

February 7, 2013

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
February 7, 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 Ahern
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. We have this bad habit of starting on time. So if everybody will please take their seats, we can proceed with the meeting.

First thing up is everybody please rise for Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Okay, will the secretary please do the roll call.

COMMISSIONER HOMIAK: Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER HOMIAK: Mr. Vonier?

COMMISSIONER VONIER: Present.

COMMISSIONER HOMIAK: Mr. Midney?

COMMISSIONER MIDNEY: Here.

COMMISSIONER HOMIAK: Ms. Keene?

COMMISSIONER KEENE: Here.

COMMISSIONER HOMIAK: Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER HOMIAK: Ms. Homiak is here.

Ms. Ebert?

COMMISSIONER EBERT: Here.

COMMISSIONER HOMIAK: Mr. Klein?

COMMISSIONER KLEIN: Here.

COMMISSIONER HOMIAK: And Mr. Brougham?

COMMISSIONER BROUGHAM: Present.

CHAIRMAN STRAIN: Thank you.

Addenda to the agenda. Are there any changes, Ray, that you know of?

MR. BELLOWS: I just have one item. I just want to follow up on the Planning Commission request for early review of documents. We can put that at the end of the agenda.

CHAIRMAN STRAIN: Okay, we'll put -- and that's a -- let's do a 10.B. Is it an old business item or is it new?

MR. BELLOWS: Old business.

CHAIRMAN STRAIN: Okay.

Okay, Planning Commission absences. The next meeting is February 21st. Does anybody know if they're not going to be here for that meeting?

(No response.)

CHAIRMAN STRAIN: Okay, we'll have a quorum then.

Approval of minutes. There were no minutes in the packet, so the only minutes outstanding I think are the Creekside minutes and we'll just have to wait 'til next meeting for those.

BCC report. Ray, anything?

MR. BELLOWS: Yes. On January 22nd, the Board of County Commissioners heard and approved the PUD amendment for the Buttonwood RPUD.

And they also approved the street name change for Olde Cypress Boulevard to Logan Boulevard North. And those were approved on the summary agenda.

CHAIRMAN STRAIN: Great, thank you.

MR. BELLOWS: You're welcome.

CHAIRMAN STRAIN: Chairman's report. I just have a couple things to make note.

I've been over at CDES a lot since I got reappointed, and I've noticed an uptick in activity. You guys are real busy over there and there's a lot of traffic in and out of the lobby.

I -- just for the sake of this Board and our understanding of where the county's moving forward, do you keep a statistical analysis of how many permits and other activities occur in that building relative to year by year?

MR. BELLOWS: Yeah, there are different types of reports that are generated from our CDD program, but the building department has their own tracking systems. So yeah, what kind of information are you looking for?

CHAIRMAN STRAIN: Well, just once a month after the month is finished, the prior month, just give us kind of an either verbally or handout, say we had X number of permits in February of this year and last year at this time we had X number, kind of give us a gauge as to where this board's activities may be going as we move forward.

I don't mean to create more work. If it isn't already statistically done, I'm not suggesting you start it. But I assume things like that would already be done in your department. They used to be.

MR. BELLOWS: Yes. It's just querying the software to generate whatever reports.

CHAIRMAN STRAIN: Yeah.

I'd just like to hear where we are. I'd like to know how fast the county's turning around economically and employment-wise and everything else. And I know you're not going to have the employment numbers, but based on the activity, I think it will be almost intuitive.

MR. BELLOWS: Yeah. And if -- I think it would be good to have Mr. Bosi explain a little bit more about different kind of reports that can be done. He's on his way.

CHAIRMAN STRAIN: Well, he can provide every report he wants to then.

MR. BOSI: Good morning, Commissioners. Mike Bosi, Interim Planning Director.

One of the things I think that we can do, it would be a coordination effort with the operations side of the shop, Jamie French's people over at Growth Management, we'll just -- we'll provide those comparisons, those year-to-year analyses, but also then as we establish it we can give you an end of the month report, the level of activities. So it will simply be a coordination effort with the operations side of Growth Management. So it shouldn't be a problem whatsoever.

CHAIRMAN STRAIN: That would be real helpful. Especially since this board does after -- we're one of the first boards I think to review the AUIR.

MR. BOSI: Absolutely.

CHAIRMAN STRAIN: Knowing where the county's going and kind of keeping pace of it as it moves along will help us understand the predictions in the AUIR as well. So thank you.

MR. BOSI: Understood, thank you.

CHAIRMAN STRAIN: Great.

Couple other things. Ray, thank you for the -- and Diane Ebert, thank you for the look forward. That's helpful and gives us an idea too of what we've got coming up so this board can prepare its attendance needs.

And the other thing I -- we have a consent item for Creekside, but prior to that I've requested a commercial analysis to determine if they are using the 40 percent or less that's required by the PUD. And Nancy, you finished that analysis, I saw the results of it. Very good job. Thank you. It was real well done and detailed. So -- and it's good to know that there's no problem there. And I think now with that done you can keep it in the PUD records so that someone can tab it as we go forward. So appreciate it.

That takes us into the consent agenda item, which is the -- I'll read it out, PUDA-PL 20120000111, the Creekside Commerce Park Commercial Planned Unit Development, CPUD.

This is a consent item, which means we're just assessing whether or not the language provided meets the intent of our stipulations from the last meeting.

Anybody have any questions?

(No response.)

CHAIRMAN STRAIN: Nancy, I had mentioned a couple of issues. Did you have time to research those as I mentioned to you concerning the -- how we state the three-to-one versus one-to-three?

MS. GUNDLACH: Yes, Commissioner Strain. And for the record, I'm Nancy Gundlach, Principal Planner with the Department of Planning and Zoning.

And Commissioner, we have changed the language in the PUD document to reflect the correct

format for expressing the height/distance ratio. And I have a copy of that I can put on the visualizer, if you'd like.

CHAIRMAN STRAIN: Sure, that would be just -- for the record.

MS. GUNDLACH: And additional copies, if you'd like for me to hand them out to the Commissioners.

CHAIRMAN STRAIN: I don't -- sure, I think that would be helpful for our files. Thank you.

After the Creekside meeting, I got a call from Brad Schiffer, and you know Brad was always accurate when it came to codes and details and such. And he said to me, Mark, when you were talking you referred to it as a three-to-one, but architecturally it needs to be called a one-to-three. You always put the vertical ahead of the horizontal. And so I asked Nancy to verify that that was the appropriate way; not doubting Brad, but to make sure everybody's on the same page. And sure enough, it doesn't change anything. Everything is the same, it just is stated differently so it's not confusing as a standard.

MS. GUNDLACH: It's highlighted in orange.

CHAIRMAN STRAIN: So all the wording was just reversed and the numbers were reversed.

So Brad, if you're watching again, thank you very much, you got -- by the way, you're the only person out there ever watches these, so we appreciate it.

And that's the only correction that I was -- that I saw or that I was noted about, so -- thank you, Nancy.

By the way, you all know Brad got appointed by the Governor to the --

COMMISSIONER EBERT: Yes.

COMMISSIONER HOMIAK: Yes.

CHAIRMAN STRAIN: -- State Board, so all the benefits that these things have, he'll be able to make sure they're straightened out at the state level, if that's even possible.

Okay, there's no other corrections or comments. Phil?

COMMISSIONER BROUGHAM: Just a question on that item. Is that vacancy currently being advertised again?

MR. BELLOWS: It's been advertised and I believe there was one candidate who applied and that is probably going to be presented at the next Board meeting, I believe.

COMMISSIONER BROUGHAM: Next week?

MR. BELLOWS: It would be the one after that then.

COMMISSIONER BROUGHAM: Okay.

CHAIRMAN STRAIN: Okay, any other comments on Creekside consent?

(No response.)

CHAIRMAN STRAIN: If not, is there a motion?

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

CHAIRMAN STRAIN: Subject to the corrections we received today?

COMMISSIONER KEENE: Yes.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER VONIER: I'll second.

COMMISSIONER EBERT: Second.

CHAIRMAN STRAIN: Seconded by Diane.

Discussion?

(No response.)

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

COMMISSIONER KLEIN: Aye.

COMMISSIONER KEENE: 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 8-0.

Thank you. That takes us to our first regular agenda item, and it's the continuation of the Top Hat application, No. 9.A, PUDZ-A-PL20120000726, the Top Hat Auto 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: Thank you.

Disclosures on the part of Planning Commission.

Bill, we'll start at your end.

COMMISSIONER VONIER: None.

CHAIRMAN STRAIN: Paul, Melissa? None no disclosures?

COMMISSIONER KEENE: No.

CHAIRMAN STRAIN: I had conversations with the applicant's representatives and I had a rather well attended meeting with the homeowners in Walden Oaks a couple nights ago. Very lively meeting. And I appreciate the input that was received at that meeting.

Diane?

COMMISSIONER EBERT: No.

CHAIRMAN STRAIN: Barry?

COMMISSIONER KLEIN: No.

CHAIRMAN STRAIN: Phil?

COMMISSIONER BROUGHAM: None.

CHAIRMAN STRAIN: Okay. With that, I don't know who's going to start the presentation. Tim, I guess it's you, huh?

MR. HANCOCK: Yes. Sir, good morning, Mr. Chairman, Commissioners. For the record, Tim Hancock with Davidson Engineering, along with my co-agent, Bruce Anderson with Roetzel and Andress, representing the Top Hat CPUD petition.

We also have the site civil engineer and transportation engineer present, if there are questions in that regard.

What I'd like to do, and I think would be the most effective use of everyone's time is first of all recognize that when this item was last heard, while we of course had a majority support motion and vote by this body to move the project forward with an approval, it wasn't unanimous. And we felt at that time there were some technical issues with the application and the document, as well as an opportunity to sit down and have further dialogue with the residents and that we could only come back to you with something that is better.

And we have made every effort, and I want to thank the residents of Walden Oaks that have taken the time on short notice to meet with us on two occasions. There's been emails that have gone back and forth and exhibits and a variety of documents. And indeed, it should work this way and we appreciate their time and effort and the opportunity to do so.

I think what would make the most sense, with your permission, Mr. Chairman, is to walk through the strike-through underlined version of the document that's in your packet and so you can kind of code each change back to where it came from.

CHAIRMAN STRAIN: That's fine.

MR. HANCOCK: Starting with Exhibit A under permitted uses, the first change in the first line is to strike C-5. As you may recall, the uses we're requesting are really C-4 intensity uses. We included C-5 in some areas. You'll see the changes in the document. One consistent thing is to bring this back to what it is,

which is a C-4 intensity land use.

Under Tract A, under motor vehicle dealers, new, and you see new and used there. This is something we discussed with staff last night. Under the addenda that I provided, under item one, it says to strike "and used" here, because again that's a little bit of a reference back to what might be a C-5 use. And you can see used vehicles are added under accessory uses, B.

So what this means together is we're a new vehicle dealership, but if we have a new vehicle dealership we can have used as an accessory use. So that is a clarification that I thought was important.

Going further in the document, under item A -- I'm sorry, B-3, we removed tire retreading and added to the end that it specifically is excluded.

Under item 8 we have removed top body and upholstery repair shops and paint shops and added car wash, subject to the provisions of LDC 505.11 and indicated blowers for drying must be located on the west side of the car wash.

As we go to Exhibit B, the development standards table, under rear yard. When you see minimum building setbacks to the bottom, we have changed that from 100 feet to 500 feet and added a note at the bottom for clarification, which is that that addresses primary and accessory uses, not intended to include small structures not directly serving the permitted land uses, such as irrigation, well pump house. Hopefully that clarification will be enough that if we need to do something along those lines it's not problematic.

The next change is Exhibit C, the master plan. As you remember, we drew some lines on a map, basically stepping down the lighting on the site. And those show up on the master plan, as you'll see a dashed line with a circle A and a dashed line with a circle B. That means that everything between A and Airport Road is display level lighting, consistent with other dealerships in town. And there are some additional constraints that we've added later in the document with regard to that.

Between A and B there would be a minimum reduction of 25 percent. And again, these verbal standards I'm giving you are contained under development commitments. But what that line refers to is that between A and B will be in essence security level lighting. And then between B and the rear property line there will be no lighting.

The only other change I wish to add, and this is addenda item number two, is under the note under building setback, that table on the bottom left of the master plan, the word et cetera at the end was actually taken out of the document at the request of the County Attorney. But it was still here on the master plan, so we want to remove that to be consistent that we're not expanding it.

COMMISSIONER EBERT: I have a question for you.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: On your Exhibit C, your master plan, I did not see the walls on the master plan.

MR. HANCOCK: They're not on the master plan, they're in the development commitments.

COMMISSIONER EBERT: Okay. I thought maybe because this was redrawn I thought you'd put the walls in there.

MR. HANCOCK: One of the problems we have with master plans is we tend to draw at a 24-by-36 scale and then we have to reduce it in these documents, and certain details can get lost in that reduction. And, you know, even the font size becomes problematic. So in this case I believe we've addressed the development commitments adequately. And if not, then we can take a run at that.

No changes to Exhibit D. No changes to Exhibit E.

Exhibit F is kind of the lion's share of the motion that was made by this body, and some additional clarifications that we had the opportunity to put into the document since we in essence were coming back anew again.

Under planning, item B, we had no outdoor paging systems. In discussion with Commissioner Strain, we decided to add "or amplified systems". So in other words, anything associated with the daily operation of the dealership cannot be an amplified system. And that seemed to be more comprehensive and more consistent with what we were proposing.

Under item C, the automated car wash will be 600 feet from the nearest existing residential unit. I've added to the addenda a restatement, "and blowers for drying will be located at the west end of the car wash." It puts it in two places in the document. If you wish to add item number three's addenda, that's fine. If you think what we have already is sufficient, that's fine also. I just felt in dealing with the car wash I didn't want there to be any inconsistencies there.

Under item D, we'd discussed the three quick lube bays and those doors would be facing south, so we put that into the document to ensure that our master plan and our conversation were consistent.

Item F is a restatement of the hours of operation that were a part of the motion this body put forward, and do represent a significant reduction over the current hours of operation for the site.

Item G is that verbiage dealing with what I explained on the master plan with those lines A and B. And the verbiage also includes that all lighting will be shielded from residential areas to avoid glare. Display lighting will be limited to that area shown on the master plan as lying west of the line marked A. Security lighting will have a minimum reduction, and average lumens of 25 percent will be the minimum needed for safety and security and will occur in the area between lines A and B as shown on the master plan.

And again, no lighting will be located east of line B. That's an approximate 200 foot area from the edge of pavement, if you will, or the back of the vehicle storage area to the residential property line. And there's another 70 or 80 feet to the nearest resident. So it's almost 300 feet from the nearest light fixture to the nearest residential structure.

The item that is not in the strike-through underline but is on addenda item number four, Exhibit F, development commitments. This is something that arose out of one of our meetings with the residents. And there was a concern that somebody might use Lone Oak Boulevard for test or service drives. And certainly from a dealership standpoint that would not be a normal mode of operation, but again, to address the concern, we felt if we placed it in the PUD document it becomes a zoning issue. And if it were to be violated repeatedly, it could be enforced through the Board of Zoning Appeals.

So what we're proposing is to add the language under item J, and this is number four in the addenda, that Lone Oak Boulevard will not be used for sales or service test drives by employees of the dealership. We can't control the general public, but we certainly can have some control over what our employees do as a matter of practice.

COMMISSIONER BROUGHAM: Tim, I'd like to ask you a question on this section, and it could be my ignorance, but is it typical that auto dealerships have service hours on a Sunday?

COMMISSIONER EBERT: Sunday, yeah.

MR. HANCOCK: It is not typical unless they're experiencing backlog issues and Sunday becomes the default day for running behind, if you will. I can confirm that with Mr. Zellers. I know that there are some folks here that are registered to speak, and we could have that conversation. It's not typical --

COMMISSIONER BROUGHAM: It would just appear to me that it's not typical. But I am not an expert on the demographics of dealerships.

MR. HANCOCK: One of the reasons I think it's important to leave Sunday hours in there is because we have limited the ability to go to two shifts for service, if it gets -- I mean, let's hope things get really busy. Because of the hours of operation we have in the PUD document Monday through Friday, we can't go to a second shift without amending the PUD. So if -- you know, Sunday is that fallback. And again, I'll discuss with Mr. Zellers, but it's a little bit of a tradeoff. We really would like to have one or the other as an option, and we thought this was the best compromise.

COMMISSIONER BROUGHAM: Well, we'll perhaps hear something from the residents nearby also.

MR. HANCOCK: That is it for changes to the document.

I will tell you, there were other items that have been discussed with the residents, as you may have -- as Commissioner Strain knows firsthand, they just recently had an informational meeting in their neighborhood on Wednesday night. Candidly, I'm waiting to hear what the residents say today also. And from that, there may be additional concerns in areas that we need to talk about. And we certainly will do that.

We remain an open door. This is not the end-all be-all, but we certainly would like to address whatever issues we can here today and move forward, knowing what we have. And we appreciate you giving us the opportunity to do that.

CHAIRMAN STRAIN: Thank you, Tim.

And I want to comment, I appreciate very much you and your applicants' decision to extend your negotiations with the residents and provide another opportunity to discuss this in detail today before the vote. And a lot of that probably lends to your experiences as a former county commissioner in regards to how you handle the public, and so it does show up and I appreciate it very much, and I'm sure this board does. Because the compromise and getting to solutions is what this is all about. And I hope we can find something that works for everybody today.

MR. HANCOCK: Again, thank you.

CHAIRMAN STRAIN: Thank you.

Staff, do you have any further -- do you have any comments?

MS. GUNDLACH: No, we don't.

CHAIRMAN STRAIN: Are there any Planning Commission comments of anybody -- of the staff or the applicant at this time?

COMMISSIONER BROUGHAM: I'd just like to --

CHAIRMAN STRAIN: Go ahead, Phil.

COMMISSIONER BROUGHAM: -- reiterate my concerns from the last hearing. And I was swayed pretty heavily in voting against the petition at that time by the speakers representing the nearby residents and by the petition that was signed by over 100 of them expressing their concerns about locating the car dealership basically at the entrance to their development.

I was also concerned and agreed with Chairman Strain as to whether or not the car dealership could be viewed as less intensive than the existing park, amusement park -- it's not an amusement park, but whatever it's called.

And I also had concerns. And I know that it's strictly according to existing ordinances and Growth Management Plan regarding the original intent in the Growth Management Plan of that tract of land being residential and then being grandfathered in through the fact that King Richard's preexisted or predated that. And by that fact then, you know, it sort of opened the door to your petition or others of that kind.

Subsequent to that hearing, I also went back and looked at the surrounding developments and the one particularly that caught my attention was Willow Park, which is to the south of King Richard's, and I wondered how that came about, because it was, my words, commercial. And it turns out that because King Richard's was grandfathered and because Willow Park, when they applied was adjacent to that grandfathered, quote, unquote, tract, then they could go commercial as a -- you know, how far down Airport Road is this going to go with the domino effect. And it turns out that some time back the codes did in fact preclude that sort of effect but then was changed, you know, in recent years to allow for it if it's equal or less intense.

I mean, those were and to some extent are my concerns about the petition, not about the car dealership or adding new jobs and so forth. I think that's very commendable. But I still -- I definitely want to hear what the residents have to say today.

MR. HANCOCK: Thank you, Commissioner.

For those of us that lived through what we call the ZRO days back in 1990, '91 where the Growth Management Plan was being implemented and all of those conflicts, they had to define a process by which something that was not consistent with the Growth Management Plan was handled, addressed and so forth, and there were multiple avenues. For those who went through that and, you know, have that history in our brain, sometimes we forget how odd it could seem that what appears to be an island of commercial exists and how it applies.

And so I certainly appreciate your position and appreciate the fact that you bothered to do the research to understand how it got to be. It may not mean it's necessarily fair or what we would want today. The reality is it existed, and preexisting conditions from a legal standpoint had to be addressed, and their

zoning could not be in essence taken from them by the adoption of a plan. And that in essence was how we ended up here today.

COMMISSIONER BROUGHAM: Understand.

MR. HANCOCK: But I thank you.

CHAIRMAN STRAIN: Okay. And Tim, I had some questions I wanted to ask to try to kind of get some input from you before the residents spoke, because it may help the residents understand some of the concerns they have.

One of the things that I've heard from several people is that the traffic study is dated in August, and that there's not a lot of traffic here in August. And I have assured them my understanding of the traffic study is that the date is just when the report was written. The traffic study is based on formulas that are taken from the road system's analysis at the 10 months peak hour, I think we call it or some something like that.

And I don't know if it's best to have your traffic engineer or even Reed Jarvi, because he's more kind of impartial with the county, to explain to us how that date corresponds not to the road and how the road system is viewed in totality. And Reed's coming up behind you, so this is probably a better question for him.

But I'd like to -- I'm going to walk through a series of things I heard from some of the residents the other night, and just to get them on the table for an explanation to help them when they come up and discuss.

So Reed, could you fill us in on how these formulas are done?

MR. JARVI: Sure. Reed Jarvi, Transportation Planning Manager for Collier County.

And the -- your synopsis was correct. What we do from a traffic impact statement standpoint is once a year during the AUIR that was mentioned earlier, the Annual Update and Inventory Report, we measure -- we take the traffic counts from the previous year and then project them forward to look at what's going to happen from a capacity standpoint or a projected capacity standpoint.

What the traffic consultant does is take that same number, projects it forward to when the build-out of his particular project is, or a five-year horizon, whichever is longer, and they project that forward from a peak hour standpoint and then we use the -- in the -- we take the -- we take out the two highest months, February and March, and use the 10 month to average it. That's the way we do our traffic counts. And then they add their traffic to the project's traffic to that network.

So it's -- and it doesn't really matter what the date of the traffic statement is, that's -- as you said, that's the day it was actually prepared. But they're all done with a peak hour and they're all done at the build-out of the project.

CHAIRMAN STRAIN: Okay. And for the calculations that predict the number of cars and carry it back to the old project, it is based on a functional old project and a functional new project, meaning the current project is operating at a deficiency because it apparently isn't working as well, and that may be why the property is up for sale. So they may not have as many cars going in and out of there as they could have if they were more successful. And that's as tactfully as I can put it.

But can you explain to us how the counts are done? Are they done on real life issues, are they done on real day issues? How do we --

MR. JARVI: We use what's -- the Traffic Generation Manual from the Institute of Transportation Engineers, and that's kind of the Bible of traffic. And it's two books about yea thick, and it has hundreds of studies data in it. And for the various types of uses, like for instance a car dealership there is a category and it has formulations, the calculations, graphics that show what is a projected traffic for that particular use. And that's based on national studies, Florida study, local studies, a bunch of studies. And same thing for an amusement park, which is what's there now.

And as you said, it's really set -- the way we do it is what could happen if it was successful. If it's unsuccessful, you know, that's not what we use as the basis. We use the ITE, Institute of Transportation Engineers' calculations to compare the two.

So what you're saying is exactly true, it's not what's there today that may or may not be working, it's what would be there if it was working today and versus what's proposed. And that's how we compare the two.

CHAIRMAN STRAIN: Right. So the totals of either are compared to that reality. So if the dealership has a total that's less than the operation of a successful park, let's say, or amusement center of any kind but the dealership has an obviously less traffic flow, then it would show the reduced intensity as far as level of service goes.

MR. JARVI: Correct. It would reduce the impact to the level of service.

CHAIRMAN STRAIN: Okay. And I hope that helps clarify it to those residents who questioned the traffic study.

But it is -- when you see the date, I mean, I've lived here 35 years and you know there's seasons when things are real slow and they're real busy, and the date can be misleading. So I appreciate it.

MR. JARVI: Yes, we would -- I'd just say we'd normalize it to -- so everything is to peak season, so we're all doing the same thing at the same time.

CHAIRMAN STRAIN: Thank you, Reed. Appreciate it.

The other item that was brought up was the test driving. And I understand that the language you put in, and I guess no one can stop anybody, including myself, from getting lost in there the first time I went. So I hope that does help with your dealership notifying it if that's to come to pass.

The loading area for new cars was a concern with some people. And I took a look at your plan, Tim, and originally the loading area or currently the loading areas along that north area, and that's -- the concern is that they have a pool and sitting area just to the north. When the trucks come in from the front and go to that loading area, they've still got to go somewhere on the property to turn around and drive forward out. They're not going to go backing out. So if you took the unloading down further, made a right and then made another right and came up in those aisles somewhere and unloaded in there, you'd be more buffered by the buildings and further from the north boundary. Is that something that you could consider talking to your client about during the break or whatever else we have?

MR. HANCOCK: Actually, what you just stated is how the site was designed operationally. And the residents we met with, we discussed this. But when you get to the larger body, there's a limit to how much information gets passed through. The area you see, loading area right there, is more like daily UPS deliveries. That's where the parts is located and the drop ships come in. And that's kind of a UPS situation.

When it comes to the unloading of vehicles, you'll notice that not only around the building do we have created radiuses where an 18-wheeler can make it around the building, we've also created it where it can make it around the balance of the site. The majority of vehicle unloading is going to occur to the rear of the site where the storage is. And the trucks come in, they turn their engines off -- if you've seen the price of diesel, that makes a lot of sense -- they unload the cars that are on the truck and then they exit the site without having to back up. That was our primary concern. We didn't want them doing 15-point turns with an 18-wheeler to get in and out.

So that loading area is daily delivery drop ship. The unloading of vehicles is going to occur to the south and back to the east a little bit where the vehicle storage is.

CHAIRMAN STRAIN: Could you at some point just pencil in a cross section -- little crosshatch area to show us where you're intending -- and the vehicle loading and unloading area was the concern.

Everybody has -- UPS, FedEx, I got them to my house and I was glad to hear your comment about the diesels being turned off. Because I have a diesel, and I bought it when diesel was cheaper than gas, which was a quarter million miles ago. But I don't leave mine idling because it's just too expensive. So that's a good point, that was a concern. And if you're going to suggest that the loading of the vehicles and the big semis is going to occur elsewhere, then where it's shown as a loading area on here, that clarification would be really helpful.

And I think also you probably don't need the words loading area on this site plan, because then it becomes misleading. Because I've always assumed and I think the residents I spoke to assumed that's where you're going to take cars on and off of the big trailers. To have UPS or FedEx pull up, that's no different than a residence could have. So I would suggest that the words loading area, when we get to the end of today, if that's part of the decision, that that get relocated, or just removed.

MR. HANCOCK: It wouldn't be the first time in this process. More detail is not necessarily served as well. But I certainly agree, we can remove that if that's appropriate. And at the time of SDP approval, the loading areas have to be identified for those daily deliveries. And it can be done at that stage, certainly. But your points are well taken, Commissioner, and I don't see any problem with us having the ability to do that.

CHAIRMAN STRAIN: Okay, let me walk through a couple of more.

There was a question at the meeting about the type of vegetation. And I know that since the meeting I understand that from a discussion I had with you is that they really are going to be given the choice of the vegetation, but because it's limited by code they have to pick something that's in the code.

And then the location of the vegetation was another issue. And I thought the code required it to be on their side of the wall. And sure enough, it's confirmed by this detail. And that's the detail that you apparently showed them?

MR. HANCOCK: Yes, sir. And again, we worked with the smaller committee of residents and they were reporting back to the larger. And so this is the detail we shared with them. I've added a little color to provide some clarity. But what you have is from the property line between the Walden Oaks community, and this really is that type B buffer, that 15-foot buffer that starts at the residential, between their property line, if we're moving towards the dealership, the fence that you see there behind the tree, it can be no closer than six feet. So there's a minimum distance between the property line and the fence of six feet.

Within that six feet, a minimum of 50 percent of the landscaping must be placed in that six-foot area. That's by code. So of the landscape required in that type B buffer, what you're going to see is shade trees about every 25 feet and a hedge in that six feet on their side of the wall.

What the concern was that we heard was, well, what kind of trees are these going to be. You know, could they be problematic with root systems going onto the Walden Oaks side, will they be spindly little things that don't have a shade canopy. And so what we did is we provided to the committee that we were meeting with pictures of the code approved shade trees that we thought were appropriate. We don't want trees that necessarily drop acorns anymore than they do, as you can imagine. So we identified multiples that are in the code, we gave them pictures.

And what we've offered to them is, and this is something I don't -- I don't know that you can put it in a PUD, but that pick which ones you want.

CHAIRMAN STRAIN: And my concern on that is the community may not be 100 percent behind every kind of tree that's picked. There's a lot of different people in the community. I don't want to see anybody held to a standard that can't be determined and then you go to install something because you've got no other choice but to get it in and then find out it's not liked or not approved by a certain one or more people and now all of a sudden that trips you up.

So somehow before the meeting's over I'd like to get that refined so it's realistic to go forward with in a manner that somebody can make and will make a decision at the time it's needed. Because right now I don't think it's -- by leaving it just open to the residences when you have more than one you could have more than one choice, and that makes it real complicated.

Also, the county I think has not -- and you used a word I wish the county had used in their code, but I don't think it's in there, you call it a shade tree. Unfortunately we call them canopy trees. And when you apply canopy into nature, it turns out it doesn't mean a canopy that provides shade, it means a canopy of collective trees that are the dominant features in like a cypress hedge. And so we have trees like bald cypress and sable palm that have small heads that have been replaced, for example, in that parking lot in Riverchase up on 41 and Immokalee Road. And rightfully so, the people there are very upset. But unfortunately it meets code.

My concern is that we've got to make the code -- we may not want all of the allowances in the code something that could be part of the choices here. Because I don't think a bald cypress is going to help anybody in blocking view. I don't think -- I mean, the sable palms are used, but they're so small and they're canopy, I think there's a lot better trees we could use. So maybe what we do is we produce the list and you guys discuss the list at break and maybe produce the things that we wouldn't put there. And the rest of it

remains and we can just go forward that way.

Diane, then Phil.

COMMISSIONER EBERT: I just have one comment. If you need any help, Nancy is right here and the perfect person to do it.

MR. HANCOCK: Well, I will tell you one thing we have done, I think we can -- we very easily can agree that it will be one of the following for the canopy trees, because we've already provided pictures and that information for the residents. And if at break if there's discussion where they feel there's a consensus that one of those either should or shouldn't be on the list or however, we'll do our best to come back to you with a list of approved canopy trees for the type B buffer.

CHAIRMAN STRAIN: And it needs to get settled today so that we don't have any indecision going forward, and the Board of County Commissioners doesn't need to be dealing with the type of trees. We just need to get it to them in a manner that's acceptable, so --

MR. HANCOCK: And what we provided them has no bald cypress or sable palm in it. They're all what you and I would consider shade.

CHAIRMAN STRAIN: Well, I think we've learned an awful good lesson by that, but now we've just got to get our code fixed. So --

COMMISSIONER BROUGHAM: Mark?

CHAIRMAN STRAIN: Yes, Phil, I'm sorry.

COMMISSIONER BROUGHAM: Just further question. What -- on Walden Oaks side of that property line, as I recall, there's the entrance road. How far is the side of that road to the property line, approximately? I mean, it doesn't need to be exact by any stretch. I'm just looking to see.

MR. HANCOCK: It varies at its closest point. I believe it's about 40 feet from the property line to the roadway. And then it moves away from the property as it gets closer to their pool.

COMMISSIONER BROUGHAM: Is there a sidewalk along that side?

MR. HANCOCK: There is a sidewalk, a well used sidewalk.

COMMISSIONER BROUGHAM: And that sidewalk, just estimate, how close is that to that wall? This doesn't really show it.

MR. HANCOCK: It's on the other side?

COMMISSIONER BROUGHAM: On the other side of the road?

MR. HANCOCK: Yes.

COMMISSIONER BROUGHAM: Okay. My concern with all of that is in talking about selection of trees is pay particular attention to what happens to the roots on live oaks and on -- I don't think hopefully we don't plant them anymore, but ficus trees.

CHAIRMAN STRAIN: Oh, yeah, Nancy loves ficus trees.

COMMISSIONER BROUGHAM: Because they -- as everybody knows, I mean, over time they become one heck of a destructive force to your wall and to concrete, asphalt and everything else.

MR. HANCOCK: The code has actually caught up to that issue, and root barriers are now required, and many of those situations where the potential conflicts exist. I won't say it's absolute, but it's in our best interest and our client's best interest to design them with root barriers.

COMMISSIONER BROUGHAM: Great.

CHAIRMAN STRAIN: And I've just got a couple more questions that I made notes of from that meeting. And by the way, for the residents that are going to speak, I'm bringing a lot of these up to kind of help you when you come forward to speak. If they resolve some of your issues, let us know that. Because it would be a help to know which direction this is going in.

The lighting. The last meeting there was a discussion that the lighting would be shielded somewhat similar to the Nissan lighting. And I guess some of the residents went there and were kind of shocked at the intensity of the Nissan lighting. And they compared it to another dealership which is just down the street and it's fairly new is that Dodge Mazda dealership. And they felt that the softness or the subtlety of the light that's at Dodge was much preferred over the intensity over the new bright white light that some of the operations

are using. So also maybe you could consider that and during rebuttal we can discuss that.

And at the same time lighting as we know being directional, I'm not sure exactly how the Nissan's lights are tilted, but if you were to mount the lights so the poles are facing -- or on the east side of the light box, and all the light boxes are on the Airport Road side of the pole, any directional would be helped by that, for sure. Even the slightest 10 percent movement of that canopy of over five to six to 700 feet back on the eastern property line would do huge to eliminate any overflow of light. So it's something to consider.

And then the other thing was the possibility of adding timers for the display lighting, not to turn them all off but to consider alternating the one that -- instead of a display light in a complete row all night long, why not save energy and reduce the impact by possibly alternating some of the lights that you don't need at night for security to the effect of a display lighting after hours. So that's something else to consider.

And I will bring all these questions back to you at the end of today's discussion with the public to hear where you stand on these.

And of course I didn't bring up the issue that they're concerned about, that seemed to be more resounding than others, was the car wash. But I'm going to let them bring that up and we'll see where it goes from there.

Anybody else have any questions of the applicant?

(No response.)

CHAIRMAN STRAIN: Okay, thank you, Tim.

MR. HANCOCK: Thank you.

CHAIRMAN STRAIN: Nancy, do we -- whether we have registered public speakers or not, anybody that wants to speak will be heard but we'll start with the registered public speakers. And how many do we have, Ray?

MR. BELLOWS: About seven.

CHAIRMAN STRAIN: Okay, we have two podiums. So either one can be used. We're going to read two names out at each time so that the next person in line can be ready to come up so we can move along orderly.

I ask like we did last time, please don't be too redundant. If the person ahead of you is basically on the same page you are and you like what he or she says, just acknowledge that and that helps. But I try not to cut people off. We're here to listen to you and try to figure out a resolution to this. So we encourage you all to speak.

So Ray, will you call the first speaker to --

MS. BLACK: Hello. This is a new issue that hasn't been asked before. I asked it Tuesday night and it hadn't been resolved.

It's about the air quality of a car dealership being next to us and next to our pool.

As a resident I don't want to see it, I don't want to hear it and I don't want to smell it. I have asthma. I can't go into a gas station without coughing, I can't go into a car dealership without coughing. I can't go into Home Depot without coughing. It has to do with the particulates in the air.

A company came to our home to trim our tree. I had to close up the home and go to the back of our house so I didn't cough. Any time I'm near that kind of thing I cough.

Our pool is right next door to opening and closing doors, the car dealership smells, the oil changing, the particulates in the air, the car carriers. If they happen to leave their engines on -- the people that trimmed our tree left their diesel engine on the whole time they were there trimming the tree. And I started to cough.

And what you might not know is sometimes it doesn't smell and certainly you can't see it, the exhaust and everything, but the particulates build up in the air and I can't breathe.

I'm in avid use of the pool area that's going to be next to this car dealership, and there are tennis courts that are next to this car dealership, with the opening bay doors and the oil smells and the particulates in the air that waft in over into our area. And I really want to use the pool and be able to breathe.

CHAIRMAN STRAIN: Thank you.

Next speaker, Ray?

MR. BELLOWS: Elizabeth Lynn.

DR. LYNN: Good morning. I'm Dr. Elizabeth Lynn and I have a number of things to talk to you about.

First you notice I use a cane coming up here. I have a neurological condition that -- and my neurologist has said I have to be in the pool three times a week. The pool is an extension of our homes, it is not just a little recreation facility that's occasionally used. We do not have back yards, we don't have side yards, we don't have front yards in Walden Oaks. We don't have places for people to play or congregate, and so everyone goes the pool and everyone uses it for exercise as well as for recreation. And it's a very important -- it's part of our homes, that's why -- I was concerned about the setback from residences that the zoning code is set up. But this pool is part of our homes. The setbacks should be for this property as much from the pool as from any bedroom, because this is how much the pool gets used.

Now, in addition there are several things I wanted to bring out about the precedent that the Planning Commission has set. When Mark Strain came to our meeting the other night, Mark, you mentioned that the Germain Toyota at Wiggins Pass has set a precedent by being established next to a residential area. And yesterday I went and looked at that area. But the residences that are behind Germain Toyota are not the same as Walden Oaks. They are a hotel that is a rental on a daily or weekly basis, and there are two condominium buildings that look like they're in poor prepare. The screen had been knocked off one of them and was just lying on one side. And it looked like they must be rental properties too, they're not resident occupation. And Walden Oaks is a place where people live 12 months out of the year, they don't just come for three months.

I wanted secondly to address the traffic impact study that had been done.

In the trips generated in that trip report, Top Hat has reported that there will be 66 trips generated during peak hours. And I question that, and I question the validity of it, how that number was derived. I understand that it's based on national statistics. But statistics that are nationally based and averages don't always tell the truth. And the problem is if Top Hat wants to employ 30 employees, that means there's going to be 60 trips for just the employees to come in and out if they don't take a lunch break. If they take a lunch break you're up to 120 trips a day just for the employees. That's in and out.

Now, let me show you this aerial of -- I'll sort of direct this over here and see if we can get this lined up the right way.

CHAIRMAN STRAIN: Ma'am, anything you show, we're going to need copies of. I mentioned that at the meeting --

DR. LYNN: Yes.

CHAIRMAN STRAIN: Did you bring a copy of that for the court reporter?

DR. LYNN: We'll give this to you.

CHAIRMAN STRAIN: Okay, thank you.

DR. LYNN: If you could get -- back up the zoom.

CHAIRMAN STRAIN: Just a second, please. We've got to get you a microphone. Everything has to be recorded. We can't do it unless it's on microphone.

DR. LYNN: Thank you. The -- let me square this away.

The property line for Walden Oaks is this much area. All of this is Walden Oaks residents. And this area here would be is where Top Hat would come in. It's where King Richard's Park is now.

Now, all of the red lines that are going in directions like this are access areas where cars can come in from other roads. This one is where the produce market is and where G&L Homes will be.

This is going up -- this area is the Trade Center Way and J&C Boulevard. Over here, this is the -- this goes into the I guess Fountain -- the development that's the business development. This would be King Richard's -- Willow Creek, that's what it's called.

This is the entrance that is -- this is Willow Creek and then this would be the entrance into Top Hat. This is where Walden Oaks is.

This is where the Naples view would be coming in and out of the next development. And across the street is the Carlisle.

Now, there's a lot of traffic going in and out of here. And yesterday one of our residents went and took an actual traffic count of the traffic on Airport Road at what would be peak hours. One was at 12:30 noon, and one was at 4:55. The counts were taken from a car parked in the produce lot that's facing Airport Pulling, which is right over here. Okay, so what you're -- this lot. So that what you're counting is all the traffic that's just coming down here in the flow.

The traffic that was going northbound, which is in this direction along here, there were 203 cars that passed at noon just going northbound, and at 5:00 there were 253 cars that passed.

These were not cars that were coming out of the areas that are exit and egress areas here. They were just cars that were already on the road.

Now, at this point this is where we go into Walden Oaks. At this point there's a particular amount of congestion because in order to go south on Airport, cars have to do a U-turn. So right at this intersection the cars that are going south have to do a U-turn to go north and vice versa. So right in here we've got a lot of congestion already.

And people in Walden Oaks have a lot of trouble just getting out. So we're very concerned about the traffic. So I really think the traffic analysis needs to be reconsidered in terms of its impact on our community and how much traffic there already is.

Finally, on the test-driving problem, I really would like the Planning Commission to hear what kind of a problem we have. We have very few sidewalks. The blue lines on this map show a few of the sidewalks. We have blue -- where it says sidewalks along this area and they're around the lake over here. But most of the -- most people walk on the streets. When they go out in the morning they exercise walking on the streets.

The bus comes and drops -- a whole school bus full of children get dropped off right -- let's see if I can find the right location on the map here. It's at the clubhouse -- oh, over here. They get dropped off right at this point. And they have to walk to their homes and the rest of this whole development. And so -- and they're children of all ages. They're, you know, elementary school children. And we all worry about them. They park their bikes at the pool. And we cannot monitor people who might randomly come in and be test-driving around when we've got kids out in the street on their bikes, not -- the residents know to look out for these kids, but we're worried if anybody else is coming into the community what can happen with our children.

Finally, the only way that we really can keep out someone who might want to randomly test-drive would be to put up a gate and maintain it. We don't have a gate. We've always been pleased that we've got enough security with our one entrance and exit. And to put a gate up and maintain it is going to be a burden on the residents. So we want you to keep that in mind too.

So thank you. Those are the points that I wanted to raise.

CHAIRMAN STRAIN: Thank you. And I've just got a question. How much in error do you think that the trips, the 66 trips that they show in their report, how -- what magnitude of error do you think that possibly could have in the worst case scenario?

DR. LYNN: Rather than speak of a magnitude of error, let me tell you, I took graduate courses in statistics, and I would not accept those figures.

CHAIRMAN STRAIN: Well, what would you accept? And the reason I'm asking is because the current operation has 157 calculated trips operating normally. That's two and a half times more than this car dealership is suggesting that they're going to have. Even if they're off by 10 or 20 percent, they're not 250 percent off. And I don't think anybody would suspect that intuitively that they'd be 250 percent off.

So in either case or in any case the traffic for you is going to be less in all the circumstances that you point out here, the U-turns, the traffic on the road, because they're going to generate less trips. I don't know how you -- I don't mean you, I don't know how anybody could show that they're generating more trips based on that 250 percent differential. It just doesn't -- I don't see how it could be there.

DR. LYNN: What I wanted to point out about the numbers, the 203 at noon and the 253 cars at 5:00 was that with King Richard's even basically being nonoperative the roads are full. And that just by adding

more to it is not going to reduce the traffic.

I mean, I understand that you're saying there might be less traffic than what is planned or approved for King Richard's, but King Richard's has almost no traffic going in and out of it. We go by daily and see almost no cars parked there. They are in serious business problems.

CHAIRMAN STRAIN: Right. Which is why they're selling.

DR. LYNN: Right.

CHAIRMAN STRAIN: And I would suspect that anybody that moves in there to build is going to be more successful because first of all they're paying probably a good price for the property, and in doing so they're going to make it work. And so other uses are going to be pretty much closer maybe to their use in intensity.

That's why the less you can be away from the 157 number, the better. And this is two and a half times, I mean, less. So the traffic issue, I heard that Tuesday night from a lot of you, and I understand your concern. I can't see how we could be that far off in a traffic analysis. Even if -- because they're taken on a national basis, maybe there's some discrepancy there, 10 percent, 15 percent. But I really find the 250 percent to be a huge jump. And that's why in the overall picture on traffic I think they've proven they're going to have less traffic. And that -- I have a hard time overcoming that.

So I just wanted you know where I was coming from.

DR. LYNN: But in terms of your total Growth Management Plan for our area, you have to consider what's going to happen with Naples view and what's going to happen when G&L Homes puts their property in and how all of this is an accumulative effect.

CHAIRMAN STRAIN: Yeah, and they are all accumulatively in the system under what we call checkbook concurrency. Every time a new project is approved it is allocated against the road systems in which it affects. That allegation stays totaled up whether they use it or not. But it's always reserved for them.

That's why our roads in some parts of the county are put in earlier and bigger than what the public would think is necessary. But it's because of the grandfathered trips that are on the road from that checkbook concurrency program.

This is no different. Airport Road has a certain sustainability. Nothing will get approved on Airport Road that can't meet that sustainability before the road is improved, or within two years I think our code says.

This project is already allowed and been allocated in grandfathering for 157 trips. So anything up to that is going -- less than that's going to be an improvement, not a detriment to that road system.

Unfortunately we have to look at the way it realistically applies, not the way it may be operating because someone is not successful today. Next guy could be much more successful.

But I thank you for your input.

DR. LYNN: Thank you.

CHAIRMAN STRAIN: Next speaker, Ray?

MR. BELLOWS: Ron Cleminson.

CHAIRMAN STRAIN: Nancy, on that overhead, would you hold that for the court reporter till after the meeting? Thank you.

MR. CLEMINSON: Good morning, Chairman, Commissioners. I stand before -- my name is Ronald Cleminson.

I stand before you to discuss the issue, and also with a degree of humor to save my marriage.

COMMISSIONER BROUGHAM: That's not our job.

CHAIRMAN STRAIN: Wait a minute, we have a code for that.

MR. CLEMINSON: I believe it.

I'm a member of the master board of Walden Oaks, and have lived there since 1990. And I would like to paint a verbal picture for you, just briefly, if you'll bear with me.

Driving north from Pine Ridge Road, as you ride and you look at the dealerships and the businesses that are along that segment on both sides, and after crossing Pine Ridge you're aware of the changes that have occurred. The road consists mostly of residential communities and low density business parks. The west side

has most of the larger high density businesses.

At the intersection of Airport and Naples Boulevard, that's where the traffic does increase dramatically as there are three turning lanes that move onto Airport at that portion of the road.

I think if you did take a look at that, and I understand what you're saying concerning traffic patterns and formula that you would use to project what traffic would be, but if you were to stand there today, you'd find it difficult to believe because the traffic of course at this season is far greater than it is usually at other times of the year. This by all means seems to be more of a problem for us during season, which is certainly understandable.

Continuing north there we have the Lowe's and we have a Mazda dealerships, Hadinger Flooring on the west side of the road. Again the east side consists of residential communities until you reach the Temple Pulling property, a low-density seasonal business, which I understand GL Homes has a serious interest in purchasing to construct, yes, another residential community.

Next comes Willow Park property, a low-density office park. The west side of Airport at this point has two residential developments also.

It is at this point one reaches the King Richard property. Like Walden Oaks it was developed in the 1980's. The park gets very little traffic during the week, especially during the summer, as you have brought out.

Adjacent to this property you will find Walden Oaks. It boasts 320 residents, mostly have been there since 1988. The landscaping and the lakes, bird sanctuaries, et cetera, all add to the amenities.

And there's a great deal that has been brought out about use of the pool and that, which is available. Also, 65 to 70 percent of the residents are full-time residents.

Continuing north on the east side of the road we have Naples View, a new proposed residential community.

And then on the corner of Airport Pulling and Orange Blossom, a nursery at the moment. Understand that this, if it were to be developed it would consist of what you refer to as mixed use, which again with residents is a different type of setting.

As you move further north on Airport you'll find St. Catherine's Greek Orthodox Church, Lakeside, the Ritz-Carlton Tiburon and other residential communities on both the east and the west side of the road. Not business comparable to that which has been proposed.

Also, most of the high density businesses are located in clusters at the intersections of most of the major roads that cross Airport Pulling: Pine Ridge, Vanderbilt, Immokalee. Not within one of the blocks, so to speak.

And having a single narrow exit, which has been brought up by the illustration, over a canal the Airport Pulling Road presents another problem, in my judgment. Most would agree the entry could become very congested and certainly it needs to be seriously considered by this Commission.

To conclude, we do not have a high density business on the east side of Airport comparable to the proposed automobile dealership. Given the fact that we've been in the neighborhood far longer than most residents, we're well aware that we have not had to deal with the anticipated noise, lighting and traffic issues which have been discussed.

We have read of the permitted uses for C-4 zoning and there are many that would be far more acceptable. Within the general commercial district C-4 under permitted uses states: Automotive, vehicle and equipment dealers. As you refer to, 5511 and 5599, for new vehicle use.

The dealership, I guess through managing this, has chosen to move the used cars to what they refer to as accessory use. And as you brought up at the last meeting, that could be up to 49 percent, it's my understanding, where used cars could be a major part of the business. And it stands to reason it could be.

Motor vehicle dealers new and used really should be 5511, 5521, it falls heavy under commercial district C-5, in my judgment.

If this zoning change is approved we lose our privacy and peaceful hours that are approved (sic) of the noise, et cetera, as has been brought out.

I note that the 35-foot height of the building -- however I believe they have requested 47, and I may be confused there. It appears that it's going to be like 325 feet from our pool.

And Commissioner, you brought up a point, sir, that sales on Sunday, if you take a look at the hours, seven days a week, 13 hours Monday through Friday for sales, 11 hours Monday through Friday, service, 10 hours Sunday with both sales and service. I think you made a very good point.

During the last Planning Commission meeting Mr. Anderson made the comment, and we've heard it before, the county needs to be business friendly. It's almost to some degree as it's boy, you better be. I agree. But not at the expense of the quality of life in our neighborhoods. We also need to focus on being neighborhood friendly.

Realistically, if approved it will have a direct and major effect on the quality of life in our community, as well as our real estate values. I strongly urge you to reconsider your decision and vote against the rezoning effort.

I thank you, and again, for household peace, I would like to go on record and thank my wife for her persistence sometimes.

CHAIRMAN STRAIN: Thank you, sir.

Ray, next speaker?

MR. BELLOWS: Anna Multari.

MS. MULTARI: Thank you for listening.

My name is Anna Multari. I've lived in Walden Oaks for 15 years and I just want to reiterate that I don't like the car dealership going in. And I just have one opinion. I think that north of J&C Boulevard there should be no car dealerships. There are more than enough car dealerships on Airport Road south of J&C Boulevard.

And I have just one question which I haven't heard. I know when you have cars you need gasoline. No one mentioned the gasoline tank to be put on the property in order to put gas in the cars. Can anyone answer that question?

CHAIRMAN STRAIN: We're not the applicant. Maybe the applicant will address it during the rebuttal.

MS. MULTARI: Okay, thank you.

CHAIRMAN STRAIN: Thank you.

Ray, next speaker?

MR. BELLOWS: Ken Paa?

MR. PAA: We have -- there's three of us.

MR. BELLOWS: Yeah.

MR. PAA: Well, first of all --

CHAIRMAN STRAIN: You've got to use the -- you've got to get near the mic. Everything you say has to be on record, so --

MR. PAA: First of all, David Pezzullo's going to start us off, and that will be followed by myself and then Paul Bideau.

CHAIRMAN STRAIN: So you guys are like a trio.

MR. PAA: We're a team.

MR. PEZZULLO: Thank you very much. Good morning, I am David Pezzullo, one of the several residents of Walden Oaks who our HOA Board has appointed to a commission to address this application by Top Hat Auto for a new use on the Princess Park property.

Let me begin by giving a very brief snapshot of what many of our residents feel regarding this application. You've heard some today, you heard some the other days as well.

On Tuesday, as has already been referred to, Tuesday evening, February 5th our HOA Board met with well over 100 of Walden Oaks residents to discuss this application, report progress on negotiations between Top Hat reps and ourselves and get input on what residents recommended going forward.

Mr. Strain was kind enough to be a key resource in that meeting where we tried to separate fact from

the strong emotion sparked in so many residents by this application.

So today I want to briefly begin with the emotion, because I think we can't go anywhere if we don't get by it.

Many of our residents are coming to grips with the fact that we share a border on two sides with a property grandfathered in by the GMP as C-4, that for a new use, in this case a car dealership, only has to prove equal or less activity.

To make matters worse, the criteria established to determine equal or less activity is weighed heavily towards traffic impact and water use. This largely minimizes our central concerns as residents.

Residents feel betrayed, not by this Commission that has been exceedingly helpful, or Mr. Zeller who by all accounts is a fine corporate citizen and whose team has been very professional, competent and respectful. We feel betrayed by this anomaly within the Growth Management Plan that sets a standard for a new use for property grandfathered in that does not serve balanced development of the county and very specifically victimizes us. It throws us under the bus, as one of the commissioners has already alluded to. Not with those words, but --

I speak for nearly all residents of Walden Oaks in saying this new use clause is a disaster. The key standard of equal or less use is a fig leaf and a time bomb. We are not insisting that the March of time or the much awaited economic recovery stop at our command. We want to draw attention to this very -- this new use clause in the GMP that would place a car dealership or worse in our front yards.

Many residents are asking why is a dealership coming here surrounded on all sides by residential and light commercial? It may be admissible based strictly on the GMP, but it makes little sense as optimum use for a district with some of the best public schools in the state.

Though there are no C-4 properties nearby that would allow for clustering of dealerships in this area, it is nearly impossible to see how a Hyundai dealership bordering our residential community on two sides will help to sustain development of the North Airport Road corridor.

There are many examples in this state of spotty urban development that undermines communities. Collier County has largely been an exception to this self-defeating trend, partly due to the work of planning commissions like this.

But in this case, by no fault of anyone here, it is failing miserably and we as a community of over 400 residents feel betrayed.

King Richard predated us so we had no choice but to accept it and make the best of it. But it is simply madness that an oddity in a GMP would place a car wash with loud blowers within about 300 feet of our community pool.

We say this to highlight how far we as a community have to travel to accept the facts of this application, swallow this bitter pill of new use and do what we can within the given framework to best defend our interests and try to reach an agreement that would be beneficial to all parties involved.

The Walden Oaks commission, in keeping with what this Planning Commission recommended, has met with Top Hat reps twice since January 17th. We have had frank and friendly discussions. We presented to Top Hat this community's concerns regarding noise pollution, lighting intensity, storage of waste chemicals, including the gas tanks, which I can clarify there will be no gasoline tanks on property, thankfully. Possible test driving in the neighborhood, delivery routes and hours, traffic generated.

We brought up signage, air tool and compressor noise, wall heights and materials, types of foliage and buffers, intensities and shielding of both display and security lighting. We have reviewed their site plans in detail clarifying distances, door location, tree buffers, lumens, building heights and distance of dealership activities from homes on Tanner Lane and our community pool.

What emerges as the key sticking point, and you have alluded to, Chairman, is the car wash, with its loud air blowers that would stand about 300 feet from our key community asset, the pool.

Mr. Strain, in the January 17th hearing, had Top Hat commit to placing the air blowers on the west side of the car wash, away from us. We have since discussed moving the car wash to the far side of the property and/or enclosing it to minimize noise, or even flipping the property.

Top Hat reps have been willing to consider our concerns and have agreed to a number of key points in principle. We would need then to find a definitive solution to the problem of the car wash, the car wash noise in particular, that as presently designed would pollute our pool area.

The intensity of lighting in the front of the property emerged as another important consideration, as Chairman Strain has said. Again, we are sure that either using timers or low intensive lighting we can reach an agreement we all can live with.

My neighbors on the Walden Oaks commission will in a moment go into the detail of what we find as minimal conditions.

But here I want to make an appeal to Mr. Zeller and his team. You have a well deserved reputation as a good neighbor and a businessman who thinks beyond mere tactics to wider community purposes and long-term return.

Please define this potential agreement as quickly and completely as you can so that our community can move on to broader cooperation.

It is in your power to set the tone for how this goes forward. Please be bold so that we as a community can make lemonade out of the GMP lemons and avoid an explosion of differences and anger that would likely benefit no one and certainly complicate this application.

Take the sting out of this community's sense of betrayal. Please agree to build a dealership adopted to these odd circumstances that we would not hear, see or smell from our community. Please consider building the most residential friendly dealership feasible so that we can all make the best of this. Thank you.

CHAIRMAN STRAIN: David, thank you. And I heard some of this the other night, and especially the concerns that I tried to articulate item by item as I talked to the applicant before you all spoke.

The car wash I think is a concern. The biggest concern I understood from the meeting -- they're all concerns, the car washing to be strong.

MR. PEZZULLO: Correct.

CHAIRMAN STRAIN: And while there could -- I mean, they could move it but I think that would be problematic for their connection to the building they have to be connected to. Maybe they could enclose it. I'm -- during the rebuttal -- we're going to take a break after the last public speaker, and I hope that the applicant and his team can talk. And then during their rebuttal period, I'm hoping that maybe after listening to your concerns and maybe answering some questions that I may have, that they can come back with something that is more palatable involving that car wash.

If the car wash issue is resolved in some manner that you guys can -- I shouldn't say live with, but maybe not object so much to, is that reasonable to -- is that a reasonable outcome to assume?

UNIDENTIFIED MEMBERS OF THE AUDIENCE: No, no.

CHAIRMAN STRAIN: I'm asking this gentleman, please.

MR. PEZZULLO: Clearly I cannot speak for all residents.

CHAIRMAN STRAIN: I understand. But you're the only one on the mic, so I've got to ask that. Just you and me speaking right now.

MR. PEZZULLO: Very good.

This is going to take us a while to digest. But I think the trend is towards recognizing that this is a reality and trying to make the best of it. If -- many people have talked about the standard of no smell, sound or sight. It would stand to reason if that was reached many residents would resign themselves to the fact that despite the fact that the Growth Management Plan has this odd discrepancy that places this dealership or some semi industrial use very close to us, we would try to make the best of what it was.

So I would say clearly we would have to consider very seriously trying to come to grips with that and trying to reach an accommodation on that behalf.

Okay, we realize that confrontation won't necessarily serve our interest, either in this case or cases going down the line.

CHAIRMAN STRAIN: Okay. And the reason I asked the question is I'm trying to understand what could be done so that if there's a dealership there, you really don't know it's there. I understand your three

principals. I also understand that there's some extensive setbacks from the residential. But then the pool area is a whole nother question. So I'm trying to get that all into perspective before the end of today's meeting on this issue. So thank you.

MR. PEZZULLO: But I would just reiterate, I think you are correct in focusing primarily on noise from the pool. That is the major striking point.

CHAIRMAN STRAIN: And I think that's something that has become a reality that maybe I didn't see in the beginning, because when everybody says they're going to have a 500-foot setback, holy cow, that's a width of two Airport Roads. That's quite a long distance. Of course now I understand how you use your pool and it has helped to understand -- to frame the whole issue. Thank you very much.

Now Phil?

No, Ma'am, you have to sit down. Ma'am, you have to sit down, please. We've all had time to speak and there will be more residents able to speak. We can't have people shouting out from the audience.

Phil?

COMMISSIONER BROUGHAM: Just to pick up on a point you alluded to regarding the car wash. During the break -- we have more residents to speak, but during the break or when you have rebuttal, I for one would like to hear your thoughts specifically regarding the car wash issue and what your recommendations may or may not be.

CHAIRMAN STRAIN: Thank you.

David, appreciate it.

Next speaker, Ray? One of the trio, I guess? One more of the trio?

MR. PAA: Good morning, Mr. Chairman and fellow Commissioners. My name is Ken Paa, and I'm the vice president of Walden Oaks, the homeowners association.

Since our last meeting of January 17th, there are a number of issues that were discussed by our committee and the applicant that were accepted by the applicant and incorporated into the PUD. There are other issues that were discussed that need to be accepted by the applicant.

Keeping in mind the three-story residential area to the east of the property, of our property, and -- their property, excuse me, and the pool and recreation area to the north, both of which are the main areas of concern in which our residents need to be protected as much as possible. We do not want to see, hear or smell the areas of the dealership.

As far as the car wash, we originally asked for the car wash to be relocated to the south end of the property and possibly incorporated into the design of the future sales and service building or as a standalone within that same area. The applicant responded that it was cost prohibitive.

We then discussed options of deflecting the sound from the car wash dryer/blowers but concluded that the better option would be to enclose the building at the current location in which the entire wash and dry cycles would be totally enclosed within an -- with automatic overhead entrance and exit doors.

We have not received the commitment as far as that is concerned.

Ideally we would like to see the car wash located on the south side of the property and we do not want to hear any part of the operation of the car wash. This car wash must be constructed to totally eliminate any possible noise.

Sales and service test drives. The applicant has agreed to provide language into the PUD about no sales or service of vehicle test drives within Walden Oaks.

We asked how the applicant was going to convey this requirement to their employees. We received no acceptable response. Fully knowing that this type of ordinance, which would be posted on our property, would be hard to enforce either by our residents or the Sheriff's Office and to ensure that the potential for this type of increased traffic within our community and for the safety of our children that have to walk on the shoulder of the roadway because there are very little sidewalks, we asked the applicant to provide an entrance and exit gate into our community at a location acceptable to the master board.

And now Paul Boileau will be next.

CHAIRMAN STRAIN: Thank you. And next speaker, please.

MR. BOILEAU: Good morning, Commissioners, I'm Paul Boileau, a resident of Walden Oaks. For the record, I know this is going to be on TV eventually and --

COMMISSIONER BROUGHAM: It's live now.

CHAIRMAN STRAIN: It's live.

MR. BOILEAU: Oh, it's live?

CHAIRMAN STRAIN: And you didn't hit me the other night with your arm is what you're going to tell us, right?

MR. BOILEAU: All I'm going to say is I've got to take this off, okay, and I hope my doctor's not watching. So I can do some pointing. So please bear with me. Can you?

CHAIRMAN STRAIN: That looks sore, so we certainly empathize with you.

MR. BOILEAU: Yeah. Well, I just don't want to bend my fingers too much, otherwise it will just open the incision.

Okay, before I get started on my part here, I just want to make a comment on the traffic. Of course the traffic study is kind of based on if King Richard's was doing real well right now, correct?

CHAIRMAN STRAIN: Well, was doing normal.

MR. BOILEAU: Right, doing normal. Of course we all know they're not, that's one reason they're selling.

But now if they were, we would definitely have a traffic problem, wouldn't we? There would be a lot of cars out there. So I think that's got to be taken in real good consideration.

Okay, we're going to talk to the lighting. The thing on the lighting, we'd like to know if there's going to be a display lighting on the south side of the property where the vehicle parking spaces are identified. And if so, why does it have to be a display lighting. We're talking in this area right here. Maybe Tim, you could just address it real quick?

CHAIRMAN STRAIN: You don't need to use that -- don't talk unless you go back to the speaker. I'm sorry this is like that, but we're -- and he'll address that during rebuttal, okay?

MR. BOILEAU: Okay. That's the one question there, okay.

We requested all lighting fixtures point directly downward with shielding away from any part of our property on the north and east sides. Further shielding so as not to emit glare onto Airport Pulling.

Display lighting: We ask that every other fixture be on a circuit timer to reduce the illumination from 10:00 p.m. each night.

The security lighting: We ask that the illumination of each light fixture be one-half of the illumination of the display lighting.

Suggestions: We would be acceptable to the illumination of both the display and the security lighting to be as equal to the lighting at Naples Dodge.

The applicant may consider the next generation of lighting such as the cost effective LED lights or other types of lights to obtain this illumination.

Last night I did go out and take some pictures of the lighting that they're talking at the Nissan dealership that they're going to be using, and I also took some pictures of the Naples Dodge so we get a little comparison. And at that time I would like to display it.

CHAIRMAN STRAIN: Okay. We'll need a copy of that for the record, okay?

MR. BOILEAU: Okay. On the -- as we look at it from here on the left side is the Naples Dodge. This lighting has been there ever since they've been there, before I got here. So it had to be before 2002. Very adequate. They're a very successful business.

The one on the right is the Nissan at the Pine Ridge. You can see how very, very bright -- the illumination of that is very, very bright. No matter where you look, that's what you see.

So there is -- there is two big differences right there. I mean, there's no comparison. Because we're looking -- we would like to have the, if it was to go, with the Naples Dodge lighting.

CHAIRMAN STRAIN: Okay.

MR. BOILEAU: I got one other thing that we did not talk about at our past two meetings is don't

know if they're going to have an open oil and lube area. I presume that they are. Looking at the Nissan dealership, the doors are open at all times while the vehicles are being serviced. And also outside they're running vacuum cleaners to clean the car out.

So I don't know if you people are familiar with what they have over at Nissan dealership, but we'll just give you a picture of what they have over there.

What we're looking at here again, it's the Nissan dealership on Pine Ridge. The lower left is the entrance to a three bay. As you can see, the doors are open. And the upper right is the exit coming out.

And it's kind of hard to see, but they do have vacuum cleaners outside, so you can see that these doors are open all the time while they're working.

What we're asking for, if this is the case that they're going to have oil lube, we would like to see these doors closed while the vehicles are being worked on.

Now, about the wall. Due to the fact that we have an obligation to protect our residents and provide them as much privacy as possible, we requested that the proposed wall be eight feet instead of six feet from the end of the fence at the office park to the end of the property on the southeast corner.

I believe they had mentioned it was six feet. We would like to go to the eight feet.

Okay, I guess that's all we got now.

CHAIRMAN STRAIN: Thank you.

Ray, are there any other speakers?

MR. BELLOWS: No other speakers.

CHAIRMAN STRAIN: Is there anybody who wishes to speak who has not already spoken?

(No response.)

CHAIRMAN STRAIN: Okay, with that we'll take a 15-minute break and come back at 2:45 (sic) for the applicant's rebuttal.

COMMISSIONER HOMIAK: 2:45?

CHAIRMAN STRAIN: 10:45. Whoa.

COMMISSIONER VONIER: Mr. Chairman?

CHAIRMAN STRAIN: I'm sorry, hold just a minute everyone.

Sir?

COMMISSIONER VONIER: It's me.

CHAIRMAN STRAIN: Oh, Bill.

COMMISSIONER VONIER: We have put a lot of stuff on Tim's plate to do in 15 minutes. Are we going to be able to -- is he going to be able to do all this in 15 minutes?

CHAIRMAN STRAIN: He's quick on his feet. So we'll be back at 10:45.

(Recess.)

CHAIRMAN STRAIN: Okay, everyone. I was trying to delay a minute or two because some of the residents wanted to talk to the applicant during the break, and they may still be doing that. I'm hoping that that is being helpful.

So I don't see the applicant here so I guess they are still talking to the residents. I hate to do this to you all, but we're going to just pause here for a minute or two until -- ah, here's Tim. Good.

MR. HANCOCK: I ran out of horses so I came back in the room. Traded everything I've got.

Commissioners, I'm going to do my best to address each of the issues that have been put forward that are land use issues, and in the hopes to put something forward that we find will meet the agreement or at least the lack of objection from a majority of the homeowners. We've done a lot in that regard, standing here today. And I appreciate the consideration by several members of the community of that effort.

Let me go down some line items here and see if we can just tick them off as best we can based on what the speakers brought forward.

What is being proposed -- let me first say that this site plan was not put together without a degree of forethought. An automotive dealership has a customer's side of the operation and a non-customer side of the operation.

If you look at the site plan where you drive in for sales or service, there's a greeting area and there's a service canopy. So sales is this way and service is this way. You're not encouraged to drive into the back of the lot and wander around or drive around the building and go into areas where, you know, there are other functions going on. And so there's a separation, and that is for safety as much as anything.

And so when you talk about location of why you can't just put the carwash from here to there or move a bay from here to there, it's not just an obstinate position. It is industry standards based on insurance ratings and safety on how the site operates.

And so I just want to mention that, because the building design, it's not as fluid as maybe everyone would like. And so that's one of our constraints that I'm sure carries little appreciation to those who have other concerns, but nonetheless is one we have to deal with.

We're talking about a change in use. Not a use use, a change in use. We're talking about gas powered go carts on an open track versus a modern ventilated enclosed service area. I think that's an important recognition. Modern, enclosed, ventilated.

Traffic. The traffic report -- and I know consultants get accused all the time of using the numbers you like best. But I thought it was interesting that traffic became a focus here today. And two of the speakers, actually one of them cited what they considered to be a low intensity use at Willow Park.

And this is where perception gets in the way of reality. Willow Park is approximately the same size as our project. We have 11 acres. It could easily accommodate approximately 100,000 square feet of office. And if you look at Willow Park, they're in that 80 to 90 range, George? 90,000 square feet of office.

To give you an idea, 100,000 square feet of office would have 346 p.m. peak hour trips. We have 169 or 79, maximum.

CHAIRMAN STRAIN: 66 peak hours, I think.

MR. HANCOCK: 66.

CHAIRMAN STRAIN: Yeah.

MR. HANCOCK: So when we talk about traffic intensity, why can't you be low intensity like Willow Park? Yet in fact Willow Park is more than double the traffic intensity of what we're proposing. That's reality, that's not perception.

The perception is that this is an automotive dealership and therefore it's more intense and it's going to be bad in every way possible.

When you look at the uses that could come in under C-4, retail, straight retail and office all have far higher trip generation rates.

One of the reasons this dealership has such a low rate is because there's a high degree of the site being used for static purposes: Storage of vehicles, pending sales. There's a lot of the site that is not really in direct square footage use.

So I want to be very clear that on the traffic standpoint, if you go through the list of C-4 uses, you'd be hard-pressed to find one that per acre generates equal to or less trips than what's being proposed.

Again, that is backed up by the TIS provided and by factual information.

The gas tank on the property, Mr. Pezzullo, that's one of the things they asked very early on. There will be no gas tanks on the property. We don't fuel cars at the dealerships anymore. That's an old school concept and just isn't used anymore. So that's not a problem. And if that needed to be a commitment, that's not an issue.

One of the concepts that we're dealing with here is our Growth Management Plan does direct new uses where impacts already exist. That's one of the reasons this site was chosen. If we go to another site, we're talking about putting impacts where they don't currently exist. This is actually from a planning standpoint a sound theory. If you have an existing heavy use, replacing it with a similar less intensive versus shooting it down the road and making somebody else deal with those problems is a sound planning principle and one that I think avoids urban sprawl and kicking development out in places it doesn't belong.

So I ask you to consider that as you look at things.

Car wash. Big issue. Actually, if you could bear with me, let me grab some verbiage that I have that

I'm going to put on the visualizer that I hope will address some of the carwash issues.

After our meeting with the residents on January 31st, I created this language to vet within our team to talk about what is and isn't acceptable. Let me read the language to you. It states: At each end of the carwash we'll have bay doors that will remain closed during the entire wash cycle, including drying of vehicles. The doors will open only for entry and exiting of the vehicles.

This is what we had discussed with the neighbors about doing. We didn't -- you know, again, they've been working on their time frame also, and we haven't heard back that yes, that's what we'd like or -- you know. So standing here today, we're comfortable agreeing to that language, which will do something that's not been done anywhere else in Collier County, and that's put doors on a carwash.

COMMISSIONER BROUGHAM: Mark, question on that, just for clarification?

CHAIRMAN STRAIN: Yes.

COMMISSIONER BROUGHAM: The doors will open only for entry and exiting of vehicles.

Would that shut down the equipment inside when the doors open?

MR. HANCOCK: Yes. The two end up being linked.

COMMISSIONER BROUGHAM: Okay. Thank you.

MR. HANCOCK: And we've actually discussed with the manufacturer of the doors, and candidly this is not an inexpensive option. You know, you're talking about 40 to \$50,000 to enclose and have the automated systems that make sure they do exactly what you're suggesting. So it's not inexpensive at all. It's something that Mr. Zellers -- you know, we talk about being a good neighbor, he operated his dealership backing up to the residents of Park Shore for years, and there were not a list of complaints.

So this is his effort to say if we enclose the carwash, again, something that's not done in any gas station next to residential areas anywhere in this community, we're going to try and do everything we can to make sure you don't see, hear or smell. And we think that's a significant step. So we would certainly agree to including that language.

Lighting. One of their questions, I believe it was Paul, was talking about asking that the lighting be reduced to 50 percent of the lumens in the security area versus the 25 percent we proposed. We think that is certainly doable.

The -- citing the -- the Naples Dodge site has got some issues attached with it. Number one, that's a 20-year old site with 20-year-old lights. Those are high-pressure sodium lights. They are not energy efficient or even close to it. And candidly -- car dealerships are a little bit different. When you have a bank and they close after hours, people don't walk in the parking lot of the bank to look around. They do at car dealerships. And unless you bar them and you put up a moat -- and we have a moat, mind you -- but there are a lot of people that are uncomfortable, you know, with going, so they'll go at night and they'll peak in the windows and they'll look at prices and they'll get an idea of what they're doing. You can't keep them off the site. We can put fences up to keep them off the rear, but it's normal; we all do it. Well, at least I do.

So we're going to have people walking onto the site at night. We have to have enough lighting to make sure that it's safe and secure.

What we can do, however, is there's a limitation. I don't think we need to accommodate people who want to look at cars at 2:00 in the morning. That's probably a little excessive.

So I think we can do two things with lighting that will help: Number one, we've already addressed shielding and buffering. And there is a standard at the property line adjacent to residential that I think is something that we can design in. And that is to limit any spill of light onto residentially zoned property at the property line to .5-foot candles or less.

To give you an idea of what that standard means, arterial level street lighting, you know when they build a new neighborhood and you have to come and put the big lamps in where the entrance drive hits the arterial roadway? Those are designed at 1.5-foot candles. So this is one-third of that entryway lighting that is kind of that typical government look. It's not overly bright. So when you talk about .5-foot candles, that's a fairly low number. So we're comfortable with that.

The second thing the residents asked is the cycling of the lights up front. And I think that we are

comfortable indicating that after 11:00 p.m. the display lighting will be reduced to the same intensity as the security lighting. That 50 percent standard we talked about, at 11:00 p.m. certain fixtures will shut off to have the same intensity as security lighting after 11:00. We don't need to light this thing up, you know, all night. It's not reasonable to expect someone to walk onto the lot at midnight. So I think we can do that without running afoul of safety and security concerns. So we hope that that also will be recognized and accepted.

A question about the open oil and lube bays. We actually oriented them to the south. And it's in the PUD that they're only open to the south. The pictures Paul showed of Naples Nissan are drive-thru bays. When you pull in to service you can pull straight in from one side and right out the other.

These are limited to being open only to the south so any noises they may emanate would be directed toward the Willow Park property, not toward the property to the north or to the east. So we think that has been addressed.

Landscaping. What we provided the community -- and Mr. Paa just made a request of us that I'm not -- I'm not sure we know how to handle. But what we provided was a list of -- and just to give you an example, we provided five trees that are all canopy style trees like what you see here. This is a pigeon plum, and I can list all of them for you.

The reason we picked those five is that number one, we think they are closer to what the residents are looking for. They're looking for trees that over time will fill in well as opposed to remain thin and not provide much protection.

The problem we have is on the Walden Oaks side there's a 31-foot FPL easement. FPL has their own regulations about what we can and can't do. So trees that may mature beyond a certain height, like oaks, for example, either end up getting chopped off or FPL would prefer not to see them at all.

So what we were looking for is within the county code which of those trees would be compatible with the FPL easement but still have a suitable crown. And the five that we came up with are Pigeon Plum, the Geiger Tree, the East Palatka Holly, the Dahoon Holly, and then we threw two oaks in, the Laurel Oak and the Live Oak. They've not our preferences, but we told -- we put them out there as consideration. From a root standpoint and a mess standpoint, those last two I would like to see avoid.

But what we did is we kind of took the county, we got rid of the ones -- the county requirements and allowances, and we got rid of the ones that weren't really canopy trees, per se, and then we culled out the ones that made great conflict with FPL, and that's how we came up with this list, and we provide those pictures to the residents.

If they want something that FPL would agree to and is on the county list and is not on this list, we're open to that. I just don't know how to craft that in a motion, sir, other than to say these are the ones we've offered up. How we go forward -- because we would just ask if they could have their arborist pick the trees. And I can't put that in a PUD.

CHAIRMAN STRAIN: Well, there's -- depending on where the vote goes, there's a way to do that. I'll assist in that when we get to it.

MR. HANCOCK: Okay.

Access to Lone Oak. Someone made the comment that we had no idea how we would control it. And actually, I remember that meeting very well. I remember Mr. Vuko (phonetic) saying, well, if we have a service employee that violates that, they're probably going to lose their job. Again, not something you can put into a PUD.

The reality is that once it goes into the zoning document, it's enforced by Collier County Code Enforcement. We've seen this time and time again where someone takes a picture and calls code enforcement and says they're doing it, it's not in their PUD. Next thing you know, you're in front of Code Enforcement and you're looking at fines based on zoning.

That's the power of putting this in the PUD. If we just said, ah, we won't do it, it's not a practice, there's no teeth. But Collier County Code Enforcement is able to enforce the zoning violations.

On top of that, it is normal course and practice that an employee always goes along on any type of a

test drive. You don't give the keys to a person who walks on the lot who says I'd like to drive that one and say have a nice day. An employee of the dealership is a part of that process.

So we think by putting it in the PUD we've gone to the greatest extent that we can legally and we've allowed for an enforcement opportunity. And I don't see any other way to really tackle that one.

The other request you made, Commissioner Strain, about specifying vehicle loading and unloading, we can -- I think it would be good to do it in two areas on the back of the plan, if you will, kind of like an L.

CHAIRMAN STRAIN: Could you show them on a graphic so we got an idea where you're talking about as a visual. That will help.

MR. HANCOCK: There's the potential to have two carriers unloading at the same time. We hope that that's the case. And those are the two areas that to me would put it furthest from the pool area. We can't obviously have both of them unloading immediately south of the existing building, but those are the two areas that operationally would make the most sense.

I did not draw those in front of my client, so I'm looking back to determine if I'm ballpark. Apparently I'm getting at least a B minus in auto dealership operations.

And so those are the areas we had proposed. We can be flexible on that.

CHAIRMAN STRAIN: Phil?

COMMISSIONER BROUGHAM: A question on that that I don't recall being discussed.

What are the typical delivery hours, if you will, loading/unloading hours for automobiles at a dealership?

MR. HANCOCK: During operation hours, because the vehicles have to be accepted and signed in.

COMMISSIONER BROUGHAM: Operational hours being?

MR. HANCOCK: The ones in the PUD. As early as 7:00 a.m.

COMMISSIONER BROUGHAM: Monday through Friday. 7:00 to 6:00 Monday through Friday and then until 5:00 p.m. on Saturday and Sunday?

MR. HANCOCK: Yes, sir.

COMMISSIONER BROUGHAM: Okay.

MR. HANCOCK: And no vehicle -- they just don't deliver on Sunday, truck drivers don't, so --

COMMISSIONER BROUGHAM: Could we -- would you consider restricting loading/unloading to 6:00 p.m. Monday through Friday? 7:00 a.m. to 6:00 p.m.? What I'm trying to avoid, Mr. Hancock, is that kind of activity during the evening hours, the dinner hours, that type of thing.

MR. HANCOCK: One of the things that I think is the balance to that, sir, and again, not trying to be difficult, if they show up at 10 minutes before --

COMMISSIONER BROUGHAM: Yeah, I understand.

MR. HANCOCK: -- and they're there but they're still unloading, the fact that this activity is occurring several hundred feet from the nearest residential, whereas in a standard commercial operation you've got dumpsters on the back line or the side, you know, I think we're already addressing it substantially with distance and buffering. So I'm reluctant to create a zoning issue --

COMMISSIONER BROUGHAM: That's okay.

MR. HANCOCK: So I'm sorry.

COMMISSIONER BROUGHAM: Just asked the question.

MR. HANCOCK: Yes, sir.

It's really tough when you can't even read your own writing, but -- okay. Bruce? I think we've addressed on the issues that we feel comfortable that we can reach out and add some specificity to the document in order to address site, noise and impacts.

And again, we're open to -- and I'm sure there will be some discussion but, you know, that's where we sit and what we feel comfortable we can put forward at this time.

CHAIRMAN STRAIN: Thank you, Tim.

Diane?

COMMISSIONER EBERT: They discussed the wall. Would you be willing to go two feet higher

with an eight-foot wall?

MR. HANCOCK: There is a part of the site where that may have some positive impact. I'm hesitant to spend money on adding two feet to a wall that's 500 feet away.

CHAIRMAN STRAIN: Tim, I had focused on that same point. And I'm -- as a suggestion before you go too far, if you start the wall at where the 15-foot width stops along the north property line and you go 100 feet past the wash and detail, that would limit the wall to the area most needed as far as a barrier goes for the pool area. Because you're well past the wash and detail then and you're well before it. So it would give you a full -- then it's just two feet over the short distance.

MR. HANCOCK: We're reading from the same card. That was going to be where I was heading with that. Thank you for shortening my conversation.

CHAIRMAN STRAIN: Okay. Anything else, Diane?

COMMISSIONER EBERT: No.

CHAIRMAN STRAIN: Phil?

COMMISSIONER BROUGHAM: I'd just like to suggest that we be specific with respect to your commitment on the car wash with the doors. And I would suggest that we add to the end of your sentence, "and equipment will not operate while doors are open." At least that puts it right in there and there's no wiggle room.

MR. HANCOCK: We're happy not to wiggle.

CHAIRMAN STRAIN: Anybody else?

COMMISSIONER BROUGHAM: I have one more then.

CHAIRMAN STRAIN: Go ahead, sir.

COMMISSIONER BROUGHAM: I'd just like a final opinion or decision from you folks as regards to Sunday service hours. That still bothers me somewhat. I understand your point.

MR. HANCOCK: The short answer is it puts us at a disadvantage compared to every other like business in the county. And unlike new zoning that doesn't exist there today, we're shortening the hours of operation over what can exist with outdoor go-carts.

So we're being more compatible. And candidly, I think there comes a point where we want businesses to be successful and we can hamstring them too much. And that's my hesitation, sir. It's not a desire to not work with the residents, but I'm afraid from a business standpoint that's a commitment that would hurt the business operation.

COMMISSIONER BROUGHAM: And your point there, just so that I understand, is that you feel that's necessary in case business demands it and you can't satisfy the service needs during the six days.

MR. HANCOCK: Yes, sir. And it's also a function of -- and that's the reason why the hours of operation are actually a little earlier and a little later than what we'd --

COMMISSIONER BROUGHAM: The one shift versus the two-shift restriction and so forth.

MR. HANCOCK: I think the give was to give up the potential second shift in service during the week so people could have their evening hours as quiet time versus -- you know. So I think we've given to the degree that we can from an operational standpoint with hours.

COMMISSIONER BROUGHAM: That's all, Mark.

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

(No response.)

CHAIRMAN STRAIN: Tim, I'm going to read a list of notes I made so that when we get into our discussion at least you can tell me if they're acceptable or not to you so we can weigh that in our discussion.

The first one is -- and unfortunately I didn't cluster them together in like issues because I wrote them down as we talked.

The lighting will be a directional type lighting, shielded and pointed downward. And the limit on the spill of light over any of the property lines be limited to .5-foot candles or less. Is that --

MR. HANCOCK: To residential .5-foot candles or less, yes, sir.

CHAIRMAN STRAIN: To residential property lines.

MR. HANCOCK: Yes, sir.

CHAIRMAN STRAIN: You are going to enclose the carwash, as you provided in the addendum you sent to us -- you provided to us, with the additional language that Phil suggested, which you volunteered, that the equipment will not operate while the doors are open.

MR. HANCOCK: Yes, sir.

CHAIRMAN STRAIN: We have a new addenda sheet that you passed out talking about the couple different items, and that will be accepted as part of the project, the stuff you read into the recorder earlier.

You're going to remove the reference to the loading area shown on this plan, and you're going to note the two locations or the general locations of the loading area that you showed us graphically on the overhead a little while ago. And those you will note on the plan as loading areas.

And you may want to start with the one to the east and wrap the hatching all the way around to the one to the north -- or to the west so that you have that whole area there so that anywhere a truck stops in there you're kind of covered, yes.

MR. HANCOCK: Yes, sir.

CHAIRMAN STRAIN: The detail that you've shown us for the wall vegetation will become part of record. Well, it's always part of record, I mean part of the PUD.

There's going to be more on that in just a minute.

The use. You're going to use a selected grouping of trees along that wall. Bald Cypress and Sable Palm will not be used.

You listed five or six trees that you were proposing. And obviously I understand you can't come to a conclusion on that today, but the stipulation would be that it would be resolved by the time it got to the BCC meeting.

MR. HANCOCK: Yes, sir.

CHAIRMAN STRAIN: You've agreed to put timers on the display lighting that would kick in after 11:00 and that would reduce them to equal to the security lighting lumens.

MR. HANCOCK: Yes, sir.

CHAIRMAN STRAIN: No gasoline storage tanks on the property.

MR. HANCOCK: Yes, sir.

CHAIRMAN STRAIN: And the security lighting will be at 50 percent of display lighting -- 50 percent lumens instead of the 25 percent in a previous effort.

MR. HANCOCK: Yes.

CHAIRMAN STRAIN: And that's all the notes I have.

Does anybody know of anything that wasn't covered in those notes?

(No response.)

CHAIRMAN STRAIN: Nancy, are you clear on the notes I just provided?

MS. GUNDLACH: I'm clear.

CHAIRMAN STRAIN: Because we're going to go into consent immediately following this, as we committed to.

And just for the board's note, I'll ask that staff send me a copy of the writeup so that I can be assured that the language I have made notes on is incorporated accurately into the writeup.

Does that work for you, Nancy?

MS. GUNDLACH: You want me to write it up?

CHAIRMAN STRAIN: No, when you produce the additional stipulations into your report for the BCC, provide that to me so I can check it to make sure you got everything we just spoke of.

MS. GUNDLACH: We can do it.

MS. ASHTON-CICKO: Excuse me, Mr. Chair?

CHAIRMAN STRAIN: Yes.

MS. ASHTON-CICKO: My notes were a little different than yours on the display lighting. I thought they said 10:00 p.m. they would reduce it to the security.

CHAIRMAN STRAIN: No, 11:00.

MS. ASHTON-CICKO: It's 11:00 p.m.? Okay, thank you.

CHAIRMAN STRAIN: My notes are always right.

MS. ASHTON-CICKO: That's true. But since there's no consent, I thought I'd better ask.

COMMISSIONER EBERT: The wall is not going to go to eight feet?

CHAIRMAN STRAIN: No, it is going to go to eight feet. It's going to start where the 15-foot width starts, which is well in front of the carwash. And it's going to go 100 feet past the carwash at the property line where it's placed. So the wall will go along at eight feet. Then 100 past -- to the east past the carwash, it will drop down to six feet again.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: And that's everything that I had. Anybody else have anything to add?

(No response.)

CHAIRMAN STRAIN: Okay. Well, we'll close the public hearing, and either discussion or a motion, it's up to the board. Anybody have any motion?

COMMISSIONER BROUGHAM: I'd just like to make a comment and commend Tim and the owner here in their efforts with the residents. You've convinced me. I was -- I voted against the original for a number of reasons and I think you've made some very significant accommodations to the residents. And hopefully they're going to appreciate your efforts as I do.

COMMISSIONER KLEIN: I'll second that.

CHAIRMAN STRAIN: Is there a motion then to --

COMMISSIONER HOMIAK: I'll make a motion to approve with all the stipulations.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER VONIER: Second.

CHAIRMAN STRAIN: Motion made by Karen, seconded by Bill.

Discussion?

(No response.)

CHAIRMAN STRAIN: I had voted against this in the previous motion two weeks ago. After the applicant has gone to the extreme he has with the residents and after the residents have gone to the extreme they have to try to seek compromise, I think that this outcome will be beneficial over other options that could happen to that property, and for that reason I will be supporting the motion.

Okay, all those in favor, signify by saying aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER KEENE: 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 8-0.

Thank you very much. That takes us through the regular advertised public hearing. And for technical reasons, we have to go through just another hearing on the same issue. We've got to open it back up and then close it. It's not a time for comment, it's strictly a vote by this board. It's PUDZ-A-PL2012000726, Top Hat Auto CPUD for consent agenda.

Is there a motion to approve?

COMMISSIONER VONIER: So moved.

COMMISSIONER BROUGHAM: So moved.

CHAIRMAN STRAIN: Made by Bill, seconded by Phil.

All in favor, signify by saying aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER KEENE: 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 8-0.

I want to thank all of you. I know this has been a struggle. I know not everybody may be perfectly happy, but I honestly think based on the planning that's been done here, this is a better outcome than it could have been.

So with that in mind, I do appreciate your time, both from the applicant's side and from the residents. Thank you.

And with that we will move on to our next item. We'll take a pause for a minute or two for the room to clear.

(Recess.)

CHAIRMAN STRAIN: All of you wanting to have further discussion, please take it out in the hall. We have another hearing to go forward with.

Okay, next item up is PUDA-PL20120001225, and it's the Royal Palm Academy PUD.

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 behalf of the Planning Commission, we'll start on my right with Mr. Vonier.

COMMISSIONER VONIER: Staff.

COMMISSIONER KEENE: Rich.

CHAIRMAN STRAIN: I spoke with Rich Yovanovich on the phone, and you'll hear what I spoke about today.

COMMISSIONER HOMIAK: I spoke to Mr. Yovanovich.

COMMISSIONER EBERT: None.

CHAIRMAN STRAIN: Barry?

COMMISSIONER KLEIN: Me too.

CHAIRMAN STRAIN: What, Richard?

COMMISSIONER KLEIN: Yes.

CHAIRMAN STRAIN: Phil?

COMMISSIONER BROUGHAM: I had a conversation with Mr. Yovanovich on the phone. And I emailed back and forth with Mr. Sawyer quite a lot.

CHAIRMAN STRAIN: Okay, Richard, it's all yours.

MR. YOVANOVICH: Good morning. For the records, Rich Yovanovich, on behalf of the applicant.

With me today is Andrew Saluan who represents the Royal Palm Academy; he's on their board. Chris Hasty with Pulte. Alexis Crespo with Waldrop Engineering, and Sandy Bottcher with her engineering firm, to address any questions that I can't answer.

I've put on the visualizer an aerial that identifies in yellow the Royal Palm Academy PUD. And it's this area right here.

What we'll be talking today about is the existing Royal Palm Academy school site that's located on the east side of Livingston Road. The west -- there really are no changes to the west side of the PUD, so the comments and questions that we'll be addressing are on the east side of Livingston Road.

The petition in front of you is an amendment to the existing Royal Palm Academy PUD to allow the current campus for Royal Palm Academy to become the permanent campus for Royal Palm Academy. The campus was originally approved in the year 2000 by a conditional use. In the year 2003 we then did a PUD for what is the current campus, as well as the 163 acres I just showed you in yellow that would allow for both the residential development and at that time a 50-acre school campus.

When we originally did the PUD, the school campus, the list of permitted uses, and I'll put the original master plan up on the visualizer, that is essentially what was originally approved back in 2003. There was an --

CHAIRMAN STRAIN: No, that's --

MR. YOVANOVICH: -- error of administrative amendment to the PUD that took the details of the school campus off what is shown as C here. I can put the detailed one if you want, but --

CHAIRMAN STRAIN: Well, I'm just trying to keep your testimony accurate.

MR. YOVANOVICH: It was administratively approved to take the detail of the C off. And that was done because the original PUD allowed residential development to occur on the portion that was labeled C.

What was inhibiting the ability to develop that property as a residential use was the original PUD had details as to where the ball fields were and the like. So we needed to take that detail off so that we could go ahead and use the residential development standards to develop the C portion residentially.

So that's why there was that interim step from the original PUD to the administrative change that I'm showing you right now. So that's actually the -- that's the master plan that's being amended today as we go through this process. And I'll show you that.

So what we're doing is we're revising the PUD master plan. And this one is probably a little bit -- we're revising the current master plan to label what was formerly the big campus on the west side as residential, because that's what it's being developed as, and label the -- what was formerly "R" on the east side as campus. And that's essentially in a very short abbreviated fashion what we're here to do is to have the current campus be the permanent campus.

This actually came about as a question after we went in and we were talking about building the school gym at the current campus. And we were told, well, that was intended to be a temporary campus. And I said well, I don't think so, because the original "C" campus allowed residential use on it, and the campus only moved to the 50-acre campus when I triggered the second C.O. But staff said no, Rich, you need to come through and do an amendment to make this permanent, and simply developing that "C" piece as residential does not make the current campus permanent. So we're going through this process to make the current campus the permanent campus.

The original PUD allowed for 1,250 students on the 50 acres. We're reducing the number of students to 500 students. We're doing a couple of other things in the PUD and asking for some definitions.

Regarding the height on the campus we have reduced the height to 45 feet zoned height, 50 feet actual height, and I think there was some confusion regarding the actual height for like steeples and things like that. So I think what we want to clarify -- I'll go through that in more detail -- is it will be a 45-foot zoned height, 50 feet actual height for buildings, and up to 55 feet for steeples and cupolas and the like. But if you want to go to 45 feet, 50 feet actual, that's fine.

CHAIRMAN STRAIN: We want to stick with the code and not invent new definitions for each PUD. So it's 45 and 55 and that covers everything you need to cover.

MR. YOVANOVICH: That's fine.

CHAIRMAN STRAIN: I mean, that would be simpler.

MR. YOVANOVICH: And I'm fine for simple on that. So we'll make that change as we discuss -- when we get there.

Now, that zoned height that we're asking for is consistent with the height that's already allowed in the

residential zoning district on the property. Currently we're allowed to go to three stories, 45 feet. This is one of the older PUD's where we can have the actual feet in there. So we believe that going 45 feet and 55 feet is consistent with what is basically already allowed on the property.

And we did discuss that. There were a couple of residents from the Stand that showed up this morning, registered to speak and have since left after we spoke and I explained to them what the height was allowed under the current "R" district. That addressed their concerns about what 45 feet really meant on the campus.

We're asking for a few deviations regarding the project. The first, I will call it, staff agrees with the deviations we're requesting regarding the landscaping and the buffering adjacent to the existing condominium project to our north and the Strand to the east. So unless I need to go through those in detail, I'm not going to address what those two deviations were. I think they were addressed.

One of the primary deviations is related to the existing six modular buildings. And the proposed two more modular buildings that basically are going to be interim buildings until we are successful enough in our fundraising to remove the existing modular buildings and the two more temporary modular buildings to build permanent classroom and administrative buildings.

So we have asked for the ability to allow those modular buildings to stay and not be required to meet the architectural standards in the PUD -- I'm sorry, in the LDC -- and allow the two new ones to also come in and not be subject to the architectural requirements of the Land Development Code.

Now I want to do a couple of things here. First, we are in for a Site Development Plan for the permanent gymnasium that I mentioned earlier and the two additional modular buildings and some other site improvements that I'm going to put on the visualizer to help put in context what we're discussing.

This is the permanent gymnasium that we're in for site development plan and ultimately building permits for. These are the two additional modular buildings that are part of the SDP, and then there's some access and other parking down this way.

So we have asked for essentially a waiver of the architectural standards requirements for the modular buildings. And I don't know who on this board if anybody has actually been to the campus, so I want to show you some pictures of the campus and how the modular buildings currently look -- what they look like.

And if you're in the parking lot walking into the campus to, you know, arrive, that's what you're seeing is nice green space, low-level modulars with, you know, nice landscaping up against them.

From the street, across the way at Milano, which is a project, basically the hedge and all that, all you really see is a little bit of the blue.

So from a visual standpoint, along Livingston Road, and I've got several of those pictures, you don't really see the modular buildings. And to go through the expense of bringing the four buildings up to current architectural standards, as well as the two additional modular buildings up to current architectural standards, we don't think is a necessary expense, since the campus has been there for several years and we haven't really heard an uproar from the community that, you know, please tear that campus down and replace it.

We didn't receive any negative feedback to the current structures at the neighborhood information meeting, and I haven't personally received any negative feedback as we've been going through this process, and I don't think anybody else on the team has received any negative feedback.

So that's one of the primary deviations that we're requesting.

CHAIRMAN STRAIN: When you talk about your deviations, because you've asked for so many, could you tell us each time which one you're addressing --

MR. YOVANOVICH: Sure.

CHAIRMAN STRAIN: -- because the first one I understood is number four, the modular issue.

MR. YOVANOVICH: Okay, I'll run through that list.

The first, one and two are the buffering between the -- our neighboring developments -- I'm sorry, two and three were dealing with the landscaping and buffering between us and the neighboring developments.

Number four is the one I just went through regarding the modular buildings.

I'm going to basically talk about five, six, seven and nine collectively, because those are very specific deviations from the architectural standards. And as they were originally written, they would apply to every building on the campus. However, we're only going through the process right now for the gym and modular buildings, and that's what's being reviewed right now by your staff as part of the SDP process.

Staff originally objected to the deviations because they apply to every building and they wanted to see each building by building as they go through the process.

I believe staff is comfortable with limiting deviations five, six, seven and nine to apply only to the gymnasium and the modular buildings that are going through the process right now. And then deviation number eight would kick in, and that's the general deviation that would allow this PUD to go through the administrative deviation process for the remaining buildings, so staff can look at each building as they come through the process and determine whether what we're proposing as a deviation is satisfactory or not.

As you all know, if you're straight zoning or any other type of zoning, there's an administrative process you can go through to get a deviation from the architectural standards. For whatever reason the Land Development Code doesn't give that administrative deviation process to PUD's. So we're asking for that administrative process to be incorporated into this PUD so we don't have to design the entire campus or come back with any deviations once we do the design of the classroom buildings in the future.

So staff had recommended approval of deviation number eight, I believe with limiting deviations four, five -- I'm sorry, five, six, seven and nine to just the gym and the two new modular buildings. I think staff agrees with those deviations being in the PUD for those specific buildings. And you can check with staff, but that's my understanding.

CHAIRMAN STRAIN: And four you guys are still not in agreement on, right? Four they recommended denial. You expressed your preference --

MR. YOVANOVICH: I think they were concerned about approving a waiver. And they said that's really something that the Planning Commission and BCC should be considering, not staff.

CHAIRMAN STRAIN: What about one?

MR. YOVANOVICH: Now I'm going to get to that one.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: Number one is a request to be able to have a temporary sign, that is basically 200 square feet, 90 days of the year during the basically the season to help identify this project and help with marketing so we can sell homes quicker and build them quicker and get off the road that we're sharing with the middle school, Learning Lane, as quickly as possible.

What has triggered the pushback in my opinion is a sign that was approved for a different project on Livingston Road further south and don't want to -- I'm not going to name names, but that PUD allowed a similar type banner sign, if you will. And this is what it -- that's the sign that I think triggered staff's pushback to say we don't want you to have a sign that big right up on the road.

We don't think we're similar at all to that situation, because where we're going to place the sign, one, is going to be on the wall, and that would be -- I'm going back to the master plan.

What we're proposing, and I'll show you the sign in a minute, but right now this is the existing Milano project. This area right here is going to become the new single-family -- the new residential development. There'll be a wall here, okay.

And we would propose placing our sign, a temporary sign, actually on the wall. So it wouldn't be on the posts right on top of the road.

Now, this wall will be 100 feet away from the road right-of-way. So it's not like that other blue sign that is right on the right-of-way on posts. It would be on our wall 100 feet back from the right-of-way, and it would --

COMMISSIONER BROUGHAM: You need a bigger sign, Rich, I can't read it.

MR. YOVANOVICH: See.

So that would be advertising the project, which is Camden Lakes, and it would be on the wall. So as people are traveling on Livingston Road at the posted speed limit of 45 miles per hour, which I don't think

you can go that slow on that road, it's a road you go pretty quickly on, that would be of sufficient size and it would be tastefully done for people to understand that that project is being built, and it would be marketed during the season. Now --

CHAIRMAN STRAIN: Before we go past that, how high is that wall?

MR. YOVANOVICH: Six feet.

CHAIRMAN STRAIN: Okay, so that sign is, based on the scale you have here, probably two feet high by 100 feet long?

MR. YOVANOVICH: It's going to be five feet -- it's five feet by 40, okay.

CHAIRMAN STRAIN: Well, you're out of scale. Was your intention to mislead us by being out of scale?

MR. YOVANOVICH: No. It was not my intention to mislead you by being out of scale.

CHAIRMAN STRAIN: Five feet by 40 would mean you'd be one foot off the bottom and all the way to the top and then 40 feet long.

COMMISSIONER EBERT: And a six-foot wall.

CHAIRMAN STRAIN: If you're a six-foot wall.

MR. YOVANOVICH: Is that a six-foot wall or is that a bigger wall?

CHAIRMAN STRAIN: Somebody needs to not talk off record.

MR. YOVANOVICH: We'll confirm that, all right? But that's the exhibit that our sign person gave us on the wall. And they must have put it on an eight-foot wall versus a six-foot wall. And we can go up to eight feet. So we'll make sure it's an eight-foot wall then so it's in scale.

COMMISSIONER BROUGHAM: But you're proposing a dimension of --

MR. YOVANOVICH: A dimension of five feet by 40 feet on the wall, not on posts.

Now I hope, as I put this next exhibit up, by comparison, staff is recommending a 32 square foot sign 60 days a year. And we tried to show you side-by-side how the two signs compare.

CHAIRMAN STRAIN: Well, if staff did that, at least the scale's right.

MR. YOVANOVICH: No, we did that. We imposed it. That's ours.

CHAIRMAN STRAIN: Oh, okay.

MR. YOVANOVICH: So to basically show you that really a four-by-eight is I guess what we use for PUD notifications and the like. It's a small sign that you really wouldn't be able to see.

Sir?

COMMISSIONER BROUGHAM: Are you proposing a five-foot high by 40 foot or -- I'm looking down at bottom of this exhibit, it says four-foot by 50 foot.

MR. YOVANOVICH: Well, see, I transposed the numbers. You're right. It's four feet by 50. Thank you. So that makes it better in scale. Probably not totally there, but better. Four by 50.

COMMISSIONER EBERT: I have a question, Rich.

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: This is for a temporary sign.

MR. YOVANOVICH: 90 days a year. It comes down off the season.

COMMISSIONER EBERT: Okay. You say on number one deviation it's temporary. But you go into the PUD and number two, Page 5 it says the setback for the signs. You're asking for another deviation in there which I did not see on the original deviations. You want setbacks for sign Livingston Road right-of-way and any perimeter property line five feet, a deviation from 10 feet. So that's in the PUD.

MR. YOVANOVICH: But that's a different -- that's a project sign, not this temporary marking sign.

COMMISSIONER EBERT: But you did not ask for that deviation.

CHAIRMAN STRAIN: It's an existing PUD.

MR. YOVANOVICH: Ms. Ebert, can you tell me what page you're reading from?

CHAIRMAN STRAIN: 2-5.

MR. YOVANOVICH: Thank you.

COMMISSIONER EBERT: Yeah.

CHAIRMAN STRAIN: It would be B-3. But see, that's the existing PUD. That was done in 2003

--

MR. YOVANOVICH: That's the project entry sign that's already been reviewed and approved. I mean, we're amending an existing PUD and we're pointing out new deviations that we're asking for. And the deviation is related to just this temporary sign. This other approval had already occurred when that was approved in 2003.

COMMISSIONER EBERT: Is this going to be on the west side? The sign going to be on the west side of Livingston?

MR. YOVANOVICH: Yes, the project entry sign and this temporary sign is on the west side of Livingston.

COMMISSIONER EBERT: And there are no homes there now?

MR. YOVANOVICH: There are no homes on this portion of the project yet. Now, remember, there are -- now let me go back to the aerial. The PUD boundary is this yellow -- are you with me?

COMMISSIONER EBERT: Uh-huh.

MR. YOVANOVICH: This is part of the PUD and has already been constructed. The new homes are going to be in this area right here, okay? That's where the former "C" campus was. So the sign we're talking about advertising will be in this area and will be advertising this project, which is called Camden lakes.

COMMISSIONER EBERT: Okay.

MR. YOVANOVICH: Does that help?

COMMISSIONER EBERT: Uh-huh.

MR. YOVANOVICH: So I think I've touched on all of the deviations and the two I think that staff are not recommending approval on.

COMMISSIONER BROUGHAM: Rich, before you move on, can you put -- or Michael, can you put that sign back up again?

MR. YOVANOVICH: The comparison to or the --

COMMISSIONER BROUGHAM: No, the original, that one. Zoom in on that, please.

Now I'm not holding you at all to exact wording here on the sign, all right, but generally speaking, that's what you would want to have room to put on your sign, those words?

MR. YOVANOVICH: Yes.

COMMISSIONER BROUGHAM: Camden Lakes, a phone number -- that's a little blurry -- new homes, coming fall of --

MR. YOVANOVICH: 2013.

COMMISSIONER BROUGHAM: -- 2013. And on the right-hand side, that's some sort of a logo?

MR. YOVANOVICH: The logo, yeah, the business logo.

COMMISSIONER BROUGHAM: Can I just ask you to speak for your sign designer for a moment, or your input into him?

Did you consider alternative layouts to get your message across than what you have here, which might drive directly to the size of the sign?

MR. YOVANOVICH: I'm sure that the marketing people within Pulte have done different layouts. Because I recognize that this is not a typical sign deviation.

The other one that I showed you is probably the only one I know of that got approved. And so this was different. I said, you know, I always asked for the minimum, don't ask for something and --

COMMISSIONER BROUGHAM: No, and I'm not a sign designer either.

MR. YOVANOVICH: I'm not either.

COMMISSIONER BROUGHAM: But what's in my head is that if you had a taller sign that height, I guess, and a shorter length, you would be compacting the length. Okay, if the offense is viewed to be you got this long trailing kite sign, no pun intended, trailing down the wall, if that's what one of the objections is, and I don't know that, would it mitigate if you shortened the length of the sign, got all your words in but

increased the height?

MR. YOVANOVICH: One of the factors --

COMMISSIONER BROUGHAM: I'm looking for something that --

MR. YOVANOVICH: I understand. And one of the factors if we were to do that, if I went wider and shorter, I'm now probably talking about having to do some type of a sign on a post versus being able to make it look a little bit more permanent on the wall.

Because what we understood, again, a lot of the pushback was that's the -- I think that's what people envisioned when we were asking for the deviation. And the only real life experience is that type of sign. And we're saying, no, no, no, we're not asking for the same thing and we have different circumstances, we're further back from the road, we're not right there on the sidewalk. Let's -- but we can look at doing that.

COMMISSIONER BROUGHAM: I'm trying to find some -- and we haven't talked to staff yet, but I'm trying to find some room to accommodate the advertising marketing desire or outcome here with what I'm presuming is staff's objection to either the height or the width or the square footage, I'm not sure which yet. And that's all I'm throwing it out there for.

MR. YOVANOVICH: I mean, I think we could certainly look at that. But then it would probably take it off of the ability to put it on the wall. And if that's not an issue for the Planning Commission, then we can talk about having something that is on posts and is, you know --

COMMISSIONER BROUGHAM: Well, and that sort of talks against the temporary nature.

MR. YOVANOVICH: Well, we just have to put them up and take it down, and we do it all the time.

CHAIRMAN STRAIN: Let's just wait and see how the comments pan out with everybody before you make a decision.

MR. YOVANOVICH: Okay. I think we just have a few minor revisions to the PUD document itself that I want to address based upon conversations with some Planning Commissioners. And it's really -- it's on page III-2 in the PUD ordinance Exhibit A.

And we would change letter D to 45 feet zoned height and 55 feet actual height and get rid of all those exceptions. That would -- you know, the stair stepping of actual height, if that's acceptable to the Planning Commission.

And then as we were transposing the "R" district on the former "C" parcel and the "C" district standards, we caught that we were no longer adjacent to the Collier public schools access road, so we took that setback off. But did not catch --

CHAIRMAN STRAIN: What page are you on, Richard?

MR. YOVANOVICH: Same page. III-2, item C.

We deleted No. 3, which is a setback from Collier public schools access road, because we're no longer adjacent to that. But we also should delete item number four because we don't have any preserves on our property either. And that was caught as I was discussing that with Ms. Homiak. And so I would propose we just delete item No. 4 as well to eliminate confusion.

I think that I have touched on the project and the deviations and our rationale for why we've requested the deviations that have not been agreed to by staff. Otherwise your staff is recommending approval, subject to their position on the deviations.

The neighborhood information meeting went very smoothly. The most concerns were some people from Imperial that were concerned that we were doing something on the west side and somehow we were changing the preserve, and when we explained we were not their concerns went away and we didn't really hear any concerns regarding the campus becoming a permanent campus in its current location.

And with that, that's all the introductory comments I have, and we can answer any specific questions.

CHAIRMAN STRAIN: Anybody have any questions?

COMMISSIONER EBERT: Yes, I do.

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: Rich, you're here to make the permanent campus on the east side of the road, okay; is that correct?

MR. YOVANOVICH: Yes.

COMMISSIONER EBERT: The west side is where Pulte is going to be building?

MR. YOVANOVICH: Yes, ma'am.

COMMISSIONER EBERT: Okay, are we here to discuss that today?

MR. YOVANOVICH: We're not touching anything on the west side of the street.

COMMISSIONER EBERT: You are not touching anything on the west side --

MR. YOVANOVICH: Other than having that temporary sign.

COMMISSIONER EBERT: That will come back to us then?

MR. YOVANOVICH: No, it's in the platting process right now. It was an already allowed use, residential -- what was formerly the "C" campus was already an allowed use pursuant to the residential standards of the PUD. And that's how they're moving forward on the west side of Livingston.

The east side of Livingston is where the campus is, and we are revising the PUD to make it clear that the campus is staying there and not moving.

COMMISSIONER EBERT: Okay. What type of school is this?

MR. YOVANOVICH: It's a private Catholic school right now.

COMMISSIONER EBERT: It's a private Catholic school right now.

I noticed in the PUD that you -- you want to have on-site housing for teachers and staff?

MR. YOVANOVICH: Yes.

COMMISSIONER EBERT: Was that already in there?

MR. YOVANOVICH: Yes.

COMMISSIONER EBERT: In the old one?

MR. YOVANOVICH: Yes.

If you look at Roman numeral III-1, section three, what you see is the exact same campus standards. However, we're striking through and underlining those revisions to what was previously approved in the PUD. So you'll -- every change we're making to what was originally allowed in the 50-acre campus you can see today in how that's being modified, either eliminated or modified.

COMMISSIONER EBERT: Okay. And this campus has been there for 10 years --

MR. YOVANOVICH: Yes.

COMMISSIONER EBERT: -- already. And it was approved as -- the modulars were approved as temporary, so it did not go through the architectural back then; is that correct?

MR. YOVANOVICH: That's how it was explained to me when they would through the SDP process originally.

COMMISSIONER EBERT: I don't consider 10 years temporary, though. That's a long time for temporary. And now staff is denying -- well, I'll just wait 'til it gets to staff and we'll go from there, thank you.

MR. YOVANOVICH: Well, I think staff is not denying the six existing modulars, it's the two new modulars that staff is saying needs to meet the architectural standards. They haven't imposed upon us the requirement to bring the current modulars up to the architectural standards. That's my understanding. And we're saying it doesn't make sense to have two of the eight be architectural standards and six of the eight not.

CHAIRMAN STRAIN: Anything else, Diane?

COMMISSIONER EBERT: No.

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

(No response.)

CHAIRMAN STRAIN: Rich, is your engineer here?

MR. YOVANOVICH: No, he just left. No, he's here, Sam is here. Yeah, yeah.

CHAIRMAN STRAIN: What did you --

MR. YOVANOVICH: There's two of them working on it, and Jeremy --

CHAIRMAN STRAIN: I didn't know who they were and I didn't know if one was still here or not.

MR. YOVANOVICH: She's here. She's here. My bad.

CHAIRMAN STRAIN: I'd like to ask a question about the utilities. But you can't answer me from where you're seating (sic).

MS. BOTTCHER: Yes, sir.

CHAIRMAN STRAIN: Since we don't have the SDP here, I didn't even know it was going through, I would have looked it up myself.

Where are your connections for your utilities on the -- could you show me on the site plan that Rich had there?

THE COURT REPORTER: Could you state your name, please?

MR. YOVANOVICH: Say your name.

CHAIRMAN STRAIN: Yeah, we'll need your name.

MS. BOTTCHER: Sandra Bottcher.

THE COURT REPORTER: Could you spell it?

CHAIRMAN STRAIN: Can you spell that last -- I knew you were going to --

MS. BOTTCHER: B-O-T-T-C-H-E-R.

THE COURT REPORTER: Thank you.

CHAIRMAN STRAIN: I don't need to know that project, I'm talking about the west side that's still part of the PUD.

MS. BOTTCHER: Okay. I'm not the engineer of that project, but I can help with that.

COMMISSIONER KLEIN: I don't know if her mic was on.

MS. BOTTCHER: I'm not the engineer for that project, but I do know fairly well where they are.

CHAIRMAN STRAIN: Okay.

MS. BOTTCHER: Or where they were proposed.

They're located at the -- I believe it's the southeast corner of Livingston Road.

CHAIRMAN STRAIN: All I need someone to do is point to me on that plan where you're talking about. Now graphic does wonders.

MR. HASTY: Hi. Chris Hasty.

Chairman Strain, the connections that we have for the Camden Lakes project, they're actually coming -- this is the proposed entrance to the Pulte community. And those connections are going to be bored underneath Learning Lane and then make their connections out along the Livingston Road right-of-way in this area here.

CHAIRMAN STRAIN: And that would be both water and sewer?

MR. HASTY: Yes, sir.

CHAIRMAN STRAIN: Force mains?

MR. HASTY: Force main too.

CHAIRMAN STRAIN: Okay. Thank you, that's the question I needed. And the next one is for Rich.

Rich, in your agreement you have with the school board, it's for access only. Do you have any agreement that allows you to put in the water and sewer that you're putting in in that location? Because utilities signed off on this and I didn't know this question until after I got the agreement yesterday.

MR. YOVANOVICH: I believe that has been discussed with the school board. And I don't see that as an issue with the school board. I don't know if the agreement specifically addresses that issue, but --

CHAIRMAN STRAIN: Well, here, I can read it to you. Easement grants. School board hereby grants, gives and conveys to Royal Palm and its tenants, employees invitees and licenses a perpetual nonexclusive easement for pedestrian and vehicle ingress and egress, access easement over and across the roadway and sidewalks constructed (sic) from time to time in the easement area -- as an easement pursuant to and for the benefit of the development tract.

That's it. So if you don't have utilities, how are you boring under their property and why did utilities not ask this question if they didn't? Does Ray know? Mike?

MR. YOVANOVICH: Well, that -- I don't know the answer to why utilities didn't ask that question,

and I don't know whether or not the school board has already signed off and approved it, but it's really related to the plat issue that's winding its way through the process.

And if we can't sufficiently show the county that we have the ability to bring utilities to the site, that will probably be an issue that will stop the plat from being approved and we'll have to deal with that as part of the plat process.

CHAIRMAN STRAIN: Well, I'm sure that, though, the approval of a PUD has got to be subject to acceptable utilities, that's why we have utility letters of acceptance with new PUD's. So I'm assuming it applies to existing ones too.

MR. YOVANOVICH: Well, the PUD -- the PUD -- all projects are approved subject to being able to bring utilities to the site. If you can't get the utilities to the site you have a zoning approval that won't get implemented.

I guess, Mr. Strain, we had this very same issue related to building the campus. Because we had an agreement with the school district as well to build the campus. And I don't recall that it specifically addressed the same issue of boring utilities underneath Livingston Road.

The reason we amended the agreement with the school district dealt with the fact that that agreement prohibited residential uses on the property, so we went through the process of amending the agreement to address that.

We'll have to deal with that utility issue, if it's an issue, with the school district.

CHAIRMAN STRAIN: I would like to know definitively -- Tom, since you're with the school board, where's -- do you have recall of any of this, or --

MR. EASTMAN: I have specific recollection of the access easement. And the way that I see it is exactly the way that you see it, Mr. Chairman. We have an access easement but we don't have a utilities easement especially related to Learning Lane or boring underneath Learning Lane.

CHAIRMAN STRAIN: And, I mean, that puts your PUD or your plat in jeopardy, if staff has go caught that in the review. I don't know if they have. And we are getting close to lunchtime.

So maybe as -- I'm concerned about this in regards to the approval prematurely without knowing an answer. And I don't know if Mike or Ray, you guys can get to utilities or somebody and ask them how they -- maybe they have information. Because I'm reading their sign-off on this, and I'm wondering how they signed off on something that they didn't know if they had legal access for their utilities.

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

With the plat we do have our engineering utility people obviously go through the review. And at this point, quite honestly I can't tell you point blank yes, because we would have to check with that staff member to make sure. That would be Craig Callis.

CHAIRMAN STRAIN: Well, you're going to have an hour to do that. So maybe when we get back from lunch we can get some clarification on the utility issue. I'm concerned about it.

And Heidi, I kind of need to understand when we get back if we can approve a PUD knowing that we don't have a sewer and -- well, water and sewer connection, legal connection at this time. Maybe we can make it subject to. I'm trying to get through it but I would like to know an answer to this, and we're going to have to break anyway for lunch, so --

MR. YOVANOVICH: What I'm struggling with is it's an already approved PUD.

CHAIRMAN STRAIN: Right.

MR. YOVANOVICH: So you're going to unapprove (sic) what was approved in 2003?

CHAIRMAN STRAIN: No, but when the PUD was originally improved (sic), if you look at the connection you have through the project that was already constructed on Livingston Road, it would have been easily to assume that's where you're going to bring your sewer and water. You don't have that -- you've got a cul-de-sac there. And unless you got a way to get down that cul-de-sac with a connection, I don't -- that's why I asked the question how are you bringing in water and sewer. And you've provided an answer that says you're bringing it in across property you don't have a right to cross. So I'm trying to understand how you think you're going to do it then.

MR. YOVANOVICH: Well, again -- and I guess I'm asking is if I've already got the PUD in place, the burden's going to be on me to get a utility easement if I don't already have approval from the school board.

So what's the holdup on moving forward with the PUD that we're trying to amend to just have the campus --

CHAIRMAN STRAIN: I'm not saying I'm going to hold it up, Rich. We have a -- we're going to break for lunch, because this isn't going to get done in the next 15 or 20 minutes. During lunch, maybe staff can pursue it and try to find out as much as they can.

We could easily stipulate that this matter be cleared up before the BCC hearing. Because I think it's an important matter. So that's all. I mean, I'm not trying to hold it up. I'm suggesting to you I need an answer. And if we don't get one, we can stipulate.

MR. YOVANOVICH: Okay, I understand. We can -- I was just advised that if the jack and bore becomes a problem with the school district, we are still adjacent to Livingston Road --

CHAIRMAN STRAIN: Right.

MR. YOVANOVICH: -- and we can come in off of Livingston Road.

CHAIRMAN STRAIN: And I thought that's what I would have heard when I asked --

MR. YOVANOVICH: Well, the question that was asked is where do you plan on having it, and that's what we planned.

What Chris is telling me now, who's the Pulte representative on the project, is the backup plan is if we don't have the necessary approvals, which we think we've already gotten from the school district through review, but I wasn't prepared for that question, to be honest with you.

CHAIRMAN STRAIN: And I couldn't give you a heads up because I just read it last night.

MR. YOVANOVICH: No, I understand that. I'm just saying otherwise I would had have the plat approvals or whatever approvals with me.

We have a backup plan or ability to bring utilities simply from Livingston Road because we do abut Livingston Road.

CHAIRMAN STRAIN: And that's what I was thinking until I heard the statement that you were doing something --

MR. YOVANOVICH: I understand. And we -- so that's the plan. And if we still need to take a lunch, we will, but I was hoping we didn't --

CHAIRMAN STRAIN: I mean, I've got -- I've got a few more questions.

Is there any public speakers, Ray?

MR. BELLOWS: No one has registered.

CHAIRMAN STRAIN: Okay, we can -- based on that and staff input in the discussion of deviations, what's the board's pleasure? What would you like to --

COMMISSIONER EBERT: A little lunch.

COMMISSIONER HOMIAK: I'd rather just keep going.

COMMISSIONER KEENE: Keep going.

COMMISSIONER BROUGHAM: Keep going.

CHAIRMAN STRAIN: Okay, we'll keep going. We'll try to get through it.

But Mike, if you don't mind, at some point you can just do it after when you get back to the office sometime. Just as a follow-up to me, let me know how staff is proceeding looking at this plat that goes a -- that does a jack and bore on a property there's no easement for.

MR. SAWYER: Correct. We'll definitely make sure that that's part of the plat and get back to you on that.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: Memory is a terrible thing to lose.

CHAIRMAN STRAIN: Well, join the crowd.

On the PUD on Page IV-3, it's your development standards table, the school board road, Learning

Lane, is a private road. So does that mean by asteric number 1-B that your front setbacks are measured from the edge of asphalt on that road, or is there another way that you wanted to consider the setbacks? Because I don't know where asphalt lies in relationship to your property line, but that would put your buildings right up close to Learning Lane, and I don't know if anybody understood that to be the case.

MR. YOVANOVICH: To be honest with you, Mr. Strain, I haven't looked at this table at all for today's hearing.

CHAIRMAN STRAIN: Well, I looked at it because of the changes you made when you went from a campus, which a campus in particular to a single -- to a residential, I just wondered how your setbacks are going to be. I always read these -- the fine print.

MR. YOVANOVICH: Well, previously we wrote that we would be set back 30 feet from -- when we were going to be a campus we were going to be 30 feet from the county's road.

CHAIRMAN STRAIN: County road being Livingston.

MR. YOVANOVICH: I'm sorry, the school district's road.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: Okay. I don't know what the setback is on the plat today from Learning Lane. I don't know the answer to that. We can certainly look that up.

CHAIRMAN STRAIN: When?

MR. HASTY: I don't know the exact -- Chris Hasty -- Chairman Strain.

We do have a 50-foot flow way that's on the south side of Learning Lane, and then our property boundary basically in all intents and purposes is going to be a wall on the south side of that flow way. Our homes will then be on the other side of that wall. So our setback is, you know, really for the homes themselves off of the Learning Lane property. They're going to be over 100 feet away.

CHAIRMAN STRAIN: So you wouldn't mind stipulating then that there be at least 50-foot setback from the homes -- from any setback requirement on Learning Lane.

MR. YOVANOVICH: Whoa. Why don't we do -- why don't we -- if the concern is we need to be not changing a development standard that was previously approved?

CHAIRMAN STRAIN: Well, I have no concern over that. I'm just trying to figure out how it applies to Learning Lane.

MR. YOVANOVICH: Well, if we could simply take what was previously there, which was a 30-foot setback from the county road and put it -- if we need to put that in the development table to make that clear, we can do that.

CHAIRMAN STRAIN: Okay, but you keep saying county road. You mean Learning Lane?

MR. YOVANOVICH: School district road.

CHAIRMAN STRAIN: Okay. So on the setback table you'll add that there will be a 30-foot setback from the school district road?

MR. YOVANOVICH: Yeah, we'll move that over to the "R" district.

CHAIRMAN STRAIN: Okay.

On Page IV-3, your new language, which kind of led me to the current discussion on utilities. Item B, stubs for future interconnection with adjacent properties shall be provided to the southwest corner of the property lines of the project at locations to be mutually agreed to by the county and the developer during the design phase of the project.

So the southwest corner of the project, in this particular one they're talking about general development commitments. So -- and since the project's split by a roadway, where does B of the new language apply, or how does it apply?

MR. YOVANOVICH: Okay, you're talking about Roman numeral IV?

CHAIRMAN STRAIN: Six. I'm sorry, VI-3.

MR. YOVANOVICH: I'm going, oh, man, I can no longer read.

CHAIRMAN STRAIN: I just did what you did in the previous application, reverse the numbers. I get to do that once in a while.

MR. YOVANOVICH: Yes, we all do.

CHAIRMAN STRAIN: Yeah.

MR. YOVANOVICH: So VI-3. Which -- what were you reading?

CHAIRMAN STRAIN: B.

MR. YOVANOVICH: Stubs for future --

CHAIRMAN STRAIN: It's the new language you added. Where does that apply? Because I don't know what side of the project we're talking about.

MS. CRESPO: For the record, Alexis Crespo with Waldrop Engineering.

That language was provided to us by your utilities staff and applies to a connection to Delasol to the south.

CHAIRMAN STRAIN: Just point to me where on the plan you think that applies.

MS. CRESPO: That applies right in this area.

CHAIRMAN STRAIN: Okay. You need to go back to the mic then.

So that statement doesn't apply to the campus on the east side, it only applies to the former campus, which is now residential on the west side. And it doesn't apply to the southwest corner of the project, it applies to the southwest corner of the middle of the project.

MS. CRESPO: Correct. We can rephrase that commitment to be more clear that it applies to the --

CHAIRMAN STRAIN: Well, I think it should be.

MS. CRESPO: -- developable area of the Camden Lakes project.

CHAIRMAN STRAIN: Otherwise you've got a connection in the middle of the preserve, so -- I'll make a note of that.

That's the last question I have for now. Thank you.

Anything else from -- anybody want to ask anything of the applicant?

(No response.)

CHAIRMAN STRAIN: Okay, thank you, Richard.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: Staff report?

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

You do have the staff report that's dated January 25th, 2013. Staff has reviewed the project. It is consistent with the Growth Management Plan. Further, we are recommending approval of the petition, with approval of deviations two, three, eight. We are also recommending approval of deviation one, stipulating the size and the number of days. That's different than what was proposed.

We're also recommending denial of deviations four, five, six, seven and nine.

I also need to apologize, I should have actually mentioned the D and C changes that were done to the master plan. I neglected to do that. I apologize for that.

COMMISSIONER EBERT: Say that again?

MR. SAWYER: We had done the changes to the master plan administratively basically to clean up the graphics for where the campus was originally going to go. To a degree, because residential uses were allowed in that portion of the PUD anyway, having the graphics in there to that level of detail for the proposed campus, understanding everybody pretty much understood that's where the campus intended to go. There was also provision in the PUD itself that residential development could occur there. And so having that very detailed campus graphic as part of the master plan had to a degree an inherent conflict with itself. And so being that there was a need, or a want at least, to come in with the residential development which was allowable use, staff worked with the applicant and did a minor master plan change.

And I apologize, I should have mentioned that in the staff report and I did not.

CHAIRMAN STRAIN: But Mike, and since you brought it up, I don't agree it was staff's prerogative to make that master plan change. A condition of the minor versus insubstantial versus substantial portions of the LDC have criteria in which a minor is considered. And one of them is no change in the intensity, I believe, of a particular project.

The fields and outdoor recreation facilities of schools are widely concerning to neighborhoods when they are put in next to them. By removing the graphics, that may have been something that the neighborhood relied upon when the previous approval was done. You basically allowed them, had they wanted to put the campus there, to go back in with any orientation they may want for outdoor fields or different outdoor fields.

And I think you may want to consider that next time when you get one of these of that nature, because the schools basically are noisy to only -- as concerns outdoor recreation. Most of it is benign after that. And if the property to the south had relied upon those locations to being the best they could hope for when they laid out their homes or when they bought their homes, changing those fields may have affected people.

So I'm thinking maybe staff ought to -- luckily it turned out okay this time, but maybe you ought to take another look at that kind of intensity when you consider a map change.

MR. BELLOWS: For the record, Ray Bellows, Zoning Manager.

I'll be glad to look at that criteria again and -- we certainly when those things come up or approached to staff, we look at compatibility. And certainly we would not knowingly want to approve an administrative master plan change if it's apparent to us that there is an adverse impact to adjoining properties. That's where the PDI process that goes to the Planning Commission would come into play.

CHAIRMAN STRAIN: And I didn't see the adverse part of it necessarily being it (sic) removed. But then if it was re put back on if they had ever decided to rebuild the school there and they didn't put it in the same locations, I'm concerned that the neighbors, somebody could have said wait a minute, we banked on this, it was in the master plan. And that would have just opened up a can of worms, so --

MR. BELLOWS: Okay. We'll definitely look into that.

CHAIRMAN STRAIN: Okay. Anybody have any questions of staff?

COMMISSIONER EBERT: Yes, I do.

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: In reading the deviations, staff wants us to deny four, five, six, seven and nine and yet to approve number eight, which number eight says buildings located within a PUD do not qualify for an administrative determination of deviations from the architectural and site plan designs.

You want us to deny all of them and yet give you back the authority to do just administratively. I just don't want another Stevie Tomatoes. I think it should come back in front of the Planning Commission.

I mean, apparently what has happened in the 10 years, thinking those buildings were going to be temporary, that they were going to go across the street to the main portion, and now changing everything completely you're even downgrading the school 60 percent from what it was.

And do you want us to just keep those buildings? They have not done any planning as to what can happen in this -- I mean, in reading this, the plan isn't done, the plan isn't done. And that kind of concerns me. Because they have not come up with a plan. And I'll let you explain that.

MS. VALERA: Carolina Valera, Principal Planner, Comprehensive Planning.

I did the review for the architectural portion of it.

Let me start with just a clarification on the deviations that were requested. Some are very specific to certain architectural requirements. And let me look for the numbers. Which numbers are they?

COMMISSIONER EBERT: Four, five, six, seven and nine.

MS. VALERA: Okay. Deviation four, as you read it, you will see that is a deviation from the -- well, actually, not that one. But number five is requesting deviation from the number of the sign elements that are required for primary facades.

Number six is a deviation from the transitional massing which is required between lower buildings and taller buildings.

And deviation -- and deviation seven, I believe, yes, it's also very specific deviation from the requirement. It's also in regards to the massing, how the building has to be designed so it's not at the end a box.

Those three deviations -- nine as well? Let's see. And also, yeah, nine, which is -- requires a certain

percentage of glazing, that means windows, from buildings.

I believe in testimony today it was said that those deviations they were going to limit to the exhibit that they presented today, which is the gym. We have received the plans for review of that building. We did the first review on that. And if they were to limit those deviations to just that specific building, I don't think we will recommend denial of those specific deviations.

I know we are requesting denial in the staff report, but since the applicant is saying I will limit those to that building that we already reviewed once, staff is -- would recommend approval.

CHAIRMAN STRAIN: To get to a quicker end, five, six, seven and nine limited to the gym and the new buildings was acceptable to staff.

MS. VALERA: Right.

CHAIRMAN STRAIN: So staff then accepts 2, 3, 5, 6, 7, 8 and 9; is that correct?

MS. VALERA: That is correct.

CHAIRMAN STRAIN: So the only ones you don't accept is one and four at this point?

MS. VALERA: Correct. And actually, let me -- not to confuse any more the point, but deviation -- bear with me for a second. Deviation six in my opinion they don't need, based on the exhibit they present today. Because again, that deviation, it's a requirement of the code to present transitional elements between a lower building and a taller building. And if they can bring back the exhibit they had, you'll see that they do in fact have a volume between the higher point of the building and towards the edges of that building.

COMMISSIONER BROUGHAM: The exhibits are showing the gym in the --

MS. VALERA: Correct. That is correct.

COMMISSIONER EBERT: That's a new one today.

MS. VALERA: And what I meant is this volumes that you see here, that you see here and on the plans -- I wish they had a floor plan here. But towards the south facade, they also have this -- they actually achieve this requirement with -- actually, they exceed the minimum requirements of the code with this proposal. So they wouldn't need that specific deviation, if they were to build the building that is in review right now.

COMMISSIONER EBERT: Okay. We did not get a picture of this; is this true? So we didn't have that to go on either.

COMMISSIONER BROUGHAM: No, that's not part of the petition.

CHAIRMAN STRAIN: Is that it, Diane?

COMMISSIONER EBERT: Yes, at this time.

CHAIRMAN STRAIN: Well, we're going to be out of time here in a minute.

COMMISSIONER EBERT: That's fine.

CHAIRMAN STRAIN: Anybody else have any?

COMMISSIONER VONIER: Yeah.

CHAIRMAN STRAIN: Bill?

COMMISSIONER VONIER: What disturbs me is these temporary buildings have been temporary for 13 years for good reason. Because they were going to go to the other side of the road. Now we have a permanent site. And if we were entertaining a school on a permanent site like this, we wouldn't approve buildings like they have, the modular temporary buildings.

Since it's a permanent site, you know, my inclination is no other buildings should be built there unless they're built to the architectural standards, architectural and site standards. And obviously the gym meets those criterion. But the other buildings do not.

And when are the temporary buildings not going to be temporary? I think we should put some kind of an end game on the temporary buildings saying that in five years they all have to meet architectural and site standards or be taken down.

MS. VALERA: Let me just add one more thing in regards to that and just to finish addressing some of your comments.

We did recommend denial of that deviation from the design standards for the modular buildings. We

didn't recommend approval.

MR. YOVANOVICH: That's number four.

MS. VALERA: Number four, correct.

COMMISSIONER VONIER: You know, what I'm saying is that I think they should meet architectural standards or we should have a finite picture on when these temporary buildings are no longer going to be temporary, i.e., they will meet county standards.

MS. VALERA: If it helps at all, when we were reviewing this proposal I did look into the Land Development Code to see what definitions of temporary we have for structures. And the code does cite certain limitations of timing for modular buildings. Cells, trailers, construction trailers, so on, so forth.

The maximum I believe that the code allows is three years, which can be extended by the BZA for up to a year. Actually, in certain cases I think it could be approved of administratively.

So I don't know if that helps. But, you know, at the end we just recommended denial of this waiver. But again, we do have some certain concept of the term temporary in the code.

CHAIRMAN STRAIN: You just said, though, you believe the code says that modular buildings are listed under the temporary. Are you sure it's modular and not mobile? Because there's a big difference in the trailers that you just described that are used for marketing. Those are axled. They have wheels under them. Sometimes they're left attached but the springs are still there. Modular can be a building that's simply manufactured somewhere else and assembled in place.

MS. VALERA: That is correct. And yes, there's that distinction in the code for the different types. And yes, construction trailers --

CHAIRMAN STRAIN: But let's go back to what you said. You said modular units are considered temporary. Are they -- is that what the code says?

MS. VALERA: Certain structures.

CHAIRMAN STRAIN: Okay. So would these modular trailers be considered temporary? I mean, I don't want you saying things that aren't accurate, so I want to know for sure. Are you telling me that these modular units are considered temporary by definition in the code or is it a different kind of modular unit? And if it is, why did we even bring it up?

MS. VALERA: Exactly. This type of buildings would not be considered temporary on any type of --

CHAIRMAN STRAIN: That's what I'm getting at.

See, Bill, what I was trying to show is these aren't temporary buildings. At the time they were listed as temporary because the design was to move the campus to the west side of Livingston Road. Now that the campus isn't being moved it doesn't matter -- they're not temporary in the nature of the entire project's not temporary. The buildings are going to be used for continuing education.

So they were never temporary buildings, they were a temporary use based on the outcome of the economics to move the project.

COMMISSIONER VONIER: Correct.

CHAIRMAN STRAIN: That's a different application.

COMMISSIONER VONIER: And they're referred to temporary every place that they show up.

CHAIRMAN STRAIN: Right.

COMMISSIONER VONIER: But do they or do they not meet architectural design standards for the county?

CHAIRMAN STRAIN: Well, wait a minute. The better question is did they or did they not meet -- at the time they were in place meet the architectural standards of the county at the time they were permitted? Or did someone permit them wrong?

MS. VALERA: That I cannot answer. I can tell you that they do not meet architectural standards or that they will be required to meet architectural standards.

CHAIRMAN STRAIN: Today.

MS. VALERA: Today.

CHAIRMAN STRAIN: What about the time they were permitted and put in place?

MS. VALERA: Just like you said at the beginning of your statement, you were told that these were brought to the county as temporary. And I believe that was the -- or maybe it was you, Commissioner Ebert. I'm sorry.

I don't know, to be honest, how they were submitted to the county. But what I've been told is that they were temporary and therefore they did not go through the architectural review.

CHAIRMAN STRAIN: But they were temporary -- okay, I'm still then not clear on why this is an issue. Because in my reading of the PUD this was temporary because they intended to move the campus to the west side of Livingston Road where the big "C" used to be, which is the whole reason why we're here today is to say wait a minute, we'll leave our little campus over there, it's smaller than we originally anticipated, because that's what we're going to do now. So we're not going to be temporary, we want to take that out.

I don't know they were permitted as temporary. The use was structured as temporary for PUD purposes, from what I can tell, only. Unless someone can show me a document that says I'm hereby asking a temporary use here, a temporary trailer, I don't see that.

And these buildings from the pictures we saw are good looking. They're off the road. Why would we want to impose these architectural criteria on buildings like that?

And, I mean, that leads me to my next question -- go ahead.

COMMISSIONER KEENE: No, I was going to say also, if these were done as temporary, why have they not been submitted to the same temporary process that we had to go through with model homes and everything else?

MS. VALERA: I don't know if they were or not, to be honest with you.

COMMISSIONER KEENE: But they would have if they -- that's kind of my point. If they would have been permitted that way, then they would have got the same notifications that all the other, you know, temporary sales centers and every temporary use gets. And obviously for 13 years they haven't once been advised --

MS. VALERA: Correct.

COMMISSIONER KEENE: -- that they needed to do an extension or reapply.

MS. VALERA: Correct. And I guess also part of this dilemma is the fact that the deviation addresses new modular buildings. So what's there is there. But any new modulars, I think they're also requesting not to go through the architectural review.

CHAIRMAN STRAIN: Phil and then Diane.

COMMISSIONER BROUGHAM: The distinction I'm hearing is one of temporary use versus a temporary structure. And in my mind they're two different animals. A temporary structure is --

MS. VALERA: You're right.

COMMISSIONER BROUGHAM: -- is limited in terms of how long it can be in place. That's -- correct me if I'm wrong.

Temporary use of something is reflective of the time period involved in any kind of a structure. We're temporarily going to use this area as a campus.

MS. VALERA: Flea market, yes.

COMMISSIONER BROUGHAM: Or X, Y or Z.

Just a comment. But a question, maybe it's appropriate, Rich, because we're talking about two new quote, unquote, modular buildings.

Given the size of your enrollment currently, which is around 250 students, what's driving the need to construct two more modulars? Is it student population or new uses that --

MR. YOVANOVICH: We need the space for the students in the anticipation of the number of students that we'll be serving. We have -- knock on wood, we believe we have the ability to fund the permanent gym. In the meantime we have funding for the two additional modular buildings. That I think if you were to look at them, unless you're a construction expert, you wouldn't have any idea they weren't

permanent when you would walk on that campus. I invite you to go look at that campus. It's a nice little campus, and I think the pictures accurately reflect that.

So the goal obviously is, is to do fundraising to take out the six, as well as the two we're putting in there, to have -- I don't even like using the word permanent buildings -- different buildings than the buildings that are there today. But we don't want to, you know, stop serving students where we're currently limited to with those six buildings.

COMMISSIONER BROUGHAM: And I'm certainly not trying to play devil's advocate, but I'm trying to get into the mindset of the applicant in that you're running a school, you had visions of a permanent campus and 1,200 students years and years ago. That didn't quite pan out. You've got an established operating academy. It's operating with 250 students now. You're hoping it can grow. But until growth -- until funding happens, what's your alternative? You can either limit yourself, quote, unquote, and your funding opportunities or construct new buildings. I mean, I'm just verbalizing where I think --

MR. YOVANOVICH: Right.

COMMISSIONER BROUGHAM: -- the issue is.

MR. YOVANOVICH: What we're saying is obviously we have a longer term plan. Right now we have the ability to do the gym, which is the first permanent, if you want to use that word, and I don't want to, but we'll use permanent building that shows that we're committed to being on the site.

In the meantime, we run a good school and people want to come to that school. We don't have funding in place to build the buildings that we plan on building in the end game. We don't want to stop serving students, so we're asking please let us do two modular buildings in the meantime while we continue to raise funds to come up with the buildings we really want to be there once we have sufficient funding to build it. That's what we're trying to verbalize.

COMMISSIONER BROUGHAM: Thanks.

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: Carolina? In -- or Mike. On the staff report, Page 10 of 22, it does say originally approved as temporary structures without architectural review at the time of original SDP. It's not Rich, it's the way it is worded from the staff report that I was reading. It is, you know, deny this, deny this, and then it was as temporary structures at the time.

So it's in the staff report that these are structures, you know, so I don't know kind of how -- and like you said, you do not like number four. And that was in number four, denial.

MR. SAWYER: Yeah. If I might, again, Mike Sawyer with -- Project Manager.

The staff report, when I looked back in the SDP, it is clear that those buildings and the campus itself at that time was reviewed as a temporary campus, okay, with modular units. At that time it's assumed that somebody in staff, a manager of some sort, at that time determined that architectural review shouldn't be required because they were temporary modular structures. So in other words, the buildings that are out there did not receive architectural review.

MS. VALERA: And if it helps, when someone brings a construction trailer or a model home, we don't review it for compliance with --

COMMISSIONER EBERT: No, I --

MS. VALERA: -- architectural standards because it doesn't make sense that, you know, they will have to place or do things to a building that is going to go away in a specific amount of time.

CHAIRMAN STRAIN: Anything else?

COMMISSIONER BROUGHAM: Yeah.

CHAIRMAN STRAIN: Go ahead, Phil.

COMMISSIONER BROUGHAM: Well, I just hear supposition and I hear contradiction about history. Back then maybe they were this and maybe they were that. If you had to render a verdict today on those buildings, those structures that are in place, would you say they are for temporary use or are they temporary structures? And I see what the staff report says, but it says were designed or were originally approved. And is that a fact?

MS. VALERA: I saw Ray trying to --

MR. BELLOWS: Yeah, I'm just making sure I understand the question. For the record, Ray Bellows.

COMMISSIONER BROUGHAM: My problem, Ray -- and I said I'm going to shut up a couple times -- is I think we're hung up between some wood and mortar and wallboard that's sitting on a site, okay, that can be defined as a temporary structure, or some mortar and concrete and so forth that is sitting on a site that's going to be temporary in usage.

MR. BELLOWS: Yes, I understand your question now.

The idea when this was first approved as a PUD that this campus was temporary at that location and that they would relocate to another central part of the site, and at the time the PUD did not exempt them from architectural review, the new structures when constructed would have to comply with the LDC provisions for architectural consistency.

When the SDP came in for this temporary campus site, because it's temporary use and it was going to move, why force that applicant to comply with architectural standards if they're going to tear it down and move it?

So I believe that's what happened. And the building is a permanent structure. It's a modular building, and the Building Department would permit it as a permanent structure.

MS. VALERA: And if we had that -- as you said, you know, if that application was brought today for review, it will have to meet architectural standards. Regardless of if it's a modular building or if it's a concrete block, it does not matter, it will be required to meet architectural standards.

COMMISSIONER BROUGHAM: I understand.

COMMISSIONER VONIER: Ray, excuse me, would you repeat again what you just said about that building meeting standards?

MR. BELLOWS: The building code classifies modular buildings. And some modular buildings meet the Building Code like any stick-built structure. And there are some modulars that are of a type of construction that would not pass our Building Code. So they would not be allowed to be unless it's through some temporary use permit.

COMMISSIONER VONIER: And these would pass that code?

MR. BELLOWS: My understanding, that these are permanent structures.

COMMISSIONER VONIER: Okay. Well, that allays some of my fears at least. But I guess I'm happy.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: I would like to ask, who wrote -- in the staff who read the underlined language after staff analysis and recommendation that has the word denial in it?

MR. SAWYER: In the staff report, that came from me.

CHAIRMAN STRAIN: Okay. Mike, you say that if we deny these architectural recommendations they're going to affect the public's health. How?

And you say they're going to affect the public's safety. How?

And they're going to affect the public welfare. How?

Because if they don't affect the public's health, safety and welfare, then let's not put that language in these things again. Because then it's another one of these criteria that I hear thrown out all the time. I don't care if there's a pointed or a flat roof on this thing; it's not going to affect my health. It sure ain't going to affect my safety. In fact, if it was a pointed roof and fell off, it would affect my safety.

Then as far as welfare goes, I could care less if I drive by that place and it's got a pointed roof or flat roof.

So I'm just wondering -- that's my opinion, but I'm wondering from staff's perspective, we keep using this and we throw it out every time we want to deny somebody. And there are times it's legitimate. But in this case as far as architectural fluff, I can't see how health, safety and welfare have any impact in

architectural improvements.

MR. SAWYER: I certainly agree certainly from a health safety standpoint. But as far as welfare, I mean, we do have the architectural requirements.

CHAIRMAN STRAIN: Right. Because --

MR. SAWYER: And the LDC.

CHAIRMAN STRAIN: -- are us. I mean, that's why it's there.

MR. SAWYER: Just for devil's advocate that, you know, would be an aspect of welfare as far as the overall --

MS. VALERA: And that is how it is in the Growth Management Plan. If it didn't pass those tests, it wouldn't be part of the Growth Management Plan.

But -- so maybe a matter of opinion, but the purpose and intent of the architectural standards has to do more with the welfare of the community as a whole. And maybe not safety or health, but definitely welfare.

CHAIRMAN STRAIN: I like stuff that can be quantitatively analyzed, and welfare doesn't appear to be one of them, so --

MS. VALERA: No. And that's why planning is not an exact science, it's a social science where, you know, certain things are -- cannot be, you know, measured --

CHAIRMAN STRAIN: Planning, maybe. When it passes the planning stage and goes into code, code is black-and-white. And it needs to be -- or it needs to be understood where the flexibility is, and I'm not sure welfare is understood by everybody equally.

MS. VALERA: I agree with you.

CHAIRMAN STRAIN: So I'm not going to --

MS. VALERA: I agree with you.

CHAIRMAN STRAIN: We've already belabored this whole point long enough.

Is there any other questions of staff or the applicant?

(No response.)

CHAIRMAN STRAIN: Do we have any speakers, Ray?

MR. BELLOWS: No one has registered.

CHAIRMAN STRAIN: Do you want a short rebuttal to anything, Richard?

COMMISSIONER KEENE: Really short?

MR. YOVANOVICH: I'd just as soon answer questions.

But again, this has been a use that's been on this site for 13 years. It's a good use. I don't think the deviations we're asking for are unreasonable deviations. The neighborhood is not in an uproar for what we're asking for. And I hope the Planning Commission could approve the PUD as we have submitted it, including all the deviations, with the limitations of those few deviations to the gym that staff has agreed to, but approve the two that staff are not agreeing to.

CHAIRMAN STRAIN: Thank you.

Anybody else have any questions? If not --

COMMISSIONER VONIER: Your point, Rich, I am neighborhood. I look at --

MR. YOVANOVICH: I know you are.

COMMISSIONER VONIER: -- Royal Palm Academy every time I drive out the back gate.

MR. YOVANOVICH: I used to drive my kids --

COMMISSIONER VONIER: There's not a problem in the neighborhood.

MR. YOVANOVICH: They're not, thank you.

MS. ASHTON-CICKO: Mr. Chair?

CHAIRMAN STRAIN: Yes.

MS. ASHTON-CICKO: I just wanted to make a comment regarding deviation one, if I may. And it might be on your list to address. But some of the things that were said today about deviation number one is that it would be 100 feet from the right-of-way, it would be on the wall, and it would be on the west side of

Livingston Road. So if those were factors that affect your determination or if you do desire to approve that deviation, then I would respectfully request that you add that as part of any motion.

CHAIRMAN STRAIN: I had it all added, I just didn't say Livingston Road. But I'll add that word too.

Any other discussion?

(No response.)

CHAIRMAN STRAIN: I certainly have a discussion on the deviations.

Number one is the temporary sign.

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: And I can't see in the location for 90 days how that is a detrimental affect to the health, safety and welfare of the community. So I'm inclined to approve number one.

I agree with staff on two and three. I agree with the applicant on four. I agree with the staff and applicant that five, six, seven and nine should be applied only to the gym and the new modular units.

And that I also agree with eight, that the deviation process afforded noncommercial buildings ought to be afforded these as well. Non -- how's it worded? But you're asking for something that's already in the code for a certain group of buildings, and you're really not that different than that group and you should afford to be that.

So as far as deviation goes, those are the conditions I would suggest we do for inclusion in those.

We can start talking -- if there's any concerns about those before we -- because I've got a list of stipulations, there's seven of them, that we also need to go into.

I can first -- does the board have any concerns about the deviations different than what was read, or do you want me to go into my stipulations?

COMMISSIONER EBERT: I have one question.

COMMISSIONER HOMIAK: Go on to the stipulations.

COMMISSIONER EBERT: Rich, you said you met with the residents of the Strand?

MR. YOVANOVICH: There were two residents that showed up today. They told me they were going to speak against the project. And the questions they raised with me was height on the campus. And we talked about the height and the existing height that's allowed under the current "R" designation, that we were asking for 45 feet zoned height, which the current "R" designation allows 45 feet zoned height.

It was silent on actual like it was back then, and typically would be 45 and 55 for actual.

Once we talked that through, showed them the SDP, they said we don't need to stand around, we're going. I said I'd love for you to stay and talk and say yea. But they other things they wanted to do.

COMMISSIONER EBERT: Okay. One other thing is there is -- I did not see anything. There is a fence now up against the golf course? Is this buffered? I mean, it is --

MR. YOVANOVICH: And we went in detail about the fence and the deviation we're asking for regarding the buffer, and they were all fine with that.

COMMISSIONER EBERT: They were fine with that?

MR. YOVANOVICH: Yes, ma'am.

COMMISSIONER EBERT: Okay. Just checking on what their thoughts were.

CHAIRMAN STRAIN: Okay. Well, I'll move into the stipulations.

Number one is that the limitation on deviation number one will be, in addition to it, would be 100 foot back from the right-of-way.

MR. YOVANOVICH: No.

CHAIRMAN STRAIN: Didn't you say 100 feet back.

MR. YOVANOVICH: I said from the road, not right-of-way. From the pavement. We're 100 feet away from the pavement. That we need to make clear.

CHAIRMAN STRAIN: I'll review the minutes, but I thought you said right-of-way. Anyway, 100 feet back --

COMMISSIONER HOMIAK: No, he said from road.

CHAIRMAN STRAIN: -- from road. Okay, you said road?

COMMISSIONER HOMIAK: I wrote it down.

CHAIRMAN STRAIN: Did he? Okay, 100 feet back from the pavement. And it will be on the wall on Livingston Road. It will be no greater than four feet high by 50 feet long, and it will be mounted on the wall.

Number two, heights will be 45 feet zoned and 55 feet actual.

Number three, you're going to delete Item 4 on Page III-2.

Number four, you're going to clarify the utility issue by the time you go to the Board of County Commissioners in regards to your jack and bore and how that could possibly happen with the school system.

Number five, the setback from Learning Lane will be 30 feet. And you'll clarify that on the section of the PUD that we talked about.

Number six, you're going to clarify IV-3, item No. 13. That's the stub-out locations.

And number seven, it's one I'd spoke to you about on the phone but I forgot to bring up today. It will be you're going to limit any outdoor recreation activities to no further north than the proposed gymnasium. Or the current site plan, I should say.

MR. YOVANOVICH: And I think that's accurate but I just want to confirm that with -- real quick. We're good.

CHAIRMAN STRAIN: Okay, so wording of it will be there will be no outdoor recreation further north than the proposed gymnasium site.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: Okay? And then staff, you may have to look at that when you put it in the proper language as maybe a measurement. Because, for example, if the proposed gymnasium site didn't go through and this was in the PUD, it would be kind of hard to follow it. But that's the limitation that we were talking about.

Those are the stipulations I've written down during the course of the discussions. Does anybody have any things they'd like to add or change or modify or discuss on those?

(No response.)

CHAIRMAN STRAIN: Is there A motion then? Phil?

MS. ASHTON-CICKO: Mr. Chair, one more clarification. Which the Milano development would be excluded from that 30 feet from Learning Lane, since it's already developed. So you'll see that when it comes back.

CHAIRMAN STRAIN: Well, that's fine, but I don't think that your -- I don't think they go on Learning Lane, do they?

COMMISSIONER VONIER: No.

MS. ASHTON-CICKO: I thought Learning Lane cut through them.

COMMISSIONER VONIER: No.

MS. ASHTON-CICKO: Oh, I'm sorry, I apologize. I thought it did.

CHAIRMAN STRAIN: Okay. If there's any negative interaction with that 30 feet on Milano Lane check it before it comes back to consent.

Okay, Phil, you had something?

COMMISSIONER BROUGHAM: Well, I'll make a motion that we approve PUDA-PL20120001225, Royal Palm Academy, inclusive of the stipulations voiced by the Chairman.

COMMISSIONER KLEIN: Second.

CHAIRMAN STRAIN: Seconded by Barry.

Discussion?

(No response.)

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

COMMISSIONER KLEIN: Aye.

COMMISSIONER KEENE: 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 8-0.

Thank you all for your time and patience today. We appreciate it.

And we will take a -- more than a 10-minute break. We'll come back at 1:45 and resume to finish up our other issues at that time.

(Luncheon recess.)

CHAIRMAN STRAIN: Okay. Welcome back from lunch. I was going to say vacation, but it was lunch.

We have two items of old business we'll move into. And the first one is a review of the staff clarifications. And I have to make a comment based on my last meeting on these. I didn't understand what we were given them for but I understand better now. I had some clarifications provided to me.

So I guess we need to walk through them and understand how they've now been reviewed and applied in the code and any questions we may have. So we'll do it a little more methodical than we did before.

So Ray, let's start with the first one.

MR. BELLOWS: Okay, the first one is a 2004 staff clarification, and it's in regard to a recent issue that came up with the C-3 district and that requirement of when a proposed retail use exceeds 5,000 square feet they have to get a conditional use. And the question arose, does that apply to a drugstore. And this clarification is intended to clarify it does not apply to drugstores.

CHAIRMAN STRAIN: I pulled those sections of the code up, and I tracked it just like you guys did, and it seemed accurate.

But one overall issue we ought to take a look at, and I think it's in the works, is that the C-3 limitations on square footages seemed to be somewhat realistic in today's market.

MR. BELLOWS: That is correct. I'm glad you raised that. We have discussed that as a future LDC amendment and it is being worked on and considered.

CHAIRMAN STRAIN: Anybody else have any questions on the first one?

COMMISSIONER EBERT: What square footage did you say?

MR. BELLOWS: I'm sorry?

COMMISSIONER EBERT: Which square footage?

MR. BELLOWS: There's certain square footages that seem unrealistic. You know, I believe one of them was like a hardware type store, it was only 1,200 -- it was ridiculously low. So we're looking at those square footages and see what makes sense, and if it doesn't make sense we'll put it in an appropriate standard.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: The next one is two back. The second actually has been withdrawn, so it would be attachment number three. And it's concerning these access easement setbacks in Golden Gate Estates subdivision.

Do you have anything you want to comment on it, Ray?

By the way, I did look in the code and I can't find this. So it says the LDC will be amended to revise the language as follows. And I couldn't find that specific language in the code, so maybe at some point, I don't expect it today because I didn't give you this comment ahead of time, but you can drop me an email, let me know --

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: -- where it ended up in the code.

MR. BELLOWS: Okay.

CHAIRMAN STRAIN: But, I mean, everything about it seems logical. I don't see -- anybody have any comments?

(No response.)

CHAIRMAN STRAIN: Attachment four.

MR. BELLOWS: Four is the --

CHAIRMAN STRAIN: Storage containers. But isn't it still under review?

MR. BELLOWS: Yes. And Nick had asked me to coordinate with Caroline Cilek -- I can't pronounce her last name -- our LDC amendment coordinator. She's going to --

CHAIRMAN STRAIN: We know who you mean.

MR. BELLOWS: Yeah. And that LDC amendment is kind of on hold. We are looking at more coordination with some other stakeholders and whether this should be brought back.

But this was what staff currently uses. And you had mentioned when that LDC amendment -- why do we need that LDC amendment when we have this clarification. So it's still in effect and we're still using it.

CHAIRMAN STRAIN: Okay. Until it gets done being reviewed, we probably wouldn't attempt any change anyway until the current review is finished, right?

MR. BELLOWS: That's correct.

COMMISSIONER MIDNEY: Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER MIDNEY: Just for my own clarification, so the discussion we had was that we were trying to develop standards where you could have containers, and you say that's still under review?

MR. BELLOWS: Yes.

COMMISSIONER MIDNEY: And this is what's currently there now, there's no containers?

MR. BELLOWS: This reflects current code.

COMMISSIONER MIDNEY: Containers are not allowed.

MR. BELLOWS: That's correct. Though some have been put out in the Estates without permits, and there was one time where it was deemed if you got a tie-down permit, then it was a structure of some kind. But this staff clarification helps try to address that situation.

CHAIRMAN STRAIN: Well, heck, we could put them on wheels and call them monster trucks, right? I'm not even going to go there.

MR. BELLOWS: And the last one, I've read through it again a few more times prior to this hearing, and originally I thought it was still applicable. But reading through the LDC, the LDC has been amended and we're having both of these architectural provisions and also the fence provision, so I've decided that this is no longer applicable; it's been superceded. So I'd like to mark this one as withdrawn.

CHAIRMAN STRAIN: Okay. And that's the end of the staff clarifications.

So anything else you want to add or anybody else?

(No response.)

CHAIRMAN STRAIN: If not, we'll move on to the additional old business item. It basically was a report that Ray asked to add to the agenda concerning the preparation of --

COMMISSIONER HOMIAK: Are we going to accept these?

CHAIRMAN STRAIN: -- our documents.

Does these require us to accept them, to move --

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: Okay, is there a motion to accept the --

COMMISSIONER VONIER: So moved.

CHAIRMAN STRAIN: -- staff clarifications submitted today? By Bill, seconded by?

COMMISSIONER KLEIN: (Indicating.)

CHAIRMAN STRAIN: Barry.

Discussion?

(No response.)

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

COMMISSIONER KLEIN: Aye.

COMMISSIONER KEENE: 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, 8-0.

Thank you.

MR. BELLOWS: Yes, thank you for adding this last item to the agenda.

Mike Bosi has been coordinating with Jamie French in regard to having the backup material placed on a website so it would be fully accessible on a web page for all the land use items. That's still being worked on in my understanding. But we also have hard copies that we can provide.

And part of the information I provided early this morning gives you the look ahead of what are the scheduled items so you know which agenda items certain things are on. And if you want we can provide copies of those documents. There's extra copies the planners have.

And generally speaking, two weeks before the Planning Commission meeting, those documents are never changed. So two weeks before the meeting they certainly can be provided. And the one thing I don't know if we fully walked out, if that's going to be mailed to you or on a case-by-case basis. And I thought that would be part of this discussion.

CHAIRMAN STRAIN: Phil?

COMMISSIONER BROUGHAM: That's good news. And that -- putting them on a website, a county website, is consistent with other advisory boards as --

MR. BELLOWS: Yes.

COMMISSIONER BROUGHAM: -- we have emailed.

And that's available, we can look ahead -- I'm speaking for myself.

MR. BELLOWS: Yeah.

COMMISSIONER BROUGHAM: I can look ahead, I can start to do initial research if I want, site visits if I want and so forth and so on.

MR. BELLOWS: Yeah.

COMMISSIONER BROUGHAM: Speaking personally, having said that, some of these petitions obviously are very voluminous and I would still like to see the packet delivered. And once they're on the website, then they're there with -- I would assume then they're there with the staff report when it's appended and that type of thing, or would be. I know it's not there now, but --

MR. BOSI: Mike Bosi, Interim Director of Planning and Zoning.

The thought would be the staff report wouldn't be accompanied from --

COMMISSIONER BROUGHAM: So it would come in a hard pack --

MR. BOSI: -- that two weeks before. Because a lot of times the staff report is being signed up to the day before. And that is the most dynamic piece of the document.

COMMISSIONER BROUGHAM: I feel like I've gotten the order, I'm going to shut up.

MR. BOSI: Within the ability that we most certainly can do is posting those support documentation associated with it. Two weeks prior, like I said, gives you all these opportunities to start digging in a little bit identification of some of the issues that some of the TIS, EIS, some of those support document application

may be provided to you.

And then it will be part of your traditional package that's mailed to you so you will have it in your hands a week later. So hopefully, you know, that could satisfy some of those earlier concerns.

And we've been talking with Jamie French and the operations side of the shop to help us out and provide that type of assistance, and he's been more than gracious to make sure that we can --

COMMISSIONER BROUGHAM: I think that's great. And I think that's consistent with what happens with other advisory boards' committees as well.

CHAIRMAN STRAIN: You weren't thinking of substituting a web location for the printed documents, were you?

MR. BELLOWS: No.

MR. BOSI: No.

CHAIRMAN STRAIN: So the printed documents we would still get about the same timeframe we're getting now?

MR. BELLOWS: Correct.

CHAIRMAN STRAIN: Okay. Because, I mean, honestly, to review, and I understand Phil's position, but the way I do things when I review it, I mark them up as I go through. If I get more than one copy, which it sounds like I'd get a version on the web and then I'd get a written hard copy, I couldn't use the version on the web, I could only use the hard copy. Because I don't -- what you guys have done in the past when we've continued something and you've had to do it, you've had to reissue the package.

Well, that's a huge dilemma for me. Because I've got to transfer everything from my previous package, and I have a lot of notes. Or I've got to rereview it and rewrite all my notes, because the text moves a little bit.

So I understand that some members want to review it early, and that's good, as long as you're not substituting anything. I'm fine with the -- you get me mine on Thursdays or Fridays, I'm fine with that. And as long as we have that written package, that's what I've got to use. Because otherwise I'll really have a problem time-wise.

MR. BOSI: The current process of providing the hard copy packages --

COMMISSIONER BROUGHAM: Won't change.

MR. BOSI: -- and the timeframe won't change. This will just give whatever members of the Planning Commission that would like to get an early look at some of these documents that opportunity, and that's all that it would provide.

CHAIRMAN STRAIN: Excellent. Thank you.

COMMISSIONER EBERT: Yeah, I had asked for that, Mark, because you're right, because some of these are just huge. And I was even told by one of the applicants, well, you should have been able to have this, we had to have it in there six months in advance, and I'm going -- so that was one of the reasons, Ray, because there is a lot at times.

MR. BELLOWS: And I appreciate the input we get from the Planning Commission early on too. So the idea of the lookahead is to give you an idea of what you might want to ask staff three months before it comes up. We can explain the project to you of where we're at on the review. Knowing things will change as we get closer to a hearing date. But giving you six months of what our scheduled petitions are, if you really want to understand what staff is looking at and get a real early start you can ask us questions.

COMMISSIONER BROUGHAM: Well, we're not losing anything, we're gaining an option.

COMMISSIONER EBERT: We're gaining.

COMMISSIONER BROUGHAM: And it's --

COMMISSIONER EBERT: And we thank you.

COMMISSIONER BROUGHAM: -- your choice and preference, you know, as to how you pick and poke.

CHAIRMAN STRAIN: But I want to caution staff that if Planning Commissioners comment on things before the meeting, you can't make the changes. You certainly can come -- and they can come and

make the changes here, but don't go giving us documents that were changed by any one of us. Because none of us --

MR. BELLOWS: Good point.

CHAIRMAN STRAIN: -- should be doing that.

MR. BELLOWS: No, you're right. It's just alerting us to issues or concerns.

CHAIRMAN STRAIN: Yeah, that's fine. And I think the more issues we alert you to ahead of time, the better prepared you're going to be at these meetings. And the better prepared you are, we can get to the resolution quicker and maybe not continue items as much as we have to. So that would be great.

COMMISSIONER VONIER: Mike, the staff reports aren't always 11th hour, are they? Sometimes they're done earlier.

MR. BOSI: It's tended to be that way for a majority of the --

COMMISSIONER VONIER: I guess what my comment is, that if they've done a day earlier, give it to us a day earlier. If they're done two days earlier, give it to us two days earlier.

CHAIRMAN STRAIN: But see, here's the other problem. Mike's got the easy job. All he's got to do is review it, critique it and write it. The hard job is Judy. She's got to collate it, put it in order and make sure nothing missed. And she can't get that done the same day the documents are done.

COMMISSIONER VONIER: Okay.

CHAIRMAN STRAIN: So that's kind of a --

COMMISSIONER VONIER: That's a day that's -- I mean, that's legitimate day, obviously.

CHAIRMAN STRAIN: Yeah. So I think that's -- as long as we all know that, it helps understand why the packages come out the timing they do.

MR. BOSI: And just in Judy's defense, she also does that for the DSAC and a couple other advisory boards. So she spends her day collating.

CHAIRMAN STRAIN: Great, thank you. Appreciate it.

And Ray, that's -- we're done on that one?

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: Okay. The last item is a new business item. 11.A is appointment of a member of the Planning Commission to be seated on the Affordable Housing Advisory Committee. And this used to be done by Brad Schiffer, and so since he's no -- not with us we need to find somebody else who would like to sit on that committee.

I'm not sure, what is the purpose of a Planning Commissioner sitting on that committee, Ray? Because we review the language anyway when it gets here, and we review it as though it was from scratch. So what do we gain by having someone else spend time on this committee from this board?

MR. BELLOWS: I attended one of their meetings of the Housing Authority and they do benefit from having someone attending their meetings regularly who understands zoning and land use issues where they're overlapping issues at times. So I think they feel like it's a benefit that they can get somebody with a land use background.

CHAIRMAN STRAIN: What does staff do? I mean, don't you guys have land use background? I mean, why aren't you attending?

MR. BELLOWS: We don't work for that department.

CHAIRMAN STRAIN: You don't work for that --

MR. BELLOWS: This is the Housing Department.

CHAIRMAN STRAIN: Well, so what? Why don't they ask for one of the county staff members to sit on the board instead of someone volunteering? This board takes a lot --

MR. BELLOWS: I don't know why they chose the Planning Commission originally. It's --

COMMISSIONER BROUGHAM: Who chose it?

MR. BELLOWS: That's when the housing authority duties were created in the LDC.

CHAIRMAN STRAIN: So that's written in the LDC?

MR. BELLOWS: I believe it is.

CHAIRMAN STRAIN: Could you come back at the next meeting with a little more refinement to that?

MR. BOSI: I was going to say, let's look at that. Because I think when -- the resolution that probably created the Affordable Housing Advisory Board probably has that requirement. And if it does, we can engage the Planning Commission in that discussion. And if the Planning Commission would like to make a recommendation upon that in alteration to the Board of County Commissioners, we could take that to the Board for open discussion.

CHAIRMAN STRAIN: The problem I see, Mike, is I have witnessed firsthand how busy you guys are getting over there. This board is not going to get slower. It's going to get busier. And for most of us right now, these six inches of paperwork at every meeting are going to radically increase. And to expect someone to contribute additional time to another committee because they sit on this committee may be something that isn't as necessary as it may have seemed to be at one time. Especially since this board thoroughly vets those issues when they come here anyway.

MR. BOSI: I think it was it wasn't for the benefit of the Planning Commission, it was the benefit for the Affordable Housing Committee.

CHAIRMAN STRAIN: Right. But, I mean, they'd be smarter having a staff person who especially is more knowledgeable to stuff coming through the system earlier than we are, considering that --

MR. BELLOWS: We do --

CHAIRMAN STRAIN: Unless somebody on this board wants to spend the time on that and wants to jump up. But right now I think we're all pretty well booked. I know Phil's got multiple boards he's involved with. So I just don't know -- I don't know how we -- I don't know how to say it's easy to squeeze it in. So maybe we ought to look at that.

COMMISSIONER BROUGHAM: With qualifications, I think you mentioned it, that's key too. I mean, speaking for myself, I wouldn't pretend to know zoning and land development issues to make any contribution to that board. I mean, it would either have to be Melissa or yourself or Paul. Or Karen, excuse me.

COMMISSIONER KEENE: I'm good.

CHAIRMAN STRAIN: I'd just as soon we wait to see what staff could come back as a resolution of an alternative way that this may be approached.

COMMISSIONER BROUGHAM: I'm good? That meant you're volunteering?

COMMISSIONER KEENE: No, no. I'm good where I'm at.

CHAIRMAN STRAIN: Okay. Well, that brings us to the last item on our agenda, which is going to be the most lengthy one. Is there a motion to adjourn?

COMMISSIONER EBERT: Mark, I have one quick thing.

CHAIRMAN STRAIN: Diane, you want to add something?

COMMISSIONER EBERT: Well, the old one you said you were going to do.

CHAIRMAN STRAIN: Which one?

COMMISSIONER EBERT: Well, I'm going to ask Ray about the ALS.

Did you get us the information on the ALS in the PUD's and where they were otherwise? That was an old --

CHAIRMAN STRAIN: But it wasn't on the agenda so I didn't know. But we can ask about it. Sure, go right ahead.

COMMISSIONER EBERT: Well, it's because he said we're going to ask about this other. And I thought well, I'll just ask about the ALS.

CHAIRMAN STRAIN: Go right ahead. So what were you -- you were looking for the study that shows the --

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: -- amount of ALF either built or approved in the county currently.

MR. BELLOWS: Yeah, and you have been provided to the past a map that shows where the existing

ALF's are. And some of the proposed sites have been noted on there. But it's a massive task to go through all the zoning to find out where ALF's have been approved. So that's an ongoing issue.

CHAIRMAN STRAIN: You're still working on it though?

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: Okay.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: I'll get with you at some point. There is one chart that may help expedite that.

MR. BELLOWS: Oh, well, I'd appreciate that.

COMMISSIONER BROUGHAM: Just a question of you, Mark, I guess. But on the BCC agenda for Tuesday -- there's an issue on the BCC agenda regarding appointment of a hearing officer. You're familiar with that?

CHAIRMAN STRAIN: Yes.

COMMISSIONER BROUGHAM: Could you give us background on that?

CHAIRMAN STRAIN: Remember when -- I don't know if you were on the board then or not. But we had a list of staff administrative variances come through this board, as well as a series of others, quite a while ago. A long time ago when Joe Schmitt was in the office, I had suggested that we look at ways for staff to handle some things that are minor in nature and that aren't really controversial, and that would save the public a lot of money, rather than having to put everything through this board and then going on to the next one possibly.

It took a while, but finally that list had come forward. It came forward about a year ago in the form of a proposed LDC amendment to let some of that happen.

It didn't fair well. It got all I guess confused with other issues and so it kind of dropped.

Well, since then the need is still there. In fact even more so. So staff came up with an idea that sounded pretty good, that we have an individual called a hearing officer who would get some of those smaller things to make the decision on instead of staff, because the concern coming from this board at the time or some others was some members of the board felt that we shouldn't give staff that kind of latitude, it should be more of an authority. And that's what the hearing officer thing is about.

And I think the Tuesday agenda is really to get it out to see, okay, write it up and see what it will come back like and let's see --

COMMISSIONER BROUGHAM: Authorize the job description to be created --

CHAIRMAN STRAIN: Right.

COMMISSIONER BROUGHAM: -- a position and that type of thing?

CHAIRMAN STRAIN: But it's not for anything that we're doing really. It's stuff that we shouldn't be doing because it's more of a -- like the guy that had the pool enclosure that blew down after it was there for 20 years. And when he did his site survey to put the pool enclosure up, they found him six inches off or eight inches off. He had to come all the way through here for a variance. It cost him thousands of dollars, more than a pool cage. So that kind of stuff is really unfair and it really doesn't have any detrimental effect, because it's an existing condition that's just being repaired. And that's kind of what the position is -- part of the position's going to be created for.

COMMISSIONER BROUGHAM: Okay. I read it on there, I wasn't sure what it was.

CHAIRMAN STRAIN: Okay, does anybody else have anything?

(No response.)

CHAIRMAN STRAIN: With that, let's go back to that hard subject. Is there a motion to adjourn?

COMMISSIONER KEENE: So moved.

CHAIRMAN STRAIN: Made by Melissa.

COMMISSIONER EBERT: Second.

CHAIRMAN STRAIN: Seconded by Diane.

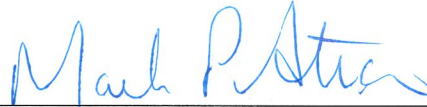
All in favor?

February 7, 2013

COMMISSIONER KLEIN: Aye.
COMMISSIONER KEENE: 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: We're out of here. Thank you.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 2:10 p.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.