

February 21, 2013

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida  
February 21, 2013

LET IT BE REMEMBERED, that the Collier County Planning Commission, in and for the County of Collier, having conducted business herein, met on this date at 9:00 a.m. in REGULAR SESSION in Building "F" of the Government Complex, East Naples, Florida, with the following members present:

Mark Strain, Chairman  
Melissa Keene (Absent)  
Phillip Brougham  
Diane Ebert  
Karen Homiak  
Barry Klein  
Paul Midney  
Bill Vonier

ALSO PRESENT:

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

CHAIRMAN STRAIN: Good morning, everyone. Welcome to the February 21st meeting of the Collier County Planning Commission.

And before you all sit down, please stand up for Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Thank you.

Will the secretary please do the roll call.

COMMISSIONER HOMIAK: Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER HOMIAK: Mr. Vonier?

COMMISSIONER VONIER: Here.

COMMISSIONER HOMIAK: Mr. Midney?

COMMISSIONER MIDNEY: Here.

COMMISSIONER HOMIAK: Ms. Keene is --

CHAIRMAN STRAIN: Ms. Keene called and said she had a conflicting appointment and she's be here a little late, and I told her to --

COMMISSIONER HOMIAK: Come in soon.

CHAIRMAN STRAIN: -- check the -- yeah, well, I told her to check the schedule because I'm not sure how long today's meeting will go on, so --

COMMISSIONER HOMIAK: Okay, well, she's not here right now.

CHAIRMAN STRAIN: Right.

COMMISSIONER HOMIAK: Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER HOMIAK: Ms. Homiak is here.

Ms. Ebert?

COMMISSIONER EBERT: Here.

COMMISSIONER HOMIAK: Mr. Klein?

COMMISSIONER KLEIN: Here.

COMMISSIONER HOMIAK: And Mr. Brougham?

COMMISSIONER BROUGHAM: Present.

CHAIRMAN STRAIN: Thank you.

Addenda to the agenda. Anybody have any changes?

(No response.)

CHAIRMAN STRAIN: Ray, do you have anything?

MR. BELLOWS: I don't have any changes.

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

COMMISSIONER HOMIAK: I thought we didn't have anything.

CHAIRMAN STRAIN: Oh, wait a minute. Well, originally we weren't going to be. Do we still have any or not have any?

MR. BELLOWS: That's correct, we do not have any items scheduled.

CHAIRMAN STRAIN: Okay. Well, so the next one then would be the 21st of March. Does anybody know if they're not going to be here on the 21st?

(No response.)

CHAIRMAN STRAIN: Okay. Approval of minutes. The January 17th minutes were distributed electronically. Does anybody have any corrections or changes?

Phil?

COMMISSIONER BROUGHAM: I have three minor ones.

CHAIRMAN STRAIN: Okay.

COMMISSIONER BROUGHAM: On Page 1, I think we ought to add Heidi's official last name with the hyphen.

And on Page 3, about halfway down and on Page 43, correct Melissa's last name from Ahern to

Keene. That's it.

CHAIRMAN STRAIN: Okay. We're into naming. Go ahead.

COMMISSIONER HOMIAK: Page 79 where it says -- near the top where it says Commissioner Homiak should be Commissioner Ebert.

CHAIRMAN STRAIN: You guys must have been wearing the same color tops that day. Okay, anybody have any other issue?

(No response.)

CHAIRMAN STRAIN: So with those changes is there a motion to approve?

COMMISSIONER HOMIAK: Motion to approve.

CHAIRMAN STRAIN: Made by Ms. Homiak.

Seconded by?

COMMISSIONER VONIER: Second.

CHAIRMAN STRAIN: By Bill.

All in favor, signify by saying aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER VONIER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion passes 7-0.

BCC report, Ray?

MR. BELLOWS: There were no land use petitions presented at the last board hearing.

CHAIRMAN STRAIN: Okay. Chairman's report. Well, we're just going to go right into it today. So let's move on to the consent agenda items.

The first one up -- or the only one on today's consent is PUDA-PL20120001225, the Royal Palm Academy PUD.

There was a staff memorandum included with the document. I think there needs some discussion on the staff concern that is deviation number one. And Mr. Yovanovich is here, so maybe he can offer his -- in a minute and maybe he can offer his side of it.

As far as -- the reference to the deviation one does not address seasonal posting for consecutive 90 days of the banner, the 90-day part of it is in the PUD, and that's why we approved the language like that, so what does that first sentence mean?

MR. SAWYER: For the record, Mike Sawyer, Project Manager.

Our concern with that was that it wasn't specific to consecutive days, and with temporary use permits you can get them -- you could stage it so in other words you wouldn't have 90 days altogether.

And if that was the intent we just wanted to make sure that that was in there. And if that's not the intent, we just need to make that clear.

CHAIRMAN STRAIN: Go ahead, Heidi.

MS. ASHTON-CICKO: Mr. Chair, I raised a couple issues with Mike that need to be addressed at the Board of County Commissioners level. And one dealt with the 90 days because it was represented to you that it would be 90 days during season. And that's not what this says. This could be any number of 90 days throughout the year. It could be consecutive, not consecutive. And it will also go in perpetuity. So when it's built out there could still be a sign. So I thought those issues needed to be addressed with the Board of County Commissioners, and Mike elected to bring those to your attention. Although you already took a vote on this item, you know, if there's any input you want to provide that Mike can relate to the Board when he makes his recommendation, or if the applicant would like to voluntarily make any changes, you know, he was just giving you the courtesy of bringing those issues to your attention.

CHAIRMAN STRAIN: Right. And what I would like to do, and the purpose of the consent agenda is exactly what we're now having, is to understand where there may have been a disconnect with what this board intended and what actually came out in the writing.

And I know that I was one of the -- if not others who listed stipulations, and it was my understanding it was going to be during season. If it was consecutive or not during this -- our general season. I wasn't too concerned about that, you know, if they want to put it up for a month, take it down, put it up for another month. That didn't even cross my mind. The presentation was for the season. And if the applicant is willing to stipulate that, then that might clear that issue up.

And then the only issue remains, if staff feels it needs to be consecutive during season. And I'm not sure if you're taking that position or not.

Mike?

MR. SAWYER: As far as it being consecutive or not, I don't think we have any issues with that. It does say 90 days, we're fine with that.

And as far as I guess we kind of all know what season is.

CHAIRMAN STRAIN: Well, I was going to suggest that the applicant -- if the applicant agrees to this, just to give us a range of months like from, you know, November, December to April, May, whatever the month range is, that's -- and Richard's here to address the issue, so we'll just find out if that clears up part of it, at least. And then let's get that piece cleared up and then we'll go to the next piece, which is the size.

MR. SAWYER: And if I might, too, in the memo item number three, actually, that was -- I took that off of some earlier notes that I made at the hearing. And going back afterwards I didn't get the correct note that was stipulation three actually should read delete Item 4 on three-two of the PUD. And that has been done.

CHAIRMAN STRAIN: Three-two of the PUD you mean, right?

MR. SAWYER: Correct.

CHAIRMAN STRAIN: Okay.

Richard, do you want to address the first -- let's start with the seasonal thing.

MR. YOVANOVICH: Well, good morning. For the record, Rich Yovanovich.

First of all, we've never been asked by staff to discuss or clarify this issue, which it easily could have been done. Because I remember very clearly during my presentation saying that we wanted this sign during the season. In fact, our justification for the sign references that it would be during the season.

So we can easily accommodate that it would be let's call it November 1 through April 30th I think is a fair representation of season.

CHAIRMAN STRAIN: Okay, so you're agreeing that we can clarify the deviation number one reference in here to add that it will be 90 days during season, and the season we're referring to is during this November 1st to April 30th. So when staff does this report for the BCC, that clarification, based on our intent, can be part of the report and the stipulations.

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: Okay. What about the consecutive, do you have an issue there?

MR. YOVANOVICH: I mean, I haven't even thought about that. I haven't even talked about that with Pulte, who owns that side of the street. So I don't know if staff is saying it has to be 90 consecutive days. We had asked for 90 days within that window. If that's still acceptable --

CHAIRMAN STRAIN: I don't think it matters.

MR. YOVANOVICH: -- I'd like that flexibility, because I don't have the ability to commit to something different right now.

CHAIRMAN STRAIN: Staff's indicating they don't care either at this point. Mike just shook his head no.

MR. SAWYER: Yeah, for the record again, Mike Sawyer. We have no problems with that. We just again wanted to be clear.

CHAIRMAN STRAIN: Does this clear up the 90-day issue then?

MR. SAWYER: Correct, yes.

CHAIRMAN STRAIN: Okay. Now, can you explain your position on the size of the sign, and then

Richard will probably counter.

MR. SAWYER: The only issue there was that we did go back and look at the project that was mentioned previously, or shown at the hearing. That project is Marbella Lakes. It's part of the Livingston Village PUD. And the only clarification is that that sign was approved for 100 square feet. So -- and it is I believe -- looks like it's right on the property line. So it's not exactly the same case as what is being proposed.

Again, I just want to be clear that that -- you know, the sign that they were showing is not the same size as what's being proposed. That was the only issue.

CHAIRMAN STRAIN: Okay, Richard?

MR. YOVANOVICH: Okay, first of all, now I had a conversation with your staff about this very issue. The reason I showed that sign was not for the size, was to show you the type of sign that was leading to staff's recommendation of denial of our request. I never said this is the exact same sign as we're requesting. And I talked to staff about that, and they agreed that I did not represent that this is the same sign that we're requesting approval for. They were talking to me about would we agree to something less than was approved by the Planning Commission. And they brought up the issue that that sign that I showed was 100 square feet. And I said well, that was right on the road, and I showed that sign for purposes of this was what we understood to be the basis for why staff thought it was a bad idea to give the sign that we were requesting.

That's what I represented and I'm fairly confident if you looked at the verbatim transcript, I'm accurately portraying why I showed that sign, and it was not in any way indicated that that was the same exact size sign that was going to be placed on the wall. In fact, I showed you a rendering of the sign, and we even joked about hey, is it to scale, because I had messed up; it being 40 by 50 was what we were really asking for, but I had said 50 by 40, which tinkered with the width of the sign. And we talked about that.

So we did show you the sign we were talking about putting on our wall, 100 feet away from the pavement.

CHAIRMAN STRAIN: Yeah, and I tend to agree with you at this point. And I don't see from my perspective as a member voting on this, I don't see a problem with the 200 square feet still, especially with the 100-foot setback.

I don't know if any others have any comment on it?

COMMISSIONER EBERT: Well, we just can't keep allowing this all the time, because it was allowed once and so now the sign people are kind of having a fit, they're saying wait a minute, you're just kind of having problems with our department on this. So just so it doesn't become common.

CHAIRMAN STRAIN: Anybody else?

Phil?

COMMISSIONER BROUGHAM: It's my recollection exactly as Rich just stated, that the other sign was used for comparable purposes and was not meant to depict the signage sign. I voted in favor with the majority, inclusive of that size sign for that number of days, and I see no problem with it.

COMMISSIONER EBERT: No.

CHAIRMAN STRAIN: So anybody else?

(No response.)

CHAIRMAN STRAIN: If not, then here's what would basically be on the consent. Number three would be changed to read instead of deviation four to apply to all existing modular buildings, that would be struck and would be delete Item 4 on two-two -- or three-two of the PUD.

And under the deviation one explanation by staff, I believe staff will now revise that to reflect that the 90 days is during a specified season period. And consecutive is not necessarily needed.

If staff still takes a position that they want to point out that there's a -- the comparable sign discrepancy, that's your prerogative. I would like to know if that's going to cause this item to be pulled from the consent agenda, though, or summary agenda in the sense that --

MR. BELLOWS: For the record, Ray Bellows.

No, we just wanted to make sure you were aware of the issue. It won't be something that kicks this out.

CHAIRMAN STRAIN: Okay, I would appreciate that. And that would work better. If the commissioners in your one-to-ones have any information they need on it, you can supply it to them. If they

want to yank it, that's -- more up to them.

Yes, sir?

MR. YOVANOVICH: There was one other comment in the staff report that -- to you transmitting the revised document. And I just got it this morning. There's a reference that we did not want to include the architectural rendering, that we showed you that was going through the process with the SDP. And I just want to make clear, we said we didn't think it was necessary to attach it because it was shown just to let you know what was going through the SDP process.

But if you want to include it as an exhibit, we said it needs to be very clear that it's marked conceptual and that it can change as we're going through the staff review process. So I just want the record to be clear, we never said no, you can't attach it as an exhibit. We didn't think it was necessary. But if you were going to do it, it needed to be clear that it was conceptual and could be changed. So I just want that on the record regarding the staff report.

CHAIRMAN STRAIN: Well, before we go there, what was --

MS. ASHTON-CICKO: Mr. Chair, I also did not approve this document for legal sufficiency. And when you're ready for me to comment why, I'll let you know.

CHAIRMAN STRAIN: Well, why don't you just start right now, you might save me some discussion.

MS. ASHTON-CICKO: I'm not sure if I'm jumping the gun, but I don't think we're going to get to the rest of the issues. The motion was that the architectural standards for the deviations five, six, seven and nine were to apply to the gymnasium and the two modular buildings. That's what the motion was. There was nothing said about deviation number four. So when I asked to modify it to indicate that deviation four was only for the existing buildings and five, six, seven and nine were for the two modulators and the classroom, the applicant would not do that. So we said fine, you can take what you want, because we didn't want to delay this to the March meeting to try to resolve it, so we said the Planning Commission will decide.

Staff had requested that the exhibits be attached and the applicant said we are not in agreement with your position. So we need clarification from the Planning Commission, was deviation number four to apply only to the existing buildings or was it to apply to the existing buildings plus the two proposed modulators? That's how it's written by the applicant but that's not what the motion was.

CHAIRMAN STRAIN: I can read to you what I based the stipulation on when I read it for the board to review. And it said approval of deviations one, two, three, four and eight. Five, six, seven and nine only to the gym and new modulators.

So in the context of what you just said and the way staff wrote this, how does that fit into these recommendations?

MS. ASHTON-CICKO: The two modulators are listed under deviation number four. If none of the architectural standards apply, then there's no need to put it under five, six, seven and nine.

CHAIRMAN STRAIN: Well, the way it was written is five, six, seven and nine -- or the way it was I thought stated, and I'd have to see the text of the meeting to tell you for sure, but my notes say five, six, seven and nine only to the gym and the new modulators.

MS. ASHTON-CICKO: Okay, here's the difference. The way it's proposed by applicant is the two new modulators can be built however it gets approved by staff as part of the process. And it doesn't need any architectural deviation. So basically they can do whatever they want, okay. Number --

CHAIRMAN STRAIN: But if it doesn't need an architectural deviation, that would mean then they would have to meet the architectural standards for the two new modulators.

MS. ASHTON-CICKO: No, the architectural standards do not apply for the two new modulators, so therefore you wouldn't need a deviation from five, six, seven and nine. So that's how they've proposed it. So the other way it would work, if we went with the language as your motion read, is that they would get deviations five, six, seven and nine for the two new modulators if we revised the language the way staff and I thought it should read. And in addition, they can still go through the architectural deviation standard process. But staff would at least have something to review at that time.

MR. YOVANOVICH: May I --

CHAIRMAN STRAIN: Richard?

MR. YOVANOVICH: My recollection was, I made it very clear as we were going through this process, that we wanted to be able to build the modulars. The new ones would be similar to the existing modulars. And I thought there was agreement on the Planning Commission that it made no sense to require the two new modulars to have any type of architectural embellishments. And what the other deviations do is they restrict -- they lessen the architectural embellishments. And I thought the motion was that five -- that those deviations applied to the gym and that the modular, the new modulars were exempt under number four just like the old modulars. I thought that's what the motion was. And I believe there was some discussion about that by the Planning Commission --

COMMISSIONER VONIER: That was my understanding.

CHAIRMAN STRAIN: Yeah, and I would have to agree, because I -- in looking at four, it does exempt the modular buildings. Five, six, seven and nine I thought applied to the new stuff. I understand the new stuff limiting in this case is just the gymnasium, not necessarily the modulars, because four takes the modulars back out of it again.

MR. YOVANOVICH: Right, and that's what I thought --

CHAIRMAN STRAIN: I think that's --

MR. YOVANOVICH: -- the motion was.

CHAIRMAN STRAIN: I think that's realistic and logical. And I don't see a problem with that. Does anybody else?

COMMISSIONER BROUGHAM: No.

CHAIRMAN STRAIN: Okay, then that needs to be reflected as our intent in the stipulation of the motion.

MS. ASHTON-CICKO: Okay, and that's how the document before you reads, so --

CHAIRMAN STRAIN: Okay. Heidi, did you have more than that or was that the only issue?

MS. ASHTON-CICKO: No, that was just it.

CHAIRMAN STRAIN: Okay. On the back side of the memorandum that staff has provided, as far as the architectural exhibit goes, the gym's got to meet the standards subject to five, six, seven and nine. Whether they meet it by the concept plan that was presented or not, they're still going to meet the standards that they're required to meet. So what difference does it make to have the concept plan attached as an exhibit to the PUD?

MS. ASHTON-CICKO: Mr. Chair, staff may have taken my comment, because that was my comment during the discussion of the meeting. You asked that it specifically show the location, the tie-in that was near the Delasol location. Since then the text of the PUD was revised, it's different than what you saw. Rich, maybe you can point where that section is.

So it's up to you whether you still want to show the location of that tie-in or not.

CHAIRMAN STRAIN: Well, no, I'm still on the architectural exhibit as far as the --

MS. ASHTON-CICKO: I'm sorry, I thought you were on the back --

CHAIRMAN STRAIN: -- the paren -- no, the gymnasium. Is that really necessary? Why is it that staff wanted that included?

MR. SAWYER: It was only -- again, just for clarification. If the CCPC members, you know, based their approval of that deviation on that exhibit, staff's opinion was that that really should be included as, you know, as Rich is suggesting, as a conceptual exhibit. If the board is comfortable with that not being included, staff will also obviously agree with that.

CHAIRMAN STRAIN: If it's not included, they basically then stand on the code and the deviation's granted.

MR. SAWYER: Correct.

CHAIRMAN STRAIN: Okay.

MR. SAWYER: So anything that wasn't shown on that diagram, staff is not going to be able to take into consideration.

CHAIRMAN STRAIN: Okay. I'm not sure that was -- at least from my part, that sure wasn't a concern. I mean, it's a gymnasium off to the side, mainly off the highway, I'm not sure why next to an FP&L pretty wide easement. You know, if they went up with a different standard or different concept plan, it didn't

bother me.

Phil?

COMMISSIONER BROUGHAM: You know, as I recall that entire discussion, and I could be wrong in this, I believe Mr. Yovanovich showed the gym conceptual drawings to illustrate what facade standards and so forth and so on would be, okay, and the discussion regarding should those type of facade standards be applied to the modular buildings. And I don't -- I personally wasn't looking at that rendering of a potential gym as that's what you were committing to build. That was something that would be decided if, you know, according to code at the time you went through the process.

MR. YOVANOVICH: Right. And I also showed it as why staff was okay with allowing specific deviations relating to the gym is because we were going through the process, through the SDP process --

COMMISSIONER BROUGHAM: At the same time.

MR. YOVANOVICH: -- at the same time. So they were saying, hey, we're okay with these specific deviations applying to the gym because we're working with the applicant now on the gym. We are not comfortable with these same deviations applied to other buildings, because we haven't seen anything regarding those other buildings.

COMMISSIONER BROUGHAM: If I was a petitioner, I'd be very cautious in showing any conceptual rendering to the Planning Commission for fear that are it's going to end up not conceptual in nature.

MR. YOVANOVICH: Right. And the intent was just to show you how far along we were in the process and that we were working with staff on these issues. And it was information. It certainly wasn't there to --

COMMISSIONER BROUGHAM: That's my understanding.

MR. YOVANOVICH: -- all of a sudden become an exhibit.

CHAIRMAN STRAIN: Okay, and I don't see the need to complicate the issue by adding it. So it looks like general consensus of the Board. Okay, so we don't need to be doing that.

The last item is what Heidi eluded to is the requested utility provision outlined as stipulation six above.

And Heidi, you want to address that now so that we're on the same page?

MS. ASHTON-CICKO: Well, that relates to -- on page V-13.

CHAIRMAN STRAIN: Right.

MS. ASHTON-CICKO: Item 6.4(B). And the language has been revised. And this might be acceptable to you, in lieu of showing it on the map, which was discussed at the prior meeting, this is how the applicant addressed it.

It needs a future potable water main connection from the 50 plus or minus acre residential tract located south of learning lane and west of Livingston Road will be provided to the Delasol community. The location of the enter connection will align with Delasol lane and will be permitted at the time of construction plan approval.

CHAIRMAN STRAIN: I didn't have a problem in reading it. Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay, then we can drop that bullet as well. Unless staff has a -- can explain why they needed that additional detail.

MR. SAWYER: Again, Mike Sawyer, Project Manager.

No, we do not.

CHAIRMAN STRAIN: So let's go back to consent and what we're actually voting on.

Number three is going to be stricken, and the change is going to be delete Item 4 on three-two of the PUD.

The deviation one discussion is going to have a change in regards to the 90 days issue with a time frame for season.

Staff can do whatever they feel they want to do with this in the next paragraph. But that certainly -- the board has taken its position on that.

So with those changes in mind, we're going to be dropping the last two bullets, at least as far as this



board's recommendations go.

Does anybody have an approval of this consent item?

COMMISSIONER BROUGHAM: Motion to approve it.

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Okay, second by -- Barry had his hand up. So Phil and Barry.

COMMISSIONER BROUGHAM: Including the stipulations.

CHAIRMAN STRAIN: Including the discussions and the corrections to the page that we just had, yeah.

Okay, anybody -- any other comments?

(No response.)

CHAIRMAN STRAIN: If not, all in favor, signify by saying aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER VONIER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

Thank you.

That had to be the longest consent item we ever had.

Okay, next item up, and I'm going to do something different on this one, so let me just read it and get started. It's 9.A, PUDA-PL20120001104. It's the Heavenly PUD modification.

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

(Speakers were duly sworn.)

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

(No response.)

CHAIRMAN STRAIN: I spoke to Mr. Yovanovich a few minutes ago in the beginning of the meeting. So -- but let me start by saying, I went through this document. It's 42 pages long. Counted each page. And some of those are doubled sided, so it may be 60 pages long. Within the entire document there was only four one-word -- they weren't even word, one number changes. On four pages -- on each page it was the same thing. In each case where the number 3rd occurred, it was changed to 8th.

42 pages to accomplish that. A preap, a NIM, a CCPC meeting and now a BCC meeting and a hiring of an attorney. If anything is out of proportion, this one is.

Did anybody from the public object to this?

MR. REISCHL: Fred Reischl with Planning Services.

There were no objections. There were just questions on traffic, but no objection, no.

MS. ASHTON-CICKO: Mr. Chair?

CHAIRMAN STRAIN: Yes.

MS. ASHTON-CICKO: We did evaluate this process with Mr. Yovanovich, and he did want to go through this full process to make sure that all the neighbors had the opportunity to come forward and object if they wanted to.

CHAIRMAN STRAIN: I still want to get done with where I was heading.

Is anybody from the public here to speak on this matter today?

(No response.)

CHAIRMAN STRAIN: Okay. There were no objections on record, there were no e-mails, there were no phone calls, there were no letters.

MR. REISCHL: No.

CHAIRMAN STRAIN: The neighborhood information meeting, basically the questions were raised

and they were resolved, there's no further traffic impact because they're not changing number of students, they're simply allowing them to stay there longer, which is what a student should do if they can stay in the same school a little bit longer.

MR. REISCHL: Correct.

CHAIRMAN STRAIN: Okay, rather than listening to Richard and having him stand there and get paid for all the time he's standing there, and maybe their experts, I'm suggesting -- and the staff as well, that this Board just take a position on this, unless any Board member wants to open it up and we just be done with it, both as a meeting and as consent?

Fred?

MR. REISCHL: Could I just put two things on the record. In the staff report I said that it's tentatively scheduled for April 9th. Due to scheduling conflicts, we moved it to the 23rd. And also my apologize to commissioner Brome, as he pointed out, as you saw, the ordinance was approved in August. I filed it away and didn't pull it out 'til it was ready to send to you as your packet. When it gets to the Board, it will have 2013 and Commissioner Hiller's name on there.

CHAIRMAN STRAIN: Okay. Does any of the Board members have any problems just --

COMMISSIONER HOMIAK: Motion to approve.

CHAIRMAN STRAIN: Motion to approve.

COMMISSIONER EBERT: Second.

CHAIRMAN STRAIN: Is there a -- seconded by Diane.

I don't have a list of stipulations. This is probably the first one.

MR. YOVANOVICH: I don't have to come back on consent.

CHAIRMAN STRAIN: All those in -- we're going to do consent right after this one.

All those in favor, signify by saying aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER VONIER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

Is there a motion to approve all the stipulations that we have for consent?

COMMISSIONER HOMIAK: Motion to approve.

COMMISSIONER BROUGHAM: Second.

CHAIRMAN STRAIN: Second? Motion made by Ms. Homiak, seconded by Mr. Brougham.

Discussion?

(No response.)

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

COMMISSIONER KLEIN: Aye.

COMMISSIONER VONIER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

Mr. Yovanovich?

MR. YOVANOVICH: Can I just say one thing now that this has been approved?

CHAIRMAN STRAIN: Oh, no.

MR. YOVANOVICH: About the process.

CHAIRMAN STRAIN: Oh, the process needs to be fixed, if that's what you're going to say.

MR. YOVANOVICH: I actually asked if there was another way that would be less expensive and less costly to do this. The only option under the current Land Development Code to assure that it is legally correct is to go through a PUD amendment process. If there could be something added to the Land Development Code that would allow minor changes to get staff approval and then go to the Board or something without having to go through a six thousand dollar application fee and through this hearing process, it would really be nice if the Planning Commission could consider adding something to the Land Development Code that would allow a more expedited amendment process, because that's kind of how we got here is there was no other legally sufficient process.

CHAIRMAN STRAIN: Richard, I don't think the Planning Commission needs to because the Board of County Commissioners already realize that and they're in the process of fixing it. And as you know, they've proposed an alternative process for things that I would think are exactly like this. These issues that don't raise the public concern, that have no objections, that are fairly benign. And as they have instructed the County Attorney, he's moving forward to make those considerations and bring it back to the Board of County Commissioners for their recommendations and --

MR. YOVANOVICH: And that's the hearing examiner.

CHAIRMAN STRAIN: Yes.

MR. YOVANOVICH: I think there are even some things that don't warrant going to a hearing examiner that could be done a little quicker. And I just ask you to consider that.

CHAIRMAN STRAIN: Well, one step at a time.

MR. YOVANOVICH: I understand.

CHAIRMAN STRAIN: So thank you.

Next item up is the -- open PUDA PL20120002136, the Brooks Village CPUD.

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

CHAIRMAN STRAIN: Disclosures on the Planning Commission?  
Phil?

COMMISSIONER BROUGHAM: Yes, I had a conversation on the phone with Bruce and exchanged emails with Kay.

CHAIRMAN STRAIN: Anybody else?

COMMISSIONER VONIER: Yeah.

CHAIRMAN STRAIN: Bill?

COMMISSIONER VONIER: I talked to staff.

CHAIRMAN STRAIN: Okay. And I spoke with Mr. Anderson and questions I asked him I'll be bringing up today. So Bruce, it's all yours. You're not going to get away as easy as the last one.

MR. ANDERSON: Good morning, Mr. Chairman, commissioners.

For the record, my name is Bruce Anderson from the Roetzel and Andress law firm on behalf of the applicant, the Sembler Company.

I'd like to introduce first of all David Davis, the development manager for the Sembler Company. Also with me today is Patrick Vanasse, Director of Planning for RWA Engineering Firm. Margaret Emblage, also a planner with RWA. And also with us today is Norm Trabilcock, the project's transportation engineer.

Brooks Village was first approved in 2006, and it's located at the intersection of Pine Ridge Road and Collier Boulevard in the southwest quadrant.

The PUD is approved for 105,000 square feet of commercial uses, and approximately 85,000 square feet have been constructed.

The following changes to the PUD are proposed: First, addition of a right in access point from Pine Ridge Road to serve the out parcels that are along Pine Ridge.

Second change requested is on 11th Avenue Southwest, along the southern boundary of the PUD, an

ingress only access limitation was imposed at the request of the county and residents when the PUD was first approved.

Since that time it's my understanding that residents of 11th Avenue have used that access point for both ingress and egress, and therefore the county has requested us to amend section 3.3.I of the PUD to change the reference from ingress only to a single access point on 11th Avenue.

Third change is to remove the existing developer commitment related to monetary contributions to the county's affordable housing trust fund for the remaining undeveloped square footage.

Next change requested is to remove developer commitment Section 5.8.D which required palm trees on both sides of 11th Avenue. Although my client originally planted the trees at the request of county staff, those trees were removed and replanted elsewhere within the PUD.

Next change -- let me emphasize, no change is requested in the permitted uses. However, we are asking to amend the development standard 3.3.H which limits hours of operation in the shopping center. We are requesting to allow 24-hour commercial operations only on the three out parcels which front Pine Ridge Road.

This change only applies to the operation of commercial activities. All deliveries would continue to be restricted from 6:00 a.m. to 10:00 p.m., as presently provided for in the PUD.

After a discussion with Chairman Strain, we have added some additional language regarding the hours of operation. I'll read those into the record. Revised commitment 3.3.H, hours of operations: Customer operating hours shall be limited to the hours between 6:00 a.m. and midnight with the exception of the three out parcels fronting on Pine Ridge Road, which may be opened 24 hours. The three out parcels are further limited as follows: No restaurant is allowed to serve alcoholic beverages between the hours of midnight and 6:00 a.m. on Sunday through Thursday and 1:00 a.m. to 6:00 a.m. on Fridays and Saturdays.

The next restriction is if a restaurant with a drive-through is located on the westernmost parcel, then the driveway operations must cease at or prior to midnight. And additionally, regardless of when it opens or closes, the drive-through must be located on the eastern side of the building.

Shopping center deliveries, as I mentioned, will continue to be limited as they are in the current PUD.

Lastly, the draft PUD that you have before you has added the term complied with with respect to the PUD commitments. Again, after discussion with Chairman Strain, the complied with references will be removed and instead the developer and the county will rely on the PUD monitoring report to determine compliance with PUD commitments.

And lastly, I would go ahead and put this request out in advance of discussion, that depending on the amount and nature of any changes made today, I would ask you to please consider at the end of the hearing also possibly doing the consent hearing today since there will not be a March 7th Planning Commission meeting. I will be out of town and cannot be here on March 21st. And I believe Ms. Deselem can confirm this or not, that any delay beyond March 21st would delay our Board of County Commissioners hearing, which I believe is scheduled for April 23rd.

And at this time or later I and the rest of the project team are available to answer your questions.

CHAIRMAN STRAIN: Okay, Bruce, thank you.

Phil?

CHAIRMAN STRAIN: Then Bill. Phil and then Bill.

COMMISSIONER BROUGHAM: Bruce, on the PUD master plan --

MR. ANDERSON: Yes, sir.

COMMISSIONER BROUGHAM: -- there's an annotation, future five-foot sidewalk. I believe that should be a six-foot sidewalk. It's adjacent to an arterial road. LDC 6.06.02.

MR. ANDERSON: Well, that's a good reminder for the county, they're the ones constructing it.

COMMISSIONER BROUGHAM: Whomever. My point is on this --

MR. ANDERSON: It needs to be shown.

COMMISSIONER BROUGHAM: Correct.

MR. ANDERSON: Thank you.

COMMISSIONER BROUGHAM: And could you please put up that -- if you brought up that blown

up and labeled exhibit that you sent to me yesterday. Which helps me. I was struggling with all of the crosshatchings and dimension lines on the PUD document.

And specifically wanted -- I think this exhibit shows it very clearly now of where the proposed two-lane right-hand turn is going to be constructed. That's a future event; is that correct? And that will be done in conjunction with forming that right in only?

MR. ANDERSON: Yes, sir.

COMMISSIONER BROUGHAM: And at that time that proposed six-foot sidewalk is also going to be constructed?

MR. ANDERSON: I believe so, yeah. Yeah.

COMMISSIONER BROUGHAM: I was just a little confused as to what existed today without having visited the site and what was going to be there in the future.

MR. ANDERSON: Thank you.

COMMISSIONER BROUGHAM: And just a couple more.

Regarding that westernmost out parcel, and understanding the commitments that you've already made with respect to operations, since there is a residence directly to the west, I'm a little concerned about outdoor amplified music, outdoor seating, restaurants, so forth and so on. We're addressing drive-throughs which generate noise, but I don't see in here any restrictions on having a restaurant with outdoor seating and amplified music, et cetera, et cetera, which I would be more comfortable with. And I do understand there's a long -- there's a landscape buffer sitting there, but --

CHAIRMAN STRAIN: Bruce, the current -- just to kind of support Phil's position, I had to pull the SDP that you applied for because of a discrepancy I found on another part of the site, and I believe on that SDP you outlined a bank building going in there with drive-through tellers. So, you know, you may not have the need, and I expressed this to you when I met you, to put a restaurant on that parcel. Because exactly as Phil has said, of all the parcels on the property, that one's probably the closest proximity of any of them, including the Publix building, to a residential structure. And to allow flexibility on that parcel beyond what we've allowed the Publix area on the strip buildings on both sides of Publix seems to be contradictory to what we have allowed Publix to do on those.

So it's something you really should consider, if you really need it. Your other two parcels are adequate for restaurants. And I'm not sure why you couldn't live with that.

MR. ANDERSON: As we progress through the hearing, I defer to my client to give it some consideration.

CHAIRMAN STRAIN: Okay, Phil?

COMMISSIONER BROUGHAM: Just a couple more.

And this is in the staff report, so either you Bruce or Kay can comment on it.

On Page 8 of the staff report it speaks on Item number five to the adequacy of usable open space areas. And staff's comment is the amount of native preserve, which is three acres, as I understand it, meets the minimum requirement of the LDC. And I'd just like some clarification of that from staff or from Bruce. Is usable open space the same and can preserve be counted towards usable open space? That's my question. Or should we be looking at more open space?

MR. ANDERSON: I'm sorry, I was trying to answer your last question.

COMMISSIONER BROUGHAM: You don't need to apologize.

The question is you have three acres of preserve on there now.

MR. ANDERSON: Yes, sir.

COMMISSIONER BROUGHAM: And there's an open space requirement, usable open space requirement. And my question for clarification is, does preserve count as usable open space? I mean, I think of a preserve and I think of water and swamp and snakes and trees and bushes, not very usable. And I'm just looking for some clarification as to whether you've met that requirement or not.

MR. ANDERSON: I've always understood that preserve constitutes usable open space.

COMMISSIONER BROUGHAM: Okay. You concur?

MS. DESELEM: For the record, Kay Deselem, Principal Planner, Zoning.

Yes, sir, I do concur with that.

COMMISSIONER BROUGHAM: Thank you.

CHAIRMAN STRAIN: Okay, Bill?

COMMISSIONER BROUGHAM: That was an easy one.

MR. ANDERSON: Let's have some more of those.

CHAIRMAN STRAIN: Are you done, Phil?

COMMISSIONER BROUGHAM: I don't know. I reserve the right to come back.

CHAIRMAN STRAIN: That's fine. Bill's waiting to go, so -- okay, Bill.

COMMISSIONER BROUGHAM: Go ahead, Bill.

COMMISSIONER VONIER: Go back first to your rewrite.

MR. ANDERSON: Yes, sir.

COMMISSIONER VONIER: On B shouldn't we take restaurant out and put a more generic name in there? Because you might not put a restaurant on that westernmost part. And anything you put there with a drive-through, we want it on the east side.

MR. ANDERSON: Oh, yes, yes.

CHAIRMAN STRAIN: Well, you may not want to jump there too fast, because the SDP you currently have approved shows the drive-through on the south side of the parcel. Because it's a drive-through to a bank within limited hours as banks have, I didn't see that as a concern. But you may want to be careful how you jump into that.

COMMISSIONER BROUGHAM: Or it could be a pharmacy.

COMMISSIONER VONIER: Well, it could be almost anything.

CHAIRMAN STRAIN: Right.

COMMISSIONER VONIER: You know, you sound like you're restricting it to a restaurant.

CHAIRMAN STRAIN: Well, no, the way that reads, and we haven't got into all the language he supplied yet, but if he puts anything else there it doesn't have to be on the east side of the building.

COMMISSIONER VONIER: A drive-through?

CHAIRMAN STRAIN: Yeah, if a restaurant where the drive-through is located on the westernmost parcel and then the drive-through must be located on the eastern side of the building, but the way that's written, anything else with a drive-through wouldn't have to be --

COMMISSIONER VONIER: Well, it was my understanding that it would be.

CHAIRMAN STRAIN: Well, that's where we're going. That's where the discussion is going. But the way it reads, it doesn't -- isn't as solid as that.

MR. ANDERSON: The way we worded this was that nothing that was 24 hours in operation could be -- our understanding, and this was done I believe at the request of staff, that it would only be if it was a facility that had 24-hour operations. Because under the current PUD that could occur.

CHAIRMAN STRAIN: So you're saying that if there was a 24-hour operation facility and it needed a drive-through, that facility then will be required to be on the eastern side of the building. But if it's anything less than 24 hours, like 23 hours and 59 minutes, it could be anywhere in the building at all. So they would close down for a minute, so --

COMMISSIONER BROUGHAM: It would seem simpler if we just restricted that westernmost parcel to not being open 24 hours and we move it --

CHAIRMAN STRAIN: Well, that was where I suggested when I met with Mr. Anderson. And we'll probably dig into that as we go further into discussion.

I still can't see how that is justified for the hours of operation being the closest building to the residential sections.

Heidi?

MS. ASHTON-CICKO: It's also not clear whether or not the further limitation applies only if it's 24 hours or if those limitations for the restaurant uses apply regardless of whether it's 24 hours.

Also, for example, if you think you're limiting the hours of operation, it looks like you're only doing that if it's a 24-hour operation.

CHAIRMAN STRAIN: Boy, this is getting real complicated.

MS. ASHTON-CICKO: Just so you make sure it's clear. I mean --

CHAIRMAN STRAIN: Well, I think what --

MS. ASHTON-CICKO: I've reviewed this language --

COMMISSIONER HOMIAK: They already have 'til midnight the way it is now without any changes, right?

CHAIRMAN STRAIN: What are the hours -- what are the current hours --

COMMISSIONER HOMIAK: 6:00 a.m. 'til midnight.

CHAIRMAN STRAIN: 6:00 a.m. 'til midnight, okay.

But I think where everybody's coming from, at least maybe -- not everybody, my personal experience has been with Stevie Tomatoes, and that has been a complete black eye in this county as far as process goes and what should and should not be allowed next to residential areas.

And they went even further to open their walls up so all their interior noise broadcasts widely everywhere. And that's -- we've got to prevent that. And that can't happen again. And the proximity of this building is practically no different from theirs in distance. And I'm very concerned that the residential areas immediately to the west are going to have the same problems that we we've experienced in Pebblebrook, and I don't want to see that happen again, especially now that we're aware of it.

I think that's where all the issues are coming from in that westernmost parcel. So I think that's going to weigh heavy on our -- as we go forward here today.

MR. ANDERSON: Okay.

CHAIRMAN STRAIN: You guys can continue talking about it, but we've got probably more questions to field.

Bill, did you finish with your point?

COMMISSIONER VONIER: I'm finished, yeah.

CHAIRMAN STRAIN: Okay.

COMMISSIONER HOMIAK: Should that be eating places instead of restaurant?

CHAIRMAN STRAIN: Well, it would be the -- we'll have the SIC Code in there, but I'm not sure that's even going to stay the way it's written, so -- okay, any other questions of the Planning Commission? (No response.)

CHAIRMAN STRAIN: Karen, did you have anything else you wanted to --

COMMISSIONER HOMIAK: No.

CHAIRMAN STRAIN: Okay. Bruce, let's start with a couple things.

On your site plan, the existing entry to the -- on Pine Ridge Road, farthest west, it's just to the top of the page that can't be seen right now. Just pull the page down. There you go.

Okay, if you look closely at that north -- the westernmost, which is the top of the page -- dry detention area and go to the right, you have an entry there just to the south of that dry detention. I keep saying south because this picture is not orientated right, but to the bottom of the page. That also has a right turn decel lane on it that's not shown on your plan. Are you intending to take that decel lane out? Are you going to correct the plan then?

Okay.

(Phone interruption.)

CHAIRMAN STRAIN: Thousand dollar a minute fine.

MS. ASHTON-CICKO: I'm sorry.

CHAIRMAN STRAIN: No problem, Heidi.

Okay, so that -- you're going to make that correction on the site plan.

MR. ANDERSON: Yes, sir.

CHAIRMAN STRAIN: You had mentioned a couple of things that had changed, and I agree with your removal of the affordable housing stipulation that's being done across the board in the county in all these. But the removal of the 11th Avenue trees, can you tell me what happened there? You installed trees and they were taken out by the county?

MR. DAVIS: We were told to take them out.

CHAIRMAN STRAIN: You've got to use the mic, I'm sorry.

MR. DAVIS: Dave Davis, the Sembler Company.

We installed them and there were some issues with site line when they actually got out there and people were out there looking at the --

CHAIRMAN STRAIN: Slow down a little bit. She's got -- I already can feel her getting very upset, so --

MR. DAVIS: So there were issues with sight line. And we were requested to remove them, because when you came up to these intersections --

THE COURT REPORTER: I'm sorry, you're still going fast.

MR. DAVIS: I'm sorry, I just talk -- when you came up to the intersection --

CHAIRMAN STRAIN: Slow down. We're fine.

MR. DAVIS: -- that they couldn't see with the sight lines, and so they requested that they not be placed there. On plan they looked fine, but when you actually were out there staff and the department, the construction department out there said no.

CHAIRMAN STRAIN: Okay, and so they were moved somewhere else on-site?

MR. DAVIS: Yes.

CHAIRMAN STRAIN: Okay. Thank you, I wanted to understand that.

In the -- I've got a couple staff issues, but I'm going to wait.

The bullet in which the project was supposed to provide neighborhood center subdistricts, it was the open space discussion that Phil touched on. It's on Page 4 of the staff report. But it's something I wanted to understand how the applicants now meant it, because staff -- it says proposed development standard 33.C indicates public open space will be provided within the pedestrian accessible courtyard. The master plan depicts a 70-foot wide strip of open space lying north of 11th Avenue southwest where an existing pedestrian pathway and seating area is installed near a lake feature.

Can you show me that on the -- where's that come out on the site plan? I frequent this facility all the time, I've never seen that. What, do you have some benches down there alongside that or something? And so somehow that qualifies as a courtyard?

Staff?

MR. DAVIS: There is a paver seating area that's actually within -- you can't see it on this aerial, but I think we've got another one here that makes it a little easier to see.

CHAIRMAN STRAIN: I see why I never see it now, I don't come in off of 11th Avenue, so -- Okay.

COMMISSIONER EBERT: Mark, I have a question.

CHAIRMAN STRAIN: Okay. Go ahead, Diane.

COMMISSIONER EBERT: Mr. Anderson, why do you need the 24-hour window? What are they planning on putting here? It's -- because it's 6:00 a.m. till midnight. Why the extra time here?

MR. VANASSE: For the record, Patrick Vanasse, Planner with RWA, and agent on this project.

The client has been looking at selling those out parcels for years. They've talked to certain restaurants through that time. No one's bought the property yet. For example, a Buffalo Wild Wings typically operates on the weekends 'til 1:00 in the morning. And it's on a big window. The intent for those restaurants are not to go 24 hours a day, but they do want to go past midnight, and it's a way to be able to market their property and hopefully find some good tenants for the property.

COMMISSIONER EBERT: Could we then put -- Mark, could we then put a restriction that nothing past 2:00 or something like that so --

CHAIRMAN STRAIN: Well, we can request any hours and stipulate them to whatever we want. I mean, and the applicant can or cannot agree to it. But that's how it would move to the BCC.

I think more in tune with what happened at Stevie Tomatoes is basically limiting outside amplified sound, and that would take care of it. Because the issue with Stevie Tomatoes was that outside amplified sound. When they opened their walls up all of a sudden everybody heard everything, the televisions, the talking, the partying, and that's the kind of stuff that we wouldn't want to see happen here.

I'm not sure what a Buffalo Wings is. But if it's -- I mean, I know what a Buffalo wing -- I know what they call -- but I'm not sure what the restaurant is like.

COMMISSIONER HOMIAK: There's going to be --



COMMISSIONER EBERT: It's across the street.

COMMISSIONER HOMIAK: -- one across the street here.

CHAIRMAN STRAIN: Oh, is there really?

COMMISSIONER HOMIAK: It's not open.

COMMISSIONER EBERT: It's not open.

MR. ANDERSON: It's being constructed.

CHAIRMAN STRAIN: Is it like a Stevie Tomatoes or what is it?

MR. ANDERSON: Oh, no.

CHAIRMAN STRAIN: No. Oh, boy, that was a loaded question.

COMMISSIONER EBERT: That was good and quick, Bruce.

CHAIRMAN STRAIN: Stevie Tomatoes looks like it's a fun good going place, but it's got to be so it doesn't offend the neighborhood. That's the only thing I'm worried about.

MR. ANDERSON: Okay. My client has agreed or will agree that there shall be no 24-hour operations on the westernmost parcel, out parcel.

CHAIRMAN STRAIN: And what about the outside amplified sound, other than drive-throughs?

MR. ANDERSON: We can agree to the same limitations that we have posted in here for the sale of alcoholic beverages.

CHAIRMAN STRAIN: Can you show me -- can you refer me to the section in which you're referring to?

MR. ANDERSON: 3.3.H.A. No restaurant is allowed to serve alcoholic beverages between the hours of midnight and 6:00 a.m., Sunday through Thursday, and 1:00 a.m. to 6:00 a.m. Fridays and Saturdays.

And we would simply add a reference to amplified sound in that sentence. No restaurant is allowed to serve alcoholic beverages, nor is amplified music allowed --

CHAIRMAN STRAIN: No sound, sound.

MR. ANDERSON: Sound, okay.

CHAIRMAN STRAIN: Outside amplified sound.

MR. ANDERSON: Yeah.

CHAIRMAN STRAIN: And that's the standard we use on most PUD's when this issue comes up, and it gives the code enforcement ample ability to enforce it.

What we're going to have to do is we'll take a break when we get done. You guys are going to have to draft up something to come back and present after break so that we can try to get consent done today too.

MR. ANDERSON: Okay, thank you.

CHAIRMAN STRAIN: Pick up where I left off on a couple of things.

COMMISSIONER VONIER: Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER VONIER: One question.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER VONIER: Drug stores are included in your thinking? They are not an approved use.

COMMISSIONER KLEIN: There's a Walgreen there now anyway, I don't think --

COMMISSIONER VONIER: Okay.

COMMISSIONER KLEIN: Right next door.

CHAIRMAN STRAIN: On page -- well, it's struck through, but V-3 or V-3 there's a blank where there should be a value. I hate approving blanks. That means anybody could fill it in. Do we have a value?

MR. ANDERSON: No, we all are waiting the county's consulting engineer.

COMMISSIONER BROUGHAM: Mark, if I may?

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER BROUGHAM: On that same item, about midway down it says letter of credit from a county approved bank to pay for all county estimated costs associated. I would feel more comfortable with actual.

CHAIRMAN STRAIN: I didn't think they got actual yet. So whatever they -- if the applicant agrees to the estimated cost that the county comes up with, it would be the same as if we knew it today, because the county's estimate is the county's estimate so --

COMMISSIONER BROUGHAM: Okay.

CHAIRMAN STRAIN: I don't know of any other way to go on that, Phil.

COMMISSIONER BROUGHAM: All right. Just seemed like --

CHAIRMAN STRAIN: But as far as the blank goes, we can't -- we need to approve something. So we need to reword that sentence so that the blank is no longer blank, whether it's filled with a number or the sentence is reworded to indicate that a number will be forthcoming.

Or can staff assuredly have that before the Board of County Commissioners meeting?

MR. PODCZERWINSKY: Good morning, Commissioners. For the record, John Podczerwinsky, Collier County Transportation Planner.

We don't have the number developed at this time. Our plans right now are at 90 percent with the county's consultant. This changed the additional right turn lane and the costs associated with the delta between our current plans for the single right turn and their plans that will add the second right turn. That delta is the number that we're still working on at this point. Our consultant is working on that now, but we needed to get through this process to make sure that it's going to be written into the code before we direct our consultant to spend time and money on it.

CHAIRMAN STRAIN: Okay. Can you have that by the time this gets to the BCC?

MR. PODCZERWINSKY: I believe so, yes, sir.

CHAIRMAN STRAIN: So if we stipulate that to that effect, it will be fine?

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: Okay.

MS. ASHTON-CICKO: Mr. Chair?

CHAIRMAN STRAIN: Yes, ma'am.

MS. ASHTON-CICKO: I have two requested changes in the PUD.

CHAIRMAN STRAIN: Okay.

MS. ASHTON-CICKO: One is on the section that you're on right now, which is on Page 23, the item E.

CHAIRMAN STRAIN: Okay.

MS. ASHTON-CICKO: And on the sentence beginning with modification of the Pine Ridge Road/Collier Boulevard intersection design plans --

CHAIRMAN STRAIN: That's the second sentence, right?

MS. ASHTON-CICKO: Yeah.

CHAIRMAN STRAIN: Okay.

MS. ASHTON-CICKO: It needs to insert, by owner/developer. That's just a clarification.

MR. BELLOWS: Where would you insert that?

CHAIRMAN STRAIN: Right after the word plans.

MS. ASHTON-CICKO: Yeah, after the word design plans by owner/developer.

And then the other requested changes on the master plan, the issue raised by Mr. Brougham, the future sidewalk, it says five feet and I'm asking that the five feet be stricken because the county is building that. And Mr. Podczerwinsky confirmed that the owner's going to do a payment in lieu. So that's the county facility to be built. So just eliminate the word five feet and it will just say future sidewalk. That's my second requested change.

CHAIRMAN STRAIN: Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: Bruce, you finished with your -- we're going to go to staff report, or you want something else?

MR. ANDERSON: Yes, I just need to clarify what Heidi brought up just a moment ago.

And the design plans are actually going to be the county's, and they're going to be the ones drawing it up, we're just writing the check for it.

MS. ASHTON-CICKO: Well, it's not clear that that's one of the things you're writing a check for. So that was how I was proposing to clarify it.

CHAIRMAN STRAIN: But he's saying he's not doing the design plan, so therefore they can't be intersection design plans by the owner/developer. They're simply paying for them and the county's doing them. Is that what I think -- yes.

MS. ASHTON-CICKO: Well, that's one option. Because he also has the ability to enter directly into a design contract with the designer.

The other option, if they don't want to do that is it's got to say all costs associated with the second eastbound right turn lane, including signal and intersection improvement and all intersection design changes --

CHAIRMAN STRAIN: Heidi, did you read this before today's meeting?

MS. ASHTON-CICKO: Yes, I did, and we went back and forth quite a number of times. I proposed language which they modified many times. And yes, I did initially approve it, but apparently I didn't catch the lack of clarification on who was paying for the design.

CHAIRMAN STRAIN: Okay, in regards to -- let's take that issue first, where you want to insert the words by owner/developer, and they're indicating that the county may actually do it and they may pay for it, can we say by owner/developer (or payment in lieu of)?

MS. ASHTON-CICKO: How about on the break I'll speak with Bruce and we'll come up with some language?

CHAIRMAN STRAIN: Okay. That would work.

MR. ANDERSON: Yes.

COMMISSIONER KLEIN: Attorneys only.

CHAIRMAN STRAIN: Attorneys only, okay, that happens a lot.

Anybody else have any questions of the applicant before we go to staff?

(No response.)

CHAIRMAN STRAIN: Are you done arguing? Thank you, Bruce. We'll have staff report, then we'll be coming back to you after break.

Kay, is it yours?

MS. DESELEM: I apologize, I didn't hear the question, we were --

CHAIRMAN STRAIN: Staff report.

MS. DESELEM: Yes, sir.

For the record, Kay Deselem, Collier County Zoning.

And we also have other staff members here that can, as you know, address transportation issues. We have Reed Jarvi and John Podczerwinsky here as well.

You do have a copy of the staff report that is dated last revised 2/11/13. I won't belabor the issues, you know what the applicant has told you about what he's proposing, and you have reviewed and even had questions and answers given to you on the Growth Management Plan portion.

There's been considerable discussion about the issue that staff raised on Page 6 about concerns of the residential project properties located nearby. Staff has provided findings of fact for you in support of our recommendation. And our recommendation is then found on Page 12 of the staff report, recommending approval. But again, asking that we have some final decision or your allowance to go forward to the Board to get the information on Exhibit F figured out.

I did have some concerns about the information provided by the applicant as far as a revised commitment. I don't know, I think we have to divide it up a bit more so it's more clear exactly what we're doing.

I think for example B needs to be divided because you've got two different issues there, and it's not clear. Because we wanted the drive-through located on the eastern side of the building, regardless of whether it's a restaurant or not. And it's not clear with this. It looks like it's just tied to the restaurant use.

And then we'll need some clarification as we take the break to figure out exactly what we're doing with the amplified noise issue as well.

CHAIRMAN STRAIN: I was hoping you could assist them during the break so --

MS. DESELEM: Oh, most certainly.

CHAIRMAN STRAIN: -- everybody could kind of come together.

If they -- I agree with their position on trying to get the consent done today. The fact we're not meeting on March 7th puts them in an unnecessary bind. So if we have to take a little longer during break for them to resolve all these issues, then so be it. We'll do it that way.

MS. DESELEM: Certainly. Staff will work with them.

And other than that, I'm available if you have questions.

CHAIRMAN STRAIN: Okay, does anybody have any questions of staff at this time?

(No response.)

CHAIRMAN STRAIN: Kay, I do on Page 2, let's start there.

Last two bullets, could you explain what they are referencing?

MS. DESELEM: I would ask that we allow John Podz to respond to the first one regarding the dedication to the county right-of-way.

CHAIRMAN STRAIN: Okay, do you want to hit on the second one while he's walking up?

MS. DESELEM: Okay, the -- this was the one that we had talked about earlier where they were talking about complied with put into the PUD document. That's where the commitments that have been met portion comes in. And you've asked that that be stricken, and I agree that it would just be better to just let the PUD monitoring take care of that issue.

CHAIRMAN STRAIN: Right, I'm more concerned with the first part, the lot splits. Those are the three parcels, they used to be two; is that correct?

MS. DESELEM: Yes. This recognizes the way the property is now on the master plan.

CHAIRMAN STRAIN: Okay, and the only difference is you've got a line through the first two where there just was one big lot and then a second one.

MS. DESELEM: Yes, we wanted it to represent what's actually there now.

CHAIRMAN STRAIN: That was done actually through the SDP process, I believe. Because they had the -- that's how the SDP was laid out.

MS. DESELEM: I believe you're correct, sir.

CHAIRMAN STRAIN: Okay. I'm not concerned, I just want to make sure we understood why you put that language in here.

You guys are poised to say something, I can tell.

Okay, John was going to comment on the second to the last bullet, Bruce, unless you had something you want to toss in?

MR. ANDERSON: Yeah, on -- John doesn't know why it got referred to him.

CHAIRMAN STRAIN: He stood there looking like he wanted to say something.

COMMISSIONER BROUGHAM: Answer it anyway, John.

MR. ANDERSON: It is standard practice in the county that where right-of-way has been required to be dedicated that on subsequent amendments of the PUD that acreage remains the same.

CHAIRMAN STRAIN: Uh-huh. Okay, so you're just trying from a --

MR. ANDERSON: I don't know why she put that in there.

CHAIRMAN STRAIN: From a gross density calculation, you don't want to lose the potential or whatever calculation you would need, whether it be preserving open space or anything else. You want to use the gross number before you had to make the dedication.

MR. ANDERSON: Yes, sir.

CHAIRMAN STRAIN: Okay. I just need to understand that. That certainly provides me with what the understanding is.

Okay, on Page 12 you indicate there was a -- this was kind of a short neighborhood information meeting in regards to comments from the public. Usually in some of them I've actually heard where public has asked specific questions and the applicant responded.

There were no questions by the attendees. And how many people attended?

MS. DESELEM: I don't have the exact number. I can look through the backup information and see how many persons signed in. However, not everybody signs in, so you really don't know.

CHAIRMAN STRAIN: Did you attend the meeting?

MS. DESELEM: Yes, sir.

CHAIRMAN STRAIN: Was the room full?

MS. DESELEM: No, sir.

CHAIRMAN STRAIN: Okay. Well --

COMMISSIONER HOMIAK: There's one person in the sign-in sheet.

CHAIRMAN STRAIN: I know, but it says attendees. So I'm just curious because when this came through years ago it was a heavy issue and we had a lot of dissension and we finally resolved as many issues as we could by what the facility is built out today.

I think by the way this facility operates, a lot of people may feel it wasn't as bad as they anticipated. In fact, evidence of that is the opening of that turn lane on 11th Street. That should have been opened from the beginning. But the neighborhood thought it was necessary to close it. Well, those corrections are now being brought in.

I just want to make sure, because there's nobody here today from the public, your signs have been posted, you advertised, you had the NIM, but there were no objections to the changes being proposed today that anybody knows of. There was no email, there was no correspondence, there was no attendees objecting that you know of.

MS. DESELEM: That's correct. I received several inquiring phone calls. Nobody objecting, nobody voicing any opposition or support one way or the other.

I did find in the backup information where one person signed in to the neighborhood information meeting, and I'm hearing that the recollection of the people that were there was that there were three or so people there. So it wasn't widely attended, so to speak.

CHAIRMAN STRAIN: Okay. Well, I mean, I think that's a good sign. It's a testament to how well the shopping center is being run. It's a good shopping center. I mean, they seem to do a good job.

MR. ANDERSON: And a testament, frankly, to the Planning Commission's stipulations on there.

CHAIRMAN STRAIN: I was hoping you'd say that, because then you're not going to object to what we're going to stipulate today. We're only making it better for --

MR. ANDERSON: They are adequate today.

CHAIRMAN STRAIN: You know, this is going to come up every time you're in front of us.

Okay, are there any other questions of anybody at this point before we take a break?

COMMISSIONER EBERT: I --

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: Mr. Podczerwinsky?

MR. PODCZERWINSKY: Good morning, Commissioner.

COMMISSIONER EBERT: Good morning.

Can you tell us when you plan on putting in these lanes? Is this something that's already in process or --

MR. PODCZERWINSKY: Yes, ma'am, it's currently in process. As I said earlier, we're at 90 percent design plans. Once we shoehorn this additional turn lane in there we'll be heading towards 100 percent design plans. I believe our capital construction project is to start on -- Reed, correct me if I'm wrong -- 2014. 2014 fiscal year, so that means it could start in October of 2013. So at that point we'll be ready to go to bid somewhere near that --

COMMISSIONER EBERT: Somewhere towards the end of this year then you will be --

MR. PODCZERWINSKY: Yes, ma'am.

COMMISSIONER EBERT: Okay, very good. I'm just wondering, because sometimes roads are put off many years in advance, and so this is in the works right now.

MR. PODCZERWINSKY: Yes, ma'am.

COMMISSIONER EBERT: Thank you.

CHAIRMAN STRAIN: Okay, and with that, Bruce, we're going to break. And I know -- how much time do you -- and please consider the time carefully, because I'd rather you came back with language that we don't have to redraft through this process, we can just see it, review it and it's carefully written. Because the

consent I know we're all in agreement on it. So if you need a little bit longer than a normal break, tell me now.

MR. ANDERSON: Normal break is?

CHAIRMAN STRAIN: Well, we break probably 'til 10:30.

MR. ANDERSON: Okay, could we have an additional five or 10 minutes?

CHAIRMAN STRAIN: Okay is that --

MR. ANDERSON: Hopefully it won't take that long.

CHAIRMAN STRAIN: Then let's come back at 10:40. That's almost half an hour then. Okay?

Does that work for the board?

COMMISSIONER HOMIAK: Yes.

COMMISSIONER BROUGHAM: Yes.

CHAIRMAN STRAIN: Okay, let's come back --

MR. ANDERSON: Thank you very much.

CHAIRMAN STRAIN: We'll resume at 10 --

MS. DESELEM: Excuse me?

CHAIRMAN STRAIN: I'm sorry?

MS. DESELEM: We need to know exactly what we're stipulating to so we know where we're going with this.

CHAIRMAN STRAIN: I thought you were making notes.

MS. DESELEM: I was. I still don't know what --

CHAIRMAN STRAIN: I'll tell you the things where we're at. You're going to make a note to add the western decel lane that is already installed off of Pine Ridge going into the existing westernmost entry.

You're going to produce language that shows no 24-hour operation on the westernmost parcel.

Basically the westernmost parcel is going to fall back to the standard operating hours of the facility.

There will be no outside amplified sound except a drive-through.

There will be no restaurant on the westernmost parcel. And you can identify that as an SIC Code.

The blank value on Page V-3, 5.7.E, will be accomplished by the BCC meeting.

And also that same paragraph, Heidi's going to work out with you language involving the design plans.

And then the future sidewalk on the master plan, you're going to remove the reference to five feet.

Those are my notes so far. Does anybody have anything else?

COMMISSIONER EBERT: What about the closing? Can it be 2:00 a.m.?

CHAIRMAN STRAIN: Well, their hours of closing they already proposed has been reduced from 1:00 a.m. to 6:00. They're going to close at 1:00 a.m. on Friday and Saturday nights and the rest is from midnight to 6:00 Sunday through Thursday.

COMMISSIONER EBERT: So 1:00 a.m. will really be the last --

CHAIRMAN STRAIN: But only for those two parcels on -- those two easternmost parcels. So that really those new revised hours only apply to the easternmost two parcels.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: The two out parcels -- and I would suggest the applicant simplify all this by calling the parcels by something so we can say okay, this is -- everything is applying this way except for these two parcels, here's how they apply, and that would clean the language up and make it simpler.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: Kay, does that satisfy your concerns?

MS. DESELEM: Yes, sir, thank you.

CHAIRMAN STRAIN: Okay, then we'll break till 10:40 and come back at that time.

(Recess.)

CHAIRMAN STRAIN: Okay, we went a few minutes over so we can get better language and hopefully Bruce we can move through this.

MR. ANDERSON: Thank you very much, Mr. Chairman.

CHAIRMAN STRAIN: Thank you.

MR. ANDERSON: First of all, let's go with the change that we've made to the master plan to better identify the out parcels for purposes of imposing additional restrictions.

CHAIRMAN STRAIN: Okay.

MR. ANDERSON: We have labeled them A, B and C.

Over here we're going to move the right turn arrow.

CHAIRMAN STRAIN: You're going to show it as an indentation, like the one approaching 951 is, except shorter, right?

MR. TRABILCOCK: Norm Trabilcock, for the record.

What we're showing is it's actually already there. It is a right turn lane, it's just -- it comes like a continuous right turn lane by design. What we'll do is just clarify, we had that turn arrow that's got an overstrike on it, and we'll just move that back so it's clearer for you all.

CHAIRMAN STRAIN: Okay. We just want to make sure that by the master plan you weren't trying to undo what you already did.

MR. TRABILCOCK: Exactly.

CHAIRMAN STRAIN: Okay.

MR. TRABILCOCK: Yes, sir.

CHAIRMAN STRAIN: Thank you.

MR. ANDERSON: Next is the clarification that Heidi requested on the cost that the applicant is required to bear on the redesign.

And then lastly are changes that we've discussed with regard to limitations on the two out parcels which will be allowed to have 24-hour operations.

And parcel C would continue to operate under the restrictions that are applicable to it today and would not be subject to anything new.

CHAIRMAN STRAIN: Okay, so this new language applies only to A and B.

MR. ANDERSON: Yes, sir.

CHAIRMAN STRAIN: And what's that 60W parcels a.m., is that -- what's the -- underneath the strikeout it says the three out parcels, then it says --

MR. DAVIS: Out parcels A and B.

MS. DESELEM: That's an arrow.

CHAIRMAN STRAIN: That's an arrow, okay. I thought it was 60. That's why I couldn't understand what you're referring to.

Out parcels A and B are further limited. You got your restaurant hours for alcoholic beverages. And instead of B as it was, we're going to move B down and we're going to talk about the outside amplified sound except for drive-throughs, or any amplified sound required by law, such as speakers at gas stations. Yeah, that's what we've done on most PUD's.

Phil?

COMMISSIONER BROUGHAM: That's -- new B says no uses located on out parcels A and B may have outside amplified sound.

What's the westernmost parcel labeled now?

MS. DESELEM: C.

COMMISSIONER BROUGHAM: C.

My concern is that C not have outside amplified sound.

CHAIRMAN STRAIN: C is a contracted parcel. And they sold it under the current PUD standards. So they can't make it more restrictive without that owner coming in and consenting to it. And if they drop it as part of today's considerations, then it's really not part of something they're amending the PUD for, because C is being left as C.

Am I saying that right, Kay?

MS. DESELEM: That's my understanding as well, sir.

CHAIRMAN STRAIN: Okay. So I mean C retains whatever rights it had, and they're not asking now to change C, they're simply changing A and B through this PUD amendment.

COMMISSIONER BROUGHAM: I understand what their intent is.

MR. ANDERSON: Mr. Brougham, C is not allowed to have 24-hour operations now.

COMMISSIONER BROUGHAM: Okay. But is allowed to have amplified sound if --

MR. DAVIS: Unless you change the actual code.

CHAIRMAN STRAIN: You don't want to speak from the audience. Bruce will be your mouthpiece.

Okay, so --

MR. ANDERSON: They are still subject to the county's noise ordinance.

CHAIRMAN STRAIN: Just the same as the Publix is and the strip centers on both sides of the Publix and the Walgreen's and the Bank of America, right?

MR. ANDERSON: Yes, sir.

CHAIRMAN STRAIN: Okay. So this amendment really isn't going to be touching parcel C, so the only thing the amendment's going to touch is A and B.

MR. ANDERSON: That's correct, sir.

CHAIRMAN STRAIN: Okay. So we've addressed the western decel lane, you're going to make sure that's clarified.

The restriction on the 24 hours for the westernmost parcel is it's no longer necessary because the westernmost parcel is going to retain the same uses and rights it always had, so that's not part --

MR. ANDERSON: And limitations.

CHAIRMAN STRAIN: Right, that isn't going to be part of this amendment.

There will be no outside sound pursuant on the two parcels A and B that can go to an expanded number of hours, and that's now listed on this exhibit which is part of number H.

The blank value on 5.7.E, you're going to have that blank filled in by the BCC meeting.

The new language on 5.7.E that Heidi has worked out with you, could you put that on the screen one more time?

Okay, so it's only now this design modification language, Heidi?

MS. ASHTON-CICKO: Yeah.

CHAIRMAN STRAIN: Okay. The future sidewalk I saw on the master plan, you removed the five foot. And you're going to remove the complied with language throughout the document.

MR. ANDERSON: Yes, sir.

CHAIRMAN STRAIN: And you're going to label the parcels A, B and C, east to west.

And I think that's everything. Did I miss anything, Kay?

MS. DESELEM: I don't believe so.

CHAIRMAN STRAIN: Does the Board see anything else that needs to be addressed?

COMMISSIONER HOMIAK: So we're going to leave restaurant instead of eating places? Or does it --

CHAIRMAN STRAIN: Well, I think the restaurant is defined in our PUD as an SIC Code use. So let's take a look at that and --

MS. DESELEM: It's 5812.

CHAIRMAN STRAIN: Right, but is that the way --

MS. DESELEM: I thought that issue went away when they took out parcel C from consideration.

CHAIRMAN STRAIN: Yes, but I think what she's referring to, in Exhibit H -- could you put H back up. He refers to the word restaurant whereas --

MS. DESELEM: Gotcha.

CHAIRMAN STRAIN: -- any uses. That's a good catch, Karen, that says eating places, group 5812 only. So maybe we ought to refer to it as number 11 in the permitted uses or eating places or 5812 as pursuant to the uses allowed.

MR. ANDERSON: Our scribe is making that change.

CHAIRMAN STRAIN: Your scribe? Flexibility.

No eating places is allowed. Eating places are allowed. Boy, a scribe without grammar.

MR. TRABILCOCK: All those years of schooling for nothing.

CHAIRMAN STRAIN: Okay, does that work? I think it does. Okay.



MR. ANDERSON: And Commissioner Brougham, I do hope that you will go ahead and vote for this as proposed and leaving parcel C subject to the regulations that exist today since we're not going to be making any changes with regard to that. I'd like for this to be able to qualify for the consent agenda for the County Commission for summary agenda.

CHAIRMAN STRAIN: Well, if you're not -- if the PUD amendment is only for a specified portion of the PUD and we're not opening up the PUD for beyond those two parcels, I'm not sure we need to get into the issue. Unless -- I mean, obviously we can bring up any issue we want. But it does limit -- it can limit your changes to A and B that kind of leaves the rest to whatever the PUD currently existed for.

COMMISSIONER BROUGHAM: That helps me, because that's --

COMMISSIONER EBERT: Because they did say three parcels.

COMMISSIONER BROUGHAM: Because that's what was confusing to me, because this request was for the three out parcels, et cetera, et cetera, et cetera. And now all of a sudden in the meeting we get information, well, that parcel C has been sold, so we really can't impose any restrictions on C. And that has to be governed by the existing LDC code. I mean, okay, I mean, that's sort of information on the fly that caught me with being unprepared.

CHAIRMAN STRAIN: Well, I think their withdrawing C as a consideration for the amendment kind of helps a lot, because then it falls back on the original entitlements to the property.

COMMISSIONER BROUGHAM: We, it helps a lot in terms of this petition. It doesn't necessarily help a lot with respect to what could happen on that C parcel with respect to outside amplified music and so forth. And I understand okay, it's subject to the county noise ordinance and that type of thing. But -- I mean, I understand where we are.

CHAIRMAN STRAIN: Okay.

MS. DESELEM: If I may, Commissioner Strain, I missed what you said after remove complied with. You had remove five feet, remove complied with. What was your item after that?

CHAIRMAN STRAIN: Label the parcels, A, B and C east to west.

MS. DESELEM: Thank you.

COMMISSIONER BROUGHAM: Just so I understand.

CHAIRMAN STRAIN: Yes.

COMMISSIONER BROUGHAM: Because that out parcel has been sold and because it has now been removed from this particular petition and will be subject to the LDC, we can't impose any new restrictions on that C out parcel.

CHAIRMAN STRAIN: Well, Heidi could opine on that, or staff.

COMMISSIONER BROUGHAM: Well, I really want clarification as to what we can and can't do.

CHAIRMAN STRAIN: Have you heard the -- are you aware of the conversation we've just been having?

MS. ASHTON-CICKO: Yeah, I hear the question. And yes, when I did the review of this file, I did notice that one of the parcels was under separate ownership. So, you know, I agree with Bruce, that that owner does have some vested rights since they're not a participant, and that Bruce is not authorized to represent them at this hearing. So I agree, we can't impose additional limitations on that parcel.

CHAIRMAN STRAIN: I mean, that's consistent with the way amendments come through that are restricted, usually to the application's limitations. And if they applied for three parcels in the beginning but today are revising it to two, and as long as those restrictions don't go beyond the two, I'm not sure we're violating then any --

COMMISSIONER BROUGHAM: No, I'm not --

CHAIRMAN STRAIN: -- PUD issue.

COMMISSIONER BROUGHAM: I'm fine. I wasn't suggesting -- trying to suggest that we're violating anything other than there are changes being made on the fly to the petition, you know, in terms of its base petition, its base request --

COMMISSIONER EBERT: That's correct.

COMMISSIONER BROUGHAM: -- in this meeting, and that's just a little bit upsetting to me. But it is what it is. And I'm not arguing the point.

CHAIRMAN STRAIN: No, I just was trying to help.

COMMISSIONER BROUGHAM: No, you helped.

CHAIRMAN STRAIN: Okay.

COMMISSIONER BROUGHAM: You helped.

CHAIRMAN STRAIN: Anything else, Bruce?

MR. ANDERSON: Well, we were just trying to simplify it to address the more global concerns about the westernmost out parcel, and that was the easiest way to really address it is to take it out of the mix.

CHAIRMAN STRAIN: Kay, do you have any problems with this at this point? Do you have any issues from staff's perspective?

MS. DESELEM: No, sir, I think I'm fully compliant with what you asked for and staff is recommending support of what the stipulations are at this point.

CHAIRMAN STRAIN: Okay. And to do consent today, do you have any concerns over that?

MS. DESELEM: No, sir.

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

(No response.)

CHAIRMAN STRAIN: And there's no public speakers; is that correct, Ray?

MR. BELLOWS: That's correct.

CHAIRMAN STRAIN: Then we'll close the public hearing and we'll entertain a motion.

I think the motion needs to be subject to the changes shown by the applicant in rough form here today and those discussed. I'll reiterate them again, just to be clear, in case the motion maker wants to include them.

The decel lane in -- the western decel lane on Pine Ridge Road will be indicated to be no outside amplified sound pursuant to the revised language on H.E.

H.A. will have a reference instead of restaurant to no eating places.

And instead of three parcels, it will refer to two parcels.

The blank value on 5.7.E will be resolved by the BCC meeting.

Their new language on 5.7.E as provided and shown on the overhead previously will be accepted.

Future sidewalks will have the removed five feet -- the five-foot reference removed from them on the master plan but the sidewalk reference will stay.

The complied with language at the end of numerous paragraphs will be removed from all of them.

The site plan will reflect a parcel designations on those out parcels as A, B and C moving east to west.

Did I miss anything?

(No response.)

CHAIRMAN STRAIN: From anybody's perspective?

(No response.)

CHAIRMAN STRAIN: Okay, is there a motion from --

COMMISSIONER KLEIN: I so move.

CHAIRMAN STRAIN: Okay, Barry you're so moved to approve subject to those stipulations?

COMMISSIONER KLEIN: Yes.

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Seconded by Ms. Homiak.

Is there any discussion?

(No response.)

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

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Let the record show that Mr. Vonier had to leave a little early for another meeting.

MR. ANDERSON: Thank you very much.

CHAIRMAN STRAIN: Okay, thank you, Bruce. Appreciate your writing it on the fly. Your scribe did a great job.

MR. ANDERSON: Well, I appreciate your accommodating us with the consent.

CHAIRMAN STRAIN: We're going to have to -- Karen just reminded me, we're going to have to rehear the consent.

So this will be the consent hearing for PUDA-PL200120001104.

We've just walked through all the changes. Kay has assured us that she can make those changes.

We've seen most of them in handwritten form. They're going to be modified in permanent form in the final draft that -- final document that goes to the BCC.

Is there a motion to approve on consent?

COMMISSIONER HOMIAK: Motion to approve.

CHAIRMAN STRAIN: Ms. Homiak, seconded by --

COMMISSIONER KLEIN: (Indicating.)

CHAIRMAN STRAIN: -- Barry.

Discussion?

(No response.)

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

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

MR. ANDERSON: Thank you very much.

CHAIRMAN STRAIN: Thank you.

Okay, that gets us through all of our scheduled hearings. Is there any old business?

(No response.)

CHAIRMAN STRAIN: Is there any new business?

(No response.)

CHAIRMAN STRAIN: And there's no public to comment. So that leaves adjournment. Anybody want to move to adjourn?

COMMISSIONER HOMIAK: Thank you, Cherie', for the delicious brownies.

CHAIRMAN STRAIN: Oh, before we adjourn, we should do a -- we have an eating contest. Cherie' and Terri and brownies, and it looks like it's a tie. Both of you girls are doing great.

With that, is there a motion?

COMMISSIONER KLEIN: (Indicating.)

COMMISSIONER HOMIAK: Motion to --

CHAIRMAN STRAIN: Barry and Karen.

All in favor, signify by saying aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER EBERT: Aye.

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COMMISSIONER BROUGHAM: Aye.  
COMMISSIONER HOMIAK: Aye.  
CHAIRMAN STRAIN: We're out of here.

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There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 11:10 a.m.

COLLIER COUNTY PLANNING COMMISSION

  
MARK STRAIN, Chairman

These minutes approved by the board on 3-21-13 as presented  or as corrected .

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