has to do with an additional development commitment to build a stormwater system to convey drainage from Tree Farm Road and from this project to the Collier Boulevard canal.

And I'll post here the new language. And Mr. Casalanguida and Ms. Ashton-Cicko have both reviewed and approved this language and had input on it.

In the new Section 4.5, it's just to deal with the separate item that's pending about a right-of-way vacation.

COMMISSIONER BROUGHAM: Excuse me, Bruce, where is that language?

MR. ANDERSON: Oh, it would be under the Development Commitments in the PUD. Towards the end.

COMMISSIONER HOMIAK: The last page, Page 10 of 10.

COMMISSIONER BROUGHAM: I have it. Exhibit F?

MR. BELLOWS: Correct.

MR. ANDERSON: And unless there are questions right now on those.

COMMISSIONER BROUGHAM: Fifteen seconds.

As far as the maintenance of the conveyance system to be shared with the developer, its successor and/or assigns on a pro rata basis using the percentage of stormwater that is private compared to public, as determined by whom?

MR. ANDERSON: Oh, always the county. But we do reserve the right to discuss it if there are differences of opinion.

COMMISSIONER BROUGHAM: Do we need to be that specific or is that just a given?

MR. ANDERSON: That's just a given. That's part of the give and take.

COMMISSIONER BROUGHAM: Thank you.

MR. ANDERSON: Thank you.

And with that, I'll ask Ms. Crespo to come up and go into some more detail about the master plan with you. Thank you very much.

MS. CRESPO: Good morning. For the record, Alexis Crespo with Waldrop Engineering. I just have a few power point slides to show you.

The request before you this morning is very limited in nature. We're simply seeking to amend the Buttonwood Preserve Residential Planned Unit Development, which was approved in 2007, to allow it to implement the Neal Communities Development Program.

This aerial location map before you shows the subject property, which is approximately 55 acres in size. It is large --

COMMISSIONER BROUGHAM: We don't have anything.

MS. CRESPO: Is that not showing up on your screen?

COMMISSIONER RANKIN: That screen shows this.

MS. CRESPO: Thank you, Mr. Bellows.

You can see the property has been disturbed over the years. It is formerly known as Miss Kitty's Horse Ranch and contained a number of residential structures and barns, as well as some agricultural uses.

To the south we have the Vanderbilt Country Club, which is developed at about 2.5 units per acre. The abutting uses are multi-family residential uses as well as some of their preserve areas and golf course, and that also abuts to the south and east.

To the east of the property are agriculturally zoned lands, which are developed with the cell phone tower.

To the north of Tree Farm Road, we have the Warm Springs PUD, which was approved at approximately four units per acre and remains undeveloped.

Lastly, to the west we have the Bristol Pines Community, which is partially developed, as you can see on your slide. It's developed with a townhome product type. And they did achieve bonus density through their PUD to allow for approximately seven units per acre.

This next slide depicts the approved master plan, which was a part of that 2007 original RPUD zoning. This plan allowed for the development of 220 residential units, ranging from multi-family to single-family, as well as two-family detached product types. This is at four units per acre, which is consistent with your urban residential subdistrict future land use category.

We are looking to do very minimal changes to what was previously approved. This next slide is our proposed master plan.

The amendment before you is limited to the following items: Number one, we're reducing the on-site native vegetation from 13.45 acres, which was indicated in the previous PUD document and master plan, and reducing that down to 11.6 acres. To be clear, that is meeting your minimum requirement in your Land Development Code and Growth Management Plan, and that does represent the minimum 25 percent on-site native vegetation required. So we're still very much consistent with that requirement.

The applicant is also seeking an additional five deviations for flexibility in terms of model homes, temporary signage, internal signage to the community. We are seeking the continuation of the approved deviation for a 50-foot wide internal right-of-way. And through the redesign, we were able to improve inter-connectivity and we were able to remove the previously approved deviation for cul-de-sacs.

Mr. Anderson has touched on the transportation commitment changes based upon our meeting with staff earlier today. In terms of compatibility, we are not proposing any changes to the approved buffers per the 2007 ordinance. The optional recreation facilities shown on the master plan have been limited to those locations, so they cannot be located any closer to the adjacent existing and planned residential areas.

As noted in your staff report, staff has recommended approval of the request, as well as all six proposed deviations. The applicant is in agreement with the findings of fact, as well as the recommendation. And we would respectfully request your recommendation of approval today. Of course with the inclusion of the transportation commitments proffered by the applicant and staff.

CHAIRWOMAN KEENE: Does anyone have any questions? Phil?

COMMISSIONER BROUGHAM: Yes, Ma'am.

Six or eight. Looking at the master plan and acknowledging that this was a previously approved master plan and now there's some minor changes to it, I guess I have some questions.

On the master plan with respect to the buffers, and I guess this would be on the southwest border there with that development to the side, it notes an optional six to eight-foot fence/wall running -- well, you can see where it's pointing to. Why -- talk to me about optional. Which way are you going to go? Optional to me means you can put it up or you can't put it up or you won't put it up. Or I can put up a fence or I can put up a fence and a wall. What are your plans there?

MS. CRESPO: Correct. There's no buffer required in that specific location, because it abuts preserve on the Vanderbilt Country Club Property. So there would be no buffer required. However, if Neal Communities would like to do a perimeter masonry wall of some sort as an enhancement to their community we'd like to reserve the right to be able to install that certainly on the applicant's property.

COMMISSIONER BROUGHAM: The one I'm referring to here is abutting, what is it, Bristol Pines? In this square down at the southwest right in here.

MS. CRESPO: Can you see my mouse?

COMMISSIONER BROUGHAM: Yes. That --

MS CRESPO: In that area?

COMMISSIONER BROUGHAM: If you go north and a little bit to the west. Those are the first questions on optional. And that's abutting that development, is it not?

MS. CRESPO: Correct. And again, we are proffering the code required buffer for those townhome units that would be eventually developed in Bristol Pines, and that again would be an enhancement that Neal Communities may elect to do with buffering their -- I believe single-family uses are limited in that southwest corner, so they may elect to do a wall there if --

COMMISSIONER BROUGHAM: Or they may elect --

MS. CRESPO: To just simply install --

COMMISSIONER BROUGHAM -- to do nothing.

MS. CRESPO: No, in that location they would be required to do the 10 to 15-foot wide buffer, depending upon the product type. Am I pointing in the correct location?

COMMISSIONER BROUGHAM: Yeah, okay, I see the 10-foot buffer. And that's per the LDC. And then optionally what you're saying is you could -- you might or you may --

MS. CRESPO: Correct.

COMMISSIONER BROUGHAM: -- put a fence or a wall --

MS. CRESPO: The walls not required by the LDC would be an enhancement at the pleasure of the developer applicant.

COMMISSIONER BROUGHAM: And we really don't have, and you don't have to address it, we really don't have any idea what Bristol Pines plans for that adjacent area, do we? Or do we not? I mean, to a certain extent.

MS. CRESPO: We do. This property is platted for more townhomes, more of the same of what is in Phase I. So it is platted. Mr. Neal may want to add some to that. But we do have an approved product type for that area.

MR. NEAL: I'll try to give a more specific response as to my thinking, Phil.

Commissioner, Bristol Pines has recently been sold to the DR Horton Company for townhomes. For the most part those townhomes would have young families with children. This is adjacent to our amenity facility, including pool. So the probability would be that in order to maintain the continuity of both communities that we would put a well-landscaped barrier, either a fence or wall. That really is what we believe will occur. As we can't determine whether DR Horton will go forward and we don't know their product, I'd prefer not to make an explicit commitment to that.

COMMISSIONER BROUGHAM: What I hear you saying is it would be a landscape buffer, inclusive of either a fence or a wall.

MR. NEAL: Yes.

COMMISSIONER BROUGHAM: Okay. That's more specific than what's shown on your master plan, and I would recommend that we add that as we go forward.

MR. NEAL: I think perhaps I've given away something, but the answer is still yes.

COMMISSIONER BROUGHAM: All right.

MS. CRESPO: As proposed looking for the certainly provision of the code required buffer on that location and depending upon the ultimate build-out of that project, be able to do a wall if it is warranted, based upon what occurs in Bristol Pines. But we certainly want to meet your code for buffers.

COMMISSIONER BROUGHAM: A wall or a fence optional.

MS. CRESPO: Optionally, which is above and beyond the code requirement.

COMMISSIONER BROUGHAM: I know. I'm going to Mr. Neal. There you are.

Thank you, that's that question.

Okay, now, let's go over to the southern boundary that abuts Vanderbilt Country Club. And I understand there's no buffer required because there's a golf course there, et cetera, et cetera. And you say no buffer required, but a six to eight-foot wall partially to the east. But if you go along that same boundary to the west you have a 15-foot type B buffer, 400 lineal feet of six to eight-foot wall and then you stop, and then no buffer required with a six to eight-foot wall fence. Why the distinction there?

MS. CRESPO: Well, a portion of this is based upon commitment five, which is 10 of 10 of your PUD document, which is carried over from the 2007 ordinance, which does prescribe the construction of a six-foot high masonry wall east and south -- east of the southwest property line for a distance of approximately 400 linear feet. So that is why that is being shown there.

And the 15-foot type B buffer is where our proposed single-family or villa uses would abut their existing multi-family uses.

COMMISSIONER BROUGHAM: Okay.

MS. CRESPO: As you carry eastward, our project then begins to abut their golf course and preserve where no formal buffer is required. But we are showing that fence to comply with the previous condition of the 2007 ordinance.

COMMISSIONER BROUGHAM: Okay. Have you -- I'm sure you've had conversations with Vanderbilt Country Club?

MS. CRESPO: Yes, sir, they did attend our neighborhood information meeting and provided feedback and were very comfortable that we're carrying forward those commitments from the original ordinance.

COMMISSIONER BROUGHAM: Okay, stay with me.

And I have most of my questions on the staff report, but I'm not questioning staff, I'm really questioning you.

On -- in terms of Growth Management Plan consistency on Page 6 of 20 in the staff report, Policy 7.2 comments, the RPUD Master Plan does not depict a loop road within the project. However, interconnections to adjacent and multiple ingress/egress points are proposed.

My question is where is that shown on this master plan?

MS. CRESPO: That is not shown. Mr. Sawyer and I did discuss once the staff report was released that based upon the surrounding development patterns around the project an interconnection is not appropriate for this project, it was not appropriate in 2007 when it was originally approved. And I believe this is a carryover or more of a scrivener's error type item in terms of an interconnection.

Mr. Sawyer, would you like to --

MR. SAWYER: The problem with trying to do an interconnection is that you don't have a related connection possible --

COMMISSIONER BROUGHAM: I understand that.

MR. SAWYER: Okay.

COMMISSIONER BROUGHAM: No, I understand that. Maybe it's just a problem with the language that that needs to be taken out, because it's very definitely it's proposed. Well, it's not proposed. I think there's agreement -- I think I'm hearing there's agreement but it doesn't make sense to have interconnections, given the adjacent properties.

MR. SAWYER: I apologize, that's an error in the staff report.

COMMISSIONER BROUGHAM: Thank you.

Your recreational facilities are shown as optional. And on the same Page 6 on the staff report it says the RPUD is proposed to include blah, blah, blah various housing types and so forth and recreational facilities. However the master plan says optional. I'd just like to tie that down. I mean, is that your plan or you may or may not?

MS. CRESPO: We are showing that as an optional recreation facility.

COMMISSIONER BROUGHAM: So it's not a definite that you're not committing --

MS. CRESPO: Correct.

COMMISSIONER BROUGHAM: Okay, in the plan.

MS. CRESPO: We are committing to not locating it anywhere else within the project.

COMMISSIONER BROUGHAM: All right. If you build it, it will be built where you --

MS. CRESPO: Correct, just based on the eventual unit count.

COMMISSIONER BROUGHAM: With respect to one of the proposed deviations, and that's with respect to the sign, the signage, the temporary signs up to -- requested deviation allow a temporary sign or banner up to a maximum of 32 square feet blah, blah, blah, blah. The temporary sign or banner shall be limited to 60 days per calendar year. Typically either you or staff.

Who directs that? I mean, you put a limitation in there of 60. I have no problem with 60, it's just a --

MR. SAWYER: Yeah, again, for the record, Mike Sawyer, Project Manager.

Those are done with temporary use permits, and most of the time those are limited to less than the 60 days that they're actually asking for.

COMMISSIONER BROUGHAM: All right, cool.

I'm done for now, Melissa, thank you.

CHAIRWOMAN KEENE: Okay. Anyone else have any questions?

COMMISSIONER EBERT: Yes, I do.

Alexis, good morning.

MS. CRESPO: Morning.

COMMISSIONER EBERT: One of my questions for you is on the NIM meeting, the Neighborhood Informational Meeting. On question five, it says the previous PUD document noted that the property was in Zone X. Has that changed? And your response was: It has changed. The property is now located within zones A and H. The property is not located in a flood plain.

Well, that is put -- that is now flood, AH and AE. I just checked with Robert Wiley. And I just want to know, because I want it on the record, is this developer going to put the base of all of his homes above the flood -- I just really -- it's best for you and everyone involved, and so I guess -- so what you will be doing is telling the people that move there don't worry because we are above the 100-year flood and we are in now a Zone X. Because the Estates, there is problems there. So you will take care of that, it will be a flood --

MS. CRESPO: Yes.

COMMISSIONER EBERT: Okay, thank you.

CHAIRWOMAN KEENE: Okay, any other questions?

(No response.)

Okay, thank you.

MS. CRESPO: Thank you.

CHAIRWOMAN KEENE: Mike?

MR. SAWYER: Again for the record, Mike Sawyer, Project Manager for the petition.

I've got a couple of corrections. On Page 4, purpose and description, I noted that they were keeping three of the previously approved deviations, they're actually keeping one, so I apologize for that.

And also, we've already talked in the -- on Page 6, the growth management consistency. We talked about 7.2. 7.1 actually notes that project entrance is provided on Immokalee. Clearly that's not the case. It's 951 through Tree Farm. So I apologize for that as well.

I'm here to answer questions. We are finding that the petition as it was previously consistent with the Growth Management Plan, and are recommending approval of the deviations that they're proposing.

CHAIRWOMAN KEENE: Phil? Do you have a question? I thought you said you had more staff questions.



COMMISSIONER BROUGHAM: No, thank you.

COMMISSIONER EBERT: I do.

Deviation two, which has to do with the models, I believe with most of our recent PUDs that we have been allowing 15. That is not a problem at all. My problem with this is they want to leave the models up for 10 years. Did we not have to get conditional use -- I think when I first moved down here your homes like on 951 -- well, anywhere where they put up models, they had to get a conditional use like if it was under three, or how long was it? Ray, do you remember? It was a very short time. They always had to get a conditional use. If they wanted to keep it opened two, three years, they needed an extension or something?

MR. SAWYER: Yeah, Commissioner, I believe -- and this is from memory. I believe what it is is that they're able to do that with temporary use permits, I believe for three years, and then are able to request an additional, I believe it's a year. And then they need to go through the conditional use process.

COMMISSIONER EBERT: Okay.

MR SAWYER: Because this is internal to the development itself. And I think the original intention was for the ones that you're citing, the model home centers that were on major thoroughfares that remained in place for a number of years without it coming back for public hearings.

Staff's opinion in this case was it's internal, we've been doing additional models. I have honestly been seeing a lot of developers over the years, especially recently, chafing, because we've had different business climate right now as far as home sales. And being able to keep model home centers open longer and with a wider product range kind of seems like it makes sense to help them, you know, at least with the conditions that we have currently.

COMMISSIONER EBERT: Okay. This is where I called Mr. Anderson. And with what is going up, I see what they do is pretty much change their models so that you don't have the same model. This one they said up to 10 years. I don't want to move into a model that's 10 years old and nobody's lived there, to be very honest. Would you mind cutting it down to like six? And I mean, they do change the models as you go along. Ten years for one particular building, that --

MR. NEAL: Madam Commissioner, if we had models for 10 years or six years, it would be a very long time. Six years would be perfectly agreeable to us. It should be much, much faster than this.

COMMISSIONER EBERT: Okay. All right. So you wouldn't even mind changing that down to six years from 10?

MR. NEAL: Yes, Ma'am.

COMMISSIONER EBERT: Thank you.

COMMISSIONER BROUGHAM: Melissa?

CHAIRWOMAN KEENE: Sure.

COMMISSIONER BROUGHAM: Clarification on that, Mr. Neal, or someone. This says model homes. And when spotting model home and picking up on Commissioner Ebert's point, you build a model with this kind of a floor plan and then next door to it you might have a different kind of floor plan and so forth. There can be a subtlety between this particular model home and model homes in toto.

MR. NEAL: Yes.

COMMISSIONER BROUGHAM: You understand what I'm saying? So you might have this model over here for floor plan A in place for two years, then you sell it, then you build another model home down the way. So, I mean, we're talking about the total number of the aggregate number of model homes, aren't we?

MR. NEAL: Precisely.

COMMISSIONER BROUGHAM: Okay.

MR. NEAL: Traditionally we'd start with two. If they weren't working we'd close them and do another two.

COMMISSIONER BROUGHAM: Okay.

MR. NEAL: Our models are brand fresh, Mrs. Ebert, and if they go more than two years, we don't like it.

COMMISSIONER BROUGHAM: They're not selling.

MR. NEAL: I should say that our professional model merchandiser for 36 years is is my wife,

Charlene. She's doing 21 models between now and March 31st and she likes building models. So we always have fresh models.

COMMISSIONER BROUGHAM: Thank you.

MR. NEAL: It's model homes and they could be in different locations.

COMMISSIONER BROUGHAM: Okay, thanks.

COMMISSIONER EBERT: Okay. And back to the -- being this is the staff report. And I don't mean to be on you, Mike, it must be my cold, I've got to tell you. But you had a staff analysis and recommendation, which I did not think was a good rationale. Fifteen model homes, we've pretty much been doing that the whole time on all the PUDs coming out. But you are relating a 53, 54-acre parcel with Hacienda Lakes, which has over 1,700 acres and you're saying they have 60 models. What they're going to do at Hacienda, which by the way is an old Toll Brothers, they're going to just take sections of that and sell it off. That's how they're going to work on -- this is just one developer. So 15 models? But you're comparison to 60 models. I'm going, you can't take 53 acres and compare it to something over 1,700. I just didn't think that was a good rationale.

MR. SAWYER: Your point's taken, Commissioner.

Quite honestly I could have probably picked a different development. Hacienda also does honestly have a large amount of preserve area, probably comparative-wise, percentage-wise than this one.

Basically my intent just with that was that we have in fact in other PUDs approved a much larger number of total models. Not so much a comparison of 60 here, because of the size of the development itself, just that we have approved a much larger number of model home centers per development -- I'm sorry, per PUD itself. It was just up for illustration, and your point's taken.

COMMISSIONER EBERT: It's just that we've been doing -- Ray, have we not been doing pretty much 15? I mean, that's been common lately in our Land Development Code. Maybe that should be changed where we have not as many, but --

MR. BELLOWS: You raise a great point where we see constantly requested deviations. Maybe that should be looked at if we have the round number as a base and that should be analyzed. And historically there have been approximately 15 requested.

And I think Mike has already pointed out maybe the better example would have been something similar in size.

COMMISSIONER EBERT: Yeah. Well, I was just thinking what came to us recently, Mirasol, GL. I mean, they're all going 15, I mean. So you're right, maybe that portion of the Land Development Code we should bring up to date.

MR. BELLOWS: Yeah, I really appreciate the comments from the Planning Commission with regard to old code provisions where we see -- and when applicants keep asking for the same type of deviation maybe it's time to reevaluate some of those standards and criteria.

CHAIRWOMAN KEENE: Ray, didn't we ultimately do something with the conditional use for model homes?

MR. BELLOWS: Definitely as applied to 951.

CHAIRWOMAN KEENE: Right.

MR. BELLOWS: There was a change as a result of the Golden Gate Area Master Plan, which required that, so that had to be fixed before the LDC provision. But yeah --

CHAIRWOMAN KEENE: I mean, we went on hold for a couple of years, I think just from code enforcement action while --

MR. BELLOWS: Definitely, that was an issue.

CHAIRWOMAN KEENE: Great. Paul?

COMMISSIONER MIDNEY: On deviation three, what's the difference between a model versus a speculative home?

MR. SAWYER: Commissioner, quite honestly we do not have one. When people -- when developers come in for building permits, you are either -- you either have an ultimate owner of that home and you do a standard residential building permit or you're doing a model home.

COMMISSIONER MIDNEY: Why don't we call them all model homes?

MR. SAWYER: Correct.

COMMISSIONER MIDNEY: And then on deviation four, you talk about protecting view sheds from Tree Farm Road. What is a view shed?

MR. SAWYER: That -- Commissioner, I actually pulled that off of the application from the applicant themselves. Basically a view shed is a term that is generally used as far as what you can see if you're looking in a particular direction.

COMMISSIONER MIDNEY: Like a watershed?

MR. SAWYER: Yeah, exactly.

COMMISSIONER MIDNEY: Okay. Good, good --

COMMISSIONER BROUGHAM: Not a Ted's shed.

MR. SAWYER: Not a Ted's shed, thank you.

COMMISSIONER MIDNEY: And then my final question was on deviation six, you say that reduced right-of-way widths act as a traffic calming feature and assist in maintaining public health, safety and welfare. I also think that you could interpret it as if your road is narrower, it could be less safe because there's less room to pass. To me it doesn't necessarily imply that it's safer. In fact, the whole reason that we put in road widths, I thought was, a matter to improve safety, that they're not too narrow.

MR. SAWYER: Yeah, I think the roadway width themselves remain the same. So our standards for the road width itself remain the same. What we're talking about here is the required right-of-way area is reduced. So the actual road width itself isn't being reduced.

COMMISSIONER MIDNEY: How is reducing that as a traffic calming feature?

MR. SAWYER: Basically what you're doing is you're reducing -- I'm going to have to go back to the view shed again.

When you've got a wider open area for a particular road, you tend to have people going faster in that area. If your view area starts coming down from that because you've got more stuff in there, you're going to have additional people potentially on sidewalks, you're going to have potentially additional landscaping. A lot of times even the homes start coming up because the setbacks are coming back in towards you. In those conditions people, if you will, psychologically drive slower, generally speaking.

COMMISSIONER MIDNEY: It almost seems as though they would drive slower because they feel it's not as safe to drive fast.

COMMISSIONER HOMIAK: Either way, it works.

CHAIRWOMAN KEENE: Whatever works.

MR. SAWYER: Traffic has a large psychological component to it. As a bicyclist, believe me, it's all psychological.

MR. BELLOWS: I would also like to point out, this is also one of those deviations that's constantly requested. And then maybe this is time that we evaluate that particular deviation also.

CHAIRWOMAN KEENE: Absolutely.

Any other questions?

COMMISSIONER EBERT: I'd like to comment on that.

You're right, they have been going to this. But living in a community that has this is not good. I would prefer the wider road. And I understand it's private, it's not a problem. But you cannot -- because you always have either a pool person doing something or somebody who has just parked -- you cannot barely get two cars there. I mean, so I understand the reason the developers do it is because the property is expensive, they want to use as much as they can so, they narrow the street. And I think the -- although we've got the cul-de-sacs taken care of a lot better because of the fire, and I see that's in here that they have to do everything. The cul-de-sacs in our community, you can't even get a fire truck. If you have a big moving company truck, one of those -- they can't turn around in the cul-de-sac. They have to back in to where they're going and back out. They cannot turn around. That to me is a safety -- fire. I mean, just fire and safety hazard. But you're right, all the developers are going to the 50 foot.

CHAIRWOMAN KEENE: Okay. Any other questions?

(No response.)

Ray, do we have any public speakers?

MR. BELLOWS: No one has registered.

CHAIRWOMAN KEENE: Okay, is there anyone here that would like to speak on this?

(No response.)

CHAIRWOMAN KEENE: Okay, we'll close the public hearing and entertain a motion. And also, whomever makes a motion, it would be with the additional language to 4.4 and 4.5. Anyone?

COMMISSIONER BROUGHAM: I'll move to approve the Petition PUDA-PL20120001105, inclusive of the stipulations of the additional language for 4.4 and 4.5 referencing transportation, the stipulation that there will be either a fence or a wall in addition to the required buffers on the southwest and southern borders, if I've got that correct. And that the model homes will be limited to an aggregate of six.

COMMISSIONER EBERT: I'll second that.

CHAIRWOMAN KEENE: Second that. Okay. All in favor?

COMMISSIONER KLEIN: Aye.

COMMISSIONER RANKIN: Aye.

CHAIRWOMAN KEENE: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRWOMAN KEENE: Anyone opposed?

(No response.)

CHAIRWOMAN KEENE: Motion is approved 8-0. Thank you.

MR. ANDERSON: Excuse me, Madam Chairwoman?

CHAIRWOMAN KEENE: Sorry.

MR. ANDERSON: Could we go ahead and have the consent hearing, or are you -- the minor nature of these changes?

CHAIRWOMAN KEENE: Is that okay, Ray?

MR. BELLOWS: Yeah, we can do that now or after the staff clarifications. But if Bruce's team is ready now then --

COMMISSIONER BROUGHAM: Have you made the annotations on the master plan, et cetera? Then I don't see any reason why we couldn't.

COMMISSIONER EBERT: Right. Not a problem.

COMMISSIONER HOMIAK: It's this ordinance that we're approving right here, though, right?

MR. ANDERSON: Yes, with those changes in Mr. Brougham's motion.

COMMISSIONER HOMIAK: You're going to take Richard Yovanovich's name off and put yours there?

MR. ANDERSON: Yes, yes.

CHAIRWOMAN KEENE: Okay, do we have a motion on consent to approve?

COMMISSIONER HOMIAK: I'll make a motion to approve.

COMMISSIONER EBERT: I'll second.

CHAIRWOMAN KEENE: With all of the stipulations?

COMMISSIONER HOMIAK: With all the stipulations, yes.

CHAIRWOMAN KEENE: All in favor?

COMMISSIONER KLEIN: Aye.

COMMISSIONER RANKIN: Aye.

CHAIRWOMAN KEENE: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRWOMAN KEENE: Motion approved 8-0.

Thank you.

MR. NEAL: Thank you, Madam Chairwoman. Thank you, Commissioners.

CHAIRWOMAN KEENE: Thank you.

Okay, moving on to old business. As we discussed earlier, the LDC amendments has been continued to January 3rd.

And last on our agenda under old business is to review the past staff clarifications of the LDC and forward a recommendation to accept the selected staff clarifications to the BCC.

Ray?

MR. BELLOWS: Yes, this is the second round of staff clarifications. I believe you approved five others on November -- was it the 3rd? These are an additional five others or six others, and if you have questions, I'll be glad to answer them.

CHAIRWOMAN KEENE: Okay. Do you guys want to go through each one and ask any questions? Does anyone have any questions?

COMMISSIONER BROUGHAM: I have none. I mean, to be -- I read through these, and I think consistent with our comments with the last round, this is really formalizing a blessing of previous staff clarifications for the benefit of the BCC.

CHAIRWOMAN KEENE: Agreed.

COMMISSIONER BROUGHAM: So I would move to approve them all as submitted here.

COMMISSIONER KLEIN: I'll second.

CHAIRWOMAN KEENE: So we have a motion and a second.

Is there any discussion?

(No response.)

CHAIRWOMAN KEENE: All in favor?

COMMISSIONER KLEIN: Aye.

COMMISSIONER RANKIN: Aye.

CHAIRWOMAN KEENE: Aye.

COMMISSIONER VONIER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRWOMAN KEENE: Motion approved, 8-0.

Okay. Anyone have any new business?

COMMISSIONER EBERT: Yes.

CHAIRWOMAN KEENE: Do share.

COMMISSIONER EBERT: I want to share with you that I talked with Mr. Schiffer, and Governor Scott has asked Mr. Schiffer to become the architect on the Florida Building Commission. So now Mr. Schiffer is on the State Board of Building Commission. Which I think is great.

CHAIRWOMAN KEENE: Brad, if you're listening, congratulations.

COMMISSIONER BROUGHAM: Brad's probably written us off.

CHAIRWOMAN KEENE: Moved on to bigger and better. Okay.

Any other new business?

(No response.)

CHAIRWOMAN KEENE: Any public comments? Since there's no one in the audience.

Do we have a motion to adjourn?

COMMISSIONER KLEIN: So moved.

COMMISSIONER BROUGHAM: So moved.

CHAIRWOMAN KEENE: 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 10:16 a.m.

COLLIER COUNTY PLANNING COMMISSION

*Mark P. Stuenkel*

~~MELISSA KEENE, Chairwoman~~

MARK P. STUENKEL, chairman

These minutes approved by the board on 1-17-13 as presented      or as corrected ✓.

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