

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida, May 2, 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:

CHAIRMAN: Mark Strain
William H. Vonier
Karen Homiak
Diane Ebert
Barry Klein
Phillip Brougham
ABSENT: Paul Midney

ALSO PRESENT:

Raymond V. Bellows, Planning Manager, Zoning
Heidi Ashton-Cicko, County Attorney's Office
Tom Eastman, School District Member

PROCEEDINGS

CHAIRMAN STRAIN: Good morning, everyone. Welcome to the Thursday, May 2nd meeting of the Collier County Planning Commission.

If you'll all please rise for the Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Thank you. And will the secretary please do the roll call.

COMMISSIONER HOMIAK: Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER HOMIAK: Mr. Vonier?

COMMISSIONER VONIER: Here.

CHAIRMAN STRAIN: Mr. Midney is absent today. He has other commitments he had to --

COMMISSIONER HOMIAK: And Melissa, she's done.

CHAIRMAN STRAIN: And there's two empty seats. She's an empty seat, yeah. So there's no sense in asking for her. She's resigned.

COMMISSIONER HOMIAK: Okay. 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. Ray, we're good?

MR. BELLOWS: I have no changes.

CHAIRMAN STRAIN: Okay. Planning Commission absences. Our next meeting is two weeks from today. Does anybody here today know if they're not going to be here at the next meeting?

(No response.)

CHAIRMAN STRAIN: That means we still have a quorum. That's great.

Approval of minutes. We were electronically sent the April 4th minutes. Any -- Phil?

COMMISSIONER BROUGHAM: Just some minor corrections on the first page and then on the attendance with reference to Ms. Ahern. It should be Keene.

CHAIRMAN STRAIN: That's right. It's probably my fault. I keep calling her by the name she started with, so yeah.

COMMISSIONER BROUGHAM: Other than that, nothing.

CHAIRMAN STRAIN: Okay. So Melissa's reference should always read Keene, K-e-e-n-e, instead of Ahern.

With any, anybody want to make a motion to approve?

COMMISSIONER HOMIAK: You have everybody doing that.

CHAIRMAN STRAIN: I know. I've been doing the same thing.

COMMISSIONER VONIER: So moved.

CHAIRMAN STRAIN: Made by Bill. Seconded by --

COMMISSIONER KLEIN: (Raises hand.)

CHAIRMAN STRAIN: -- Barry.

All in favor, signify by saying aye.

COMMISSIONER VONIER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries. We're up, what, 6-0.

BCC report and recaps, Ray?

MR. BELLOWS: Yes. At the last Board of County Commissioner meeting they heard the PUD amendment for Brooks Village. That was approved on the summary agenda subject to the Planning Commission recommendations.

They also heard the appeal by the Wahls of the boat dock denial. The Board of County Commissioners -- or Board of Zoning Appeals approved that appeal by a 3-2 vote with Commissioners Fiala and Coyle opposed.

CHAIRMAN STRAIN: Okay. By the appeal, meaning that they appealed to overrule the Planning Commission's recommendations.

MR. BELLOWS: Correct.

CHAIRMAN STRAIN: Okay. Chairman's report. There's nothing new to talk about today. There will be next month, because next week I -- apparently, the first Affordable Housing Committee meeting that I'll be sitting in on. I'll let you know how that goes.

Consent-agenda items. We have two things on -- three items to discuss today. And the order of discussion will be the continued item from last meeting first, which is the wrap-up of the CRA Bayshore Overlay District changes to the GMP. Following that, we'll do immediately the consent agenda so they can stay on schedule.

And then after we'll do the Community Congressional Church. So for those people attending for either one, that's the schedule we'll be approaching it today. I don't expect us to take too long to get through this.

So we'll move first -- instead of the consent agenda, we'll move right to the advertised public hearings.

***It's 9A. It's a continuation of PL-20120001213/CP2012-3, the Bayshore/Gateway Triangle Redevelopment Overlay.

Last meeting we had some suggestions to David, and he has reproduced some new language. And we're going to try to unconfuse the new language here today.

And by the laughter I'm hearing from the rest, I think there may be some agreement, David; it was a little confusing, like you and I talked about yesterday, so --

MR. WEEKS: Yes. Good morning.

CHAIRMAN STRAIN: -- let's try to dive into it.

MR. WEEKS: For the record, David Weeks of the comprehensive planning section for the county. And as I commented to a few others as I distributed a handout this morning, what I sent to you a week ago with single underline/strikethrough, and then double underline/double strikethrough. I didn't think that was confusing enough, so I've now added bold colored double underline/strikethrough.

Mr. Chairman, as you, of course, know, you and I spoke yesterday and, in response to that discussion, I did make the changes that you see -- all of you see in blue text.

And let me first just walk through the explanation of the document.

As noted in the footnote, the single underline/single strikethrough language is as was approved for transmittal of this Comprehensive Plan amendment. And if there's no underline or strikethrough, then the language already existed and is not being proposed for change.

The double line/double strikethrough/black, unbolded text is what was provided to you about a week ago, and that was in response to the discussion that occurred here on April the 4th.

And then the double underline/double strikethrough, bolded blue text are the amendments made just yesterday and this morning based upon discussion with the chairman.

CHAIRMAN STRAIN: And just for the correction, I didn't give David any specific direction. I simply suggested that I was going to discuss today the complexity of the way Paragraph C read and then asked that he study that so at today's meeting we wouldn't have to reinvent the wheel and walk through the

whole thing and, you know, at least we could start from a better position. So that's how we got to where we are.

MR. WEEKS: Yes. Thank you for that correction. It was not direction. It was discussion.

Starting at the -- so we're only dealing with Paragraphs 5 and 9, and it was principally Paragraph 5C.

The first change in Paragraph 5 occurs in two places, and this is based upon discussion from the last meeting, April 4th, where what I heard the Planning Commission say is we want this density-bonus provision only to apply to redevelopment projects.

So you can see I added "re" to the word "develop" to make "redevelop" in both places in Paragraph 5.

CHAIRMAN STRAIN: David, and I don't mean to keep interrupting, but when you phrase things as though we said it or anybody in particular, I want to comment, though, that we mimicked what we thought we heard the Bayshore CRA director, interim director say in regards to the intention of this, which was for redevelopment, not for just any development. And I think that is accurate, so --

MR. WEEKS: Thanks again.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: I'll try to say it right.

CHAIRMAN STRAIN: No. I just don't want anybody to think we're trying to run off on a tangent on an adoption. We simply are trying to follow the intention that we were -- that was indicated to us after we questioned it.

MR. WEEKS: Sure, sure. And going back to the April 4th meeting, the way I've characterized what occurred at that meeting was a combination of concerns and issues expressed by the Planning Commission and some direction.

As you recall, it was -- some of it was conceptual in nature. Like, we want this to be applicable to redevelopment because that's what we understand the CRA's intent was. We want redevelopment to be defined. Well, that left it -- that's conceptual. That left it open for staff to come up with a definition of that.

So, again, some specific direction, but in other cases it was just issues, staff, go address this.

The second change in Paragraph 5, again, before we get to the letters, is to insert the number 388, and this was actually a suggestion from the CRA director just for clarification. On the line that says that no more than -- that a project could use no more than 97 units or 25 percent of the total density pool units available for any single project, the 388 is to clarify that we're always talking about the total pool.

Without that, potentially, it could be misunderstood to think we're talking about 25 percent of the available units after one project gets approved and then a second one. So that percentage would keep shrinking. And, theoretically, we would never use up all the units because you're capped at 25 percent. So this is to clarify 25 percent of that total density pool that came from the Botanical Garden site.

And the Planning Commission never discussed a percentage. I threw that out for point of discussion. If 25 percent is acceptable, so be it -- if you want to change that.

Generally speaking, the language I've proposed here, I think of it as a menu because, again, the direction, in my view, was largely conceptual. I'm giving you something to react to, because it's difficult to talk in concept. I mean, you need to see language. You need to actually approve some specific language.

So my intent here was to give you language, like a menu. If you don't like the percent figure, change it. Or if you don't want any percent, take it out.

Similarly, moving right now into Paragraph C where you see I have a couple sentences and then I have a bolded word "or," so I'm giving you two choices of a definition of redevelopment. And then beyond, that, the word "and," so that would be another couple sentences or so to go with whichever choice above.

But you may choose to take sentences or phrases from either one of those optional definitions of redevelopment to achieve whatever your desired result is.

COMMISSIONER BROUGHAM: David, can I ask you a question?

MR. WEEKS: Certainly.

COMMISSIONER BROUGHAM: I'm not clear on where the -- what's the origin of 97 units or 25 percent? I mean, I understand what you just said, you know, to clarify. The pool is 388.

MR. WEEKS: Right.

COMMISSIONER BROUGHAM: But what drove the 25 percent or the 97 units rather than 50 percent or 150 units, for example?

MR. WEEKS: First of all, 97 units is exactly 25 percent. Secondly, just the tenor of the discussion was concern that one project would use too much of the density pool, that one large project comes in, and in one fell swoop, half of the pool is used. The 25 percent was just a rough figure that I proposed.

COMMISSIONER BROUGHAM: Okay. I mean, it was nothing -- there were no specific criteria or thoughts or anything driving to that number? It was a suggested number that seemed reasonable when you put it in there?

MR. WEEKS: Yes. Here's my perspective. At least, you know, no fewer than four projects will be able to use the density pool units by proposing 25 percent.

In reality, I think Jean would tell you -- the CRA director would tell you that there are very few properties -- and I believe she'll say -- there's very few properties of reasonably large size that could use this density pool.

And if we have an allowance for up to 25 percent, then I think all of those larger parcels will be able to use the density pool and maybe still have some left over.

And the potential for smaller projects to use this -- this language goes down to three acres in size -- of course, that would allow for that pool to be used even more broadly by more projects.

COMMISSIONER BROUGHAM: Okay.

CHAIRMAN STRAIN: David?

MR. WEEKS: Yes, sir.

CHAIRMAN STRAIN: At the same time, though, this doesn't prevent someone coming forward with a separate small-scale plan amendment to use some of the units under a case-by-case basis?

MR. WEEKS: True.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: Because this is a plan amendment itself --

CHAIRMAN STRAIN: Right.

MR. WEEKS: -- a private developer could come in and ask for their own amendment to be able to use a different amount.

CHAIRMAN STRAIN: And I'm thinking of the project that had qualified originally for a large number of units. It was a mixed-use project at the corner, I think, of Bayshore and -- well, that -- Thomasson.

And it -- the project hasn't gone forward, so the units have gone back into the density pool, but they needed more than 97 units. They could have come forward, then, on a separate amendment with the request and a justification for those units if they so desired if this language had been intact as it is today.

So it doesn't limit 97 percent (sic) unless someone wants to go through the added effort and the added public presentation process to get there through a GMP amendment.

MR. WEEKS: Through a plan amendment. And, Commissioner, I think that's the -- one perspective would be that's the downside to putting a specific percent cap in here.

If a project comes in and it's a worthwhile project, everybody thinks this is a great project, this will be good for the Bayshore area but they have this impediment of having to go through a Comprehensive Plan amendment, which is costly, time-consuming, and there's no certainty and outcome, maybe that's not a good thing.

CHAIRMAN STRAIN: What -- if they have to go through a full -- if they didn't go through a plan amendment and you didn't have a value in here of, say, 97 units or 25 percent, how could we structure this so that everything is then assessed on a case-by-case basis in regards to how many units they should actually have? And how would you legally have a limitation to say one developer couldn't have that many and another could have a greater amount?

And I'm worried about that because there is ways -- we've seen unique ways to get around and circumvent the intention of our codes in many instances, and I would hate to see that happen here.

Is there -- what do you feel about that? I mean, is there any solution other than putting a cap on them?

MR. WEEKS: I'm not sure.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: And I understand that concern. And I think it's a valid one as well. I just don't know how to balance the two. The concern of preventing a good, large project from being able to go forward without a plan amendment but, conversely, the point you raise of projects without a cap on there, that they --

CHAIRMAN STRAIN: Where I was headed, David, was the LDC. The LDC is the implementation language for the GMP. Could we structure the GMP with enough flexibility that we could tighten it up in the LDC, which would be a lot easier to modify through the PUD process by a deviation or something like that. Then you've got the best of both worlds. The person still goes forward with the one application you'd have to do, not have to modify the GMP. And the LDC, if we could build in the flexibility, would take care of it in the PUD process. What do you think?

MR. WEEKS: I think that's a great idea. My preference would be that you -- going back to Paragraph C, that you don't go with any of these full options here but, instead, take a very abbreviated approach and basically say, must be redevelopment, and maybe add a sentence here that the LDC will be amended to include the implementing mechanism and leave it at that and let the LDC get into the specific provision.

CHAIRMAN STRAIN: I have no problem with that. I think that's a much -- I mean, the simpler we can make this language, the better, and leave the complicated nuts and bolts to the Land Development Code where it can be deviated or handled through a PUD process. And it saves the public and applicants a lot of effort that way.

Phil?

COMMISSIONER BROUGHAM: Just a follow-on to that. I mean, that has been my thinking for two or three weeks, that trying to look for -- myself to look forward in trying to envision all of the potential development projects that may come forward, some good, some bad, and some borderline. I think what you're suggesting is if we could hear those specific projects in the context of the LDC --

CHAIRMAN STRAIN: Right.

COMMISSIONER BROUGHAM: -- then we can have a broad range of questions that we can throw at that project and surrounding areas. I would endorse that.

CHAIRMAN STRAIN: And then what happens, they come in with a PUD, let's say, with a mixed use, and the mixed use is ideal, it's what we're looking for, and they want a little more incentivization, the language in the LDC could allow that to happen, and it could happen through the PUD process simply by requesting a deviation or justifying it as we normally would when we review PUDs.

COMMISSIONER BROUGHAM: Yeah, I'm 100 percent with that, because --

CHAIRMAN STRAIN: Okay.

COMMISSIONER BROUGHAM: -- Paragraph C there was so complex and so many ifs, ands, ors, and buts that it just seemed to open too many doors that you probably didn't even recognize.

COMMISSIONER VONIER: We should encourage, not discourage, development.

CHAIRMAN STRAIN: That's the point. But I think if you leave C as "projects shall constitute redevelopment of the site" and then add language that indicates that redevelopment of that site will be as defined in the Land Development Code, or however the wording needs to be written, that takes care of C. And then all the rest of that could be put in the LDC where we would have a better opportunity to work it on a case-by-case basis based on the justifications coming forward through a PUD process.

David, does that sound reasonable?

MR. WEEKS: Oh, it sure does.

MS. ASHTON-CICKO: If that's the route that you want to go, then I would just suggest leaving C as the first sentence, "projects shall constitute redevelopment of the site." I don't think you need to place a requirement in a GMP that the LDC can define it. You can do that without language in the GMP.

CHAIRMAN STRAIN: Do we -- would it help to, at the end of that sentence, just suggest that the land development -- pursuant to the Land Development Code as outlined, or is that just going to be an automatic given?

MS. ASHTON-CICKO: I think it would be a given.

CHAIRMAN STRAIN: Okay. Well, I'm all for that. And David did such a great job in rewriting

this five times, I -- we could have saved all those hours of work just by this one, what, six-word sentence or seven-word sentence in the beginning.

MS. ASHTON-CICKO: But when you approve this item as part of your recommendation, you would add that they, you know, start drafting an LDC amendment for the next cycle to address the redevelopment.

CHAIRMAN STRAIN: Okay. And I think it's a much better place to put it. And, David, I think it's a great idea. We'll just leave it like that then.

So if everybody on the board is satisfied, C's just going to read, "Project shall constitute a redevelopment of the site," period. And then we leave the rest of them intact, and that takes care of that section. Does everybody -- David?

MR. WEEKS: One question, Commissioners.

In Paragraph 5, before the Letters A through D, as well as added to Paragraph 4, we still have that 25 percent cap. Is it desirable to keep that in here, or would you like that to be --

CHAIRMAN STRAIN: Why don't we put that in the LDC as well? Why don't we just refer everything -- let the LDC through the PUD process, because the PUD process involves good public notice, a lot of participation. Staff looks at it, we've got all the departments looking at it, and I think we can suggest a justification through that process as a much better way to determine the quantity and incentivization that would be allowed.

MS. ASHTON-CICKO: In that one I would recommend to you differently. If you do want to not place the cap on here, then I would say that they'll come forward with the LDC amendment that's going to, you know, limit the use.

Because as it stands right now, there's 388 units for a multi -- a mixed-use project. Once your amendment goes through and you don't have the LDC in place, now anybody can come forward first come, first served. They can use all of it.

So you might want to place something in there that no one project can take all the units, I don't know, or that the LDC will be amended within one year to address limitations on the eligibility.

CHAIRMAN STRAIN: Well, couldn't we leave the limitation in there with an expiration date upon adoption of an LDC amendment?

MS. ASHTON-CICKO: Oh, okay, so that there's -- no project may utilize 97 units or 25 percent of the total unless --

CHAIRMAN STRAIN: Subject to adoption of an LDC amendment --

MS. ASHTON-CICKO: -- unless it's superseded by an LDC amendment that address --

CHAIRMAN STRAIN: Yes.

MS. ASHTON-CICKO: Yeah, you could do that.

CHAIRMAN STRAIN: Okay. Does that work for everybody?

COMMISSIONER HOMIAK: Yep.

COMMISSIONER EBERT: Yep.

CHAIRMAN STRAIN: That covers us both ways.

And, David, what I'd like to do is, after we get done here, we're going to go into -- we can go to the church before consent. That will give you a little bit of time to hand draft and then read it for the record, then we can clean it up that way at the very end.

MR. WEEKS: Thank you.

CHAIRMAN STRAIN: That -- is that -- we're done with 5, David?

MR. WEEKS: We are. And then Paragraph 9 is simply to provide a reference -- let me see if that's still needed.

No. That bolded blue addition to Paragraph 9 on today's handout would no longer be needed because we're removing the specific definition.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: That could be stricken.

CHAIRMAN STRAIN: So what we'll do is -- and is there any questions from anybody else in any other section of the language presented?

COMMISSIONER BROUGHAM: Oh, wait, not in 9.

CHAIRMAN STRAIN: No, in any of it, this whole five-page --

COMMISSIONER BROUGHAM: Item 10, the last sentence of that paragraph, for all properties, the maximum density allowed is that specified under the density conditions and the density rating system. And then my reference was to go back up to Paragraph 9 where you're talking about the difference in units in 12 and 8 and so forth and so on.

It just seemed to me you're making a very specific statement in 10, for all properties, the maximum density allowed is that specified under the density conditions and the density rating system; whereas, in Paragraph 9 you seem to have conditions of maximum density, 12 or 8, et cetera.

MR. WEEKS: Here's the distinction. Paragraph 9 is referring to this density pool unit.

COMMISSIONER BROUGHAM: Yes.

MR. WEEKS: Density pool units only, so that's someone coming in for a residential-only project or the mixed-use project where they're using the density pool; they have a cap of either 12 or 8 units per acre, period.

COMMISSIONER BROUGHAM: Okay.

MR. WEEKS: Paragraph 10 allows for affordable housing project only to obtain density through that density pool in 8 or the 12 units maximum and, in addition to that, obtaining affordable housing density bonus dwelling units or density for the project.

But in combining the two together, in no case can you exceed the maximum density on the density rating system, which is 16 units per acre.

Because absent that cap, arguably a person could get, I don't know, 12, 8, up to 20 units per acre if they qualified for the maximum.

COMMISSIONER BROUGHAM: Okay. That's a tentative "okay."

MR. WEEKS: Okay.

CHAIRMAN STRAIN: Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Okay. And, David, I think you've got enough, so we'll come back to this in a little bit when we finish the church and go for consent.

Jean, is this satisfactory to your community -- I mean, your CRA?

MS. JOURDAN: For the record, Jean Jourdan. Yes, it is.

CHAIRMAN STRAIN: Okay, thank you.

With that, then, we'll -- oh, is there any members of the public wishing to speak on this GMP amendment for the Bayshore CRA area?

(No response.)

CHAIRMAN STRAIN: No, okay.

We'll move into the church and then come back for consent on this one.

I've got to get all my books straightened out here. We've got to change books. We have a GMP book, and we have a hearing book, so.

***Next item up is CU-PL20120001074. It's the Community Congressional Church. All those wishing to testify on behalf of this item, please rise and be sworn in by the court reporter.

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

CHAIRMAN STRAIN: Disclosures on the part of the Planning Commission? Anybody?

I spoke with Wayne Arnold, went over a bunch of issues that we will probably bring up for discussion today, and briefly Mr. Pritt just before the meeting started.

So with that, the applicant, Bob, it's all yours.

MR. PRITT: Thank you, Mr. Chairman, members of the Planning Commission. My name is Robert Pritt, P-r-i-t-t, with the law firm of Roetzel & Andress, and I'm here on behalf of the -- make sure I say this right -- the Community Congressional Church on the Gulf, and that's located north of town on U.S. 41.

The request that we have here today is for a conditional use to do two things: One, to reinstate the pre-existing conditional use for a childcare center that had been approved on the property in 1997 but was -- had expired because the school had closed down, or the childcare center had closed down; and, secondly, and

actually more importantly, more urgently for our purposes is to approve the conditional use for a K through 8 school. And we'll have a little bit of testimony as to what the nature of the school is. But we would ask for a K through 8 school, generically, for the property.

We have looked at the staff report. We agree with the staff report. We have no problems with the staff report. I understand that there might be a question or two or three concerning certain details, and we'll be glad to answer those questions.

But I'm going to turn this over to Wayne Arnold, our planner, who's going to do the presentation.

We also have here Doug Deavers (phonetic) from the church and Al Ritz from -- who's on the board of the school. And I think, is it Betsy?

MS. HENDRICKS: Betsy.

MR. PRITT: And Betsy Hendricks who is a parent --

MS. HENDRICKS: Parent.

MR. PRITT: -- a parent, yes, of one -- one or more of the children at school --

MS. HENDRICKS: Two.

MR. PRITT: -- two of the children of the school. I'm not sure we have anybody else. But, anyhow, that's who would be here available to testify to give you any information that you need to know about the application and about the school.

So I'm going to turn this over to Wayne Arnold, and he'll do the presentation. Thank you.

CHAIRMAN STRAIN: Thank you, Bob.

MR. ARNOLD: Hi, I'm Wayne Arnold, certified planner with Q. Grady, Minor & Associates.

And I think I'll start -- just go ahead and put an aerial on. You have one in your packet. I'll talk a little bit about the surrounding land uses.

As you know, this church was established through a then provisional-use process back in the early 1980s. It, obviously, was constructed, and development has occurred largely around the church. We have Sterling Oaks community to the east, you have the Napoli Village PUD to the north, and you have the Two Lakes PUD to the south, and Audubon Country Club PUD and their commercial components to the west.

So we're largely surrounded by commercial properties. The hiatus strip between the church and to the east between Sterling Oaks community is part of the preserve area of the Napoli Village PUD. And we have a good 300-plus-foot separation from the church building to the nearest residential unit of Sterling Oaks. So we have a wide separation of use.

We did provide a small conceptual plan as part of your packet which really identifies the footprint and the existing improvements that were provided for the church and the prior childcare center that was established here.

We've identified that the grass parking area would be potentially utilized as an outdoor play area. There's currently playground equipment there that's utilized by the church itself.

We've identified the buffers. It's a pretty simplistic plan. I know that Ms. Asht -- Ms. Chico (phonetic), excuse me, asked before the meeting about the interconnection that exists between the church and Napoli Village to the north, and that interconnection is really identified on the Napoli Village PUD conceptual master plan, and there is an easement in place that gives the church the rights of access over that. It provides a left directional turn from U.S. 41 into the property.

With regard to the overall process, Mr. Pritt indicated the 90-student maximum. That applies to the total number of students, when we did a childcare center or we did a K through 8 private school. We've asked for the two options.

And I know that there was a statement made in the original application materials that they wouldn't operate concurrently. And I know, Mr. Strain, you and I had that conversation. And if that's going to be a condition, we're certainly agreeable to that.

But the idea was to cap the students at 90, which was consistent with -- not stated in the provisional-use application for the prior childcare center, but was on the site plans approved by the county and, I guess, impact fees paid concurrently with establishment of the classrooms. So that goes back to the 90-student history.

The church is set up and has classroom space available for the private school that wants to relocate

here.

And I don't know if you need specific information about the school itself, but it's a private Christian-based school that wants to operate here with, obviously, a maximum of 90 students.

We think we're a compatible use with the surrounding properties, and the facilities are in place to service us.

I would say we did hold our neighborhood information meeting, and it was a day much like today, a lot of rain, but we had one resident from Sterling Oaks that attended, and we were actually -- walking out -- were ready to walk out of the building when he arrived late, but we reopened the meeting and created an audiotape of it.

And I think the summary of that was he had several questions, they were answered, and he walked away saying he didn't have a problem with the project. I don't see him here in the audience, so I'm assuming that he's still okay with the project.

With that, I'll be happy to answer questions you might have. It's, like I said, pretty straightforward.

CHAIRMAN STRAIN: Are there any questions from the Planning Commission? Phil?

COMMISSIONER BROUGHAM: Just a couple, briefly. Does the church operate as a church currently?

MR. ARNOLD: Yes.

COMMISSIONER BROUGHAM: Church services on some sort of a scheduled basis?

MR. ARNOLD: Yes, it does.

COMMISSIONER BROUGHAM: But it does not operate any daycare or classroom use right now?

MR. ARNOLD: Correct. They established the childcare use several years ago, operated it, and didn't really gain enough children to be a successful operation at the time.

COMMISSIONER BROUGHAM: Now, in your application on evaluation criteria, I think, in Item No. 3 -- and I don't think this probably has any meaning, but you state to begin operations at the church in January 2013. Obviously, that hasn't occurred, and I don't think it's material. But when do you anticipate, if you obtain approval, beginning operations?

MR. ARNOLD: I can let the church folks answer, but I believe it's --

MR. PRITT: August 14th.

MR. ARNOLD: August 14th of 2013 would be the target date for the school to open.

COMMISSIONER BROUGHAM: Okay. That's it, Mark.

CHAIRMAN STRAIN: Anybody else? I've got -- oh, Barry.

COMMISSIONER KLEIN: Yeah. Wayne, was Mr. Shuester (phonetic) the only member from the public that attended that meeting?

MR. ARNOLD: Yes, sir.

COMMISSIONER KLEIN: Thank you.

CHAIRMAN STRAIN: Wayne, when I met with you, I went over a total of four different additional conditions, and I'd like to walk you through those and see what you feel about them.

MR. ARNOLD: Okay.

CHAIRMAN STRAIN: The one you've already acknowledged the -- actually, it would be No. 2, conditions on Exhibit C, childcare center and private school shall not be operated at the same time. The 3, I would suggest, is the typical hours. You need to provide typical hours because there are three different schedules of hours in your application. All different.

MR. ARNOLD: I apologize for that.

CHAIRMAN STRAIN: So let's nail it down to something that is --

MR. ARNOLD: Well, I think as we discussed -- and I think even in the brochure that was provided for the school that's in your packet, their general hours are 8:30 to 3:15 or so, comparable to elementary and middle schools.

But I think for flexibility to make sure that we capture teachers or students arriving before they actually ring their classroom bell and having hours that may extend a little longer, I think something like eight to four would be the normal hours for the K through 8 school.

I think if we're going to distinguish the childcare use separately, those hours probably need to be a

little bit longer because of latchkey kids and people dropping off prior to work hours. And I would suggest something for childcare in the range of 7 a.m. to 6 p.m.

MS. ASHTON-CICKO: Mr. Chair, may I make a comment?

CHAIRMAN STRAIN: Sure.

MS. ASHTON-CICKO: One of the problems that they had with the church was that they had a pre-school, but because the three years, or whatever number of years, had expired, that's part of the reason they had to come back for the conditional use. And I'm concerned that if you say that they can't operate together --

COMMISSIONER EBERT: At the same time.

MS. ASHTON-CICKO: -- then they're going to have a problem potentially in the future where one of these uses have expired.

So, personally, I don't have a problem with them being capped at 90 students and not specifying what. But I don't know if that makes a difference from the transportation side.

CHAIRMAN STRAIN: Okay. But if the way the conditional use is provided, if it's "or," childcare or K through 8, and they operate either one, the conditional use is then qualified.

So if they don't operate one for a number of years but they're operating the other, they still qualify for the conditional use. So why would they not be allowed, then, if it's "or," to continue and reinstitute a use that they may not have used specifically for a two- or three-year period?

MS. ASHTON-CICKO: You might want to clarify that, because I can't speak how this will be implemented some day in the future. I don't know how present staff would handle it, but --

CHAIRMAN STRAIN: The problem I have is -- and it's nothing against the operation. I'm all in favor of this. But they advertised, or at least the public documents that they provided, said they would not operate both of these entities at the same time. And that's important.

So I'm just asking them to stip -- asking that as a stipulation, which they don't have a problem with. Your concern is one of expiration of the conditional use. I just think if that's a concern, then we need to clarify that failing to operate any one of those for any length of time doesn't cause the conditional use to expire. They have to fail to operate at all for it to expire, meaning neither one of the uses are going on. I think that was what I had intended it or read it as.

Ray, is that how staff would look at it?

MR. BELLOWS: Correct. The conditional use would not -- for one would not expire if the other one didn't commence.

CHAIRMAN STRAIN: Okay. And that's what -- and if there needs to be some clarification by consent to make sure that doesn't get misinterpreted in the future, then we should do that. But I think that was clearly the understanding I had when I read it, and I think it was their understanding when they applied. So I think everybody can be on the same page. And Heidi just nodded up and down, which I think is a yes.

MS. ASHTON-CICKO: Yeah. But they had 90 pre-school students or 90 elementary school students. So now they were blending it with 90 total. So, you know, I'm not really sure what they were thinking.

MR. ARNOLD: I think we're fine with Mr. Strain's suggestion.

CHAIRMAN STRAIN: Okay. And the hours -- we're going to look at, if you're using the K through 8, the hours would be eight to four. And if you're going to use child care, the hours would be seven to six.

MR. ARNOLD: And I guess the one comment I would have, I mean, all schools tend to have special events or certain functions.

CHAIRMAN STRAIN: Yeah, your language says, occasional after-school and evening activities, and I would think we'd leave that in.

MR. ARNOLD: Okay.

CHAIRMAN STRAIN: And No. 4, the existing grass parking area may further serve as an outdoor recess area or recreation area -- recreation area, actually. I'd like to see that in a condition of approval so that we're not relying just on the master plan, or the site plan in this case. That way it's a little clearer.

And No. 5, the student dropoff. Because you committed to a gentleman at the NIM that you'd be dropping off at the southeast corner of the building -- and I notice that you put that back on your site plan, so

I'd just like to make that a stipulation, that student dropoff will be on the southeast side of the building as shown in the site plan.

MR. ARNOLD: And I think that's important for the church's function, too. They've segregated their classroom area from the main sanctuary building, so it has its own separate area and entry into that portion of the building. So that is the location where they'll be dropped off.

And we have no problem noting that on the conceptual plan and adding a condition to that effect.

CHAIRMAN STRAIN: The gentleman that brought that up at the meeting isn't here, but he heard you say that. And in reliance to what you said, that's my reasoning for adding it.

And those are the only issues I had with the application. And I guess that's -- anybody else have any further questions before we go to staff?

MR. ARNOLD: Just a quick clarification. Are we adding another condition that would indicate the dropoff area is near the southeast corner as noted on the conceptual plan?

CHAIRMAN STRAIN: Yes.

MR. ARNOLD: Okay.

CHAIRMAN STRAIN: I don't want to rely on the site plan at all times. Sometimes those get kind of -- either hard to read when they get recorded or hard to find if they're not recorded properly or cleaned up. So I'd just as soon the language mimic it as much as possible.

Okay. Is there anything else, Wayne?

MR. ARNOLD: No, nothing.

CHAIRMAN STRAIN: Okay. Nancy?

MS. GUNDLACH: I can just speak right from here.

CHAIRMAN STRAIN: Yeah, that's fine.

MS. GUNDLACH: Good morning, Commissioners. I'm Nancy Gundlach, principal planner for planning and zoning review.

And staff is recommending approval of this petition. It is consistent with the Land Development Code as well as the Growth Management Plan. And it would be our pleasure to answer any questions you might have this morning.

CHAIRMAN STRAIN: Any questions from the Planning Commission?

(No response.)

CHAIRMAN STRAIN: Oh. I had one. John. John's been waiting all day to come up and talk about this, I'm sure.

And, John, I had given Nancy a heads-up on the conversation the other day about my questions, so you probably know, and it's to do with the staff report on Page 6.

You said there's determined to be a decrease in the peak-hour trip generation. And I combined that with the TIS that was provided, but it only analyzed it based on a private school, which it still has the option to be a daycare. So how do we get to a decrease?

MR. PODCZERWINSKY: So if it remains -- well, that's only if it's the "or," one use or the other. If it converts to the -- if I remember correctly, if it converts to the daycare use.

CHAIRMAN STRAIN: Then it's not a decrease; it's an equal?

MR. PODCZERWINSKY: It's an equal, yes. So if it converts to the school -- one of the two uses has a slightly lower trip-generation rate than the other.

CHAIRMAN STRAIN: And why would the pre-school -- or a K through 8 with 90 students have a different trip-generation rate than a daycare with 90 students?

MR. PODCZERWINSKY: In particular, it's the operating hours of the average school versus the average daycare. An average daycare might be available for children to be picked up after work; whereas, an average school might stop operations at 3 or 4 p.m., which is outside the p.m. peak hour.

CHAIRMAN STRAIN: I just wanted the clarification, because I didn't think there's -- no increase, and that was my biggest concern.

MR. PODCZERWINSKY: Right.

CHAIRMAN STRAIN: Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: Thank you.

Wayne or Bob, do you guys want to do any rebuttal?

Oh, before that, let me ask if there's any registered speakers, Ray.

MR. BELLOWS: We have one speaker. Peter --

CHAIRMAN STRAIN: And, Bob, I'm sorry. We'll have to -- we certainly want to hear the speaker before we finish up, because you may want to rebut in that regard, so --

MR. ODERICO: Thank you. My name is Peter Oderico. I represent the Beztak Companies, and we bought the site just to the north, the former Szabo Nursery site.

COMMISSIONER EBERT: I can't hear you.

CHAIRMAN STRAIN: Yeah. You've got to pull that mike a little closer. There you go.

MR. ODERICO: How's that, better?

CHAIRMAN STRAIN: Much better. Thank you.

MR. ODERICO: My name is Peter Oderico, representing the Beztak Companies. We purchased the site immediately to the north, which is the former Szabo Nursery site.

We intend to develop or build a 175-unit assisted living facility. Probably won't start for about a year. It will be consistent with the current zoning.

My only concern -- and I've spoken to Mr. Deavers and Mr. Ritz just now -- is with the dropoff and the traffic and, obviously, when we construct the facility, which will probably take about 12 to 14 months, you know, that we have the cooperation that we need, that there's no problem with traffic, and that's because we have a shared entry, you know, to the north. But, in general, we're very supportive of it and give our approval.

CHAIRMAN STRAIN: Thank you. And I can assure you from what our transportation expert has told us, there is no additional traffic generated than what was there before, so hopefully that won't cause you any inconvenience.

MR. ODERICO: I'm glad to hear that.

COMMISSIONER EBERT: I have a question for this gentleman. Did you also not have a shared entry with Christus Victor?

MR. ODERICO: I believe we do not.

COMMISSIONER EBERT: My understanding was that they could have used -- they just have never used it. But I'm very familiar with this area --

MR. ODERICO: Okay.

COMMISSIONER EBERT: -- that we're speaking of. I just wanted to make sure that that was not in there.

MR. ODERICO: Well, thank you for bringing it to my attention, but I was not aware of it.

COMMISSIONER EBERT: Okay. All right. I do not believe that they would use it, but --

MR. ODERICO: Okay.

CHAIRMAN STRAIN: Diane, I did review the Napoli PUD in anticipation of today's meeting, and I did find the easement language on the easement connection to this church. It's Ordinance 08-14. I don't remember seeing one to the north, so --

COMMISSIONER EBERT: Mr. Szabo used to go to Christus Victor, so that's, kind of, how I know.

MR. ODERICO: Thank you very much.

CHAIRMAN STRAIN: Okay. Thank you.

Okay, Bob, thank you.

MR. PRITT: Thank you. For a change, as a lawyer, I will be brief, and that is I have no rebuttal. We agree with the conditions that have been imposed, that are about to be imposed today, and we ask your approval. Thank you very much.

CHAIRMAN STRAIN: Thank you.

Any further discussion of the Planning Commission? We had listed some additional conditions. I won't bother to restate them. I think everybody heard them and the cleanup -- potential cleanup of the language in the CU to make it clear that the CU uses don't expire if one ceases for a period of time so long as both of them don't cease.

With that in mind, is there a motion?

Mr. Brougham?

COMMISSIONER BROUGHAM: I'll move to approve Petition CU-PL20120001074, Community Congressional Church of the Gulf, with the stipulations as discussed.

COMMISSIONER KLEIN: Second.

CHAIRMAN STRAIN: Second. Okay. Barry made the second.

Is there discussion?

(No response.)

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

COMMISSIONER VONIER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Thank you very much.

MR. ARNOLD: Thank you.

***And the next item, if he's ready, is David Weeks, and this will be considered our consent. Well, no, we hadn't voted on the new language. So let's review that first, and we'll move right to consent after that. Give us an opportunity, then, to change it again if it needs to be.

MR. WEEKS: Again, for the record, David Weeks of the comprehensive planning section.

Mr. Chairman, before we go specifically to the edits made to Paragraph 5, I did want to make sure that -- at least acknowledge on the record that there were some changes provided to you about a week ago to a few of the other paragraphs in this overlay.

I'll just simply put that on the record. And if there are no questions about those, then I'll move on to Paragraph 5.

CHAIRMAN STRAIN: You mean a week ago; you mean in our packet?

MR. WEEKS: Yes, sir, maybe less than a week ago.

CHAIRMAN STRAIN: The only changes -- the changes you're talking about are the ones that are in front of us that were in our packet plus whatever we do to Paragraph 5, right?

MR. WEEKS: Yes, sir. Specifically Paragraph 4 has some double-underline language and strikethrough, Paragraph 6, 10, and 11 all have some modifications that you received in your packet, perhaps a week ago.

CHAIRMAN STRAIN: Okay. That was a lot of rewriting, David.

MR. WEEKS: Okay. Is that on? Hello, can you hear me?

CHAIRMAN STRAIN: Oh, yeah.

MR. WEEKS: Oh, yeah.

Okay. Commissioners, the first change you see is an insert regarding a reference to the LDC. I'll put that on the visualizer in a moment.

CHAIRMAN STRAIN: It's off the top of the chart, so if you pull the page down a little bit. There you go.

MR. WEEKS: Thank you. The next change is in Paragraph C, to only leave the first sentence. Everything else after the first sentence is stricken. Jumping down to Paragraph 9.

CHAIRMAN STRAIN: Before you go past 5 --

MR. WEEKS: Yes, sir.

CHAIRMAN STRAIN: -- what is the -- it says "insert." What is the -- what are the words you're inserting here?

MR. WEEKS: That's on a separate page. I just want to try to cover all --

CHAIRMAN STRAIN: I'm sorry. Now I understand.

MR. WEEKS: Paragraph 9, simply deleting the blue text so that remains all --

MR. BELLOWS: Will you scroll that up a bit?

MR. WEEKS: Oh. That which is in single underline is all that remains.

By the way, so that does mean redevelopment, and 388 are remaining.

And then here's the insert drafted by the County Attorney's Office.

And, Heidi, I did insert parenthetically 25 percent; is that acceptable?

MS. ASHTON-CICKO: I don't think you need to put that on there.

MR. WEEKS: Then I will scratch it.

CHAIRMAN STRAIN: That works well, David.

MR. WEEKS: If I may read it into the record. The 97-unit cap will terminate when the BCC adopts, by LDC amendments, limitations and the cap on the use of the 388 density-pool units for any one project, period.

MS. ASHTON-CICKO: And that would go under No. 4 as well, correct?

MR. WEEKS: That is correct, Paragraph 4 as well.

CHAIRMAN STRAIN: Good. How's that work for everybody?

COMMISSIONER VONIER: That works fine.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: David, I think we've got it covered. That sounds good.

COMMISSIONER VONIER: By George.

CHAIRMAN STRAIN: Jean's smiling, so that means it must be okay, too.

Okay. Does anybody have any other questions on this issue?

(No response.)

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

COMMISSIONER EBERT: I make a motion to approve.

CHAIRMAN STRAIN: Diane, you made a motion to approve --

COMMISSIONER BROUGHAM: Second.

CHAIRMAN STRAIN: -- the language as modified and presented on the handout for the insertion by David, right?

COMMISSIONER EBERT: Correct.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER HOMIAK: Second.

COMMISSIONER VONIER: Second the motion.

CHAIRMAN STRAIN: Bill made the second.

Discussion?

(No response.)

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

COMMISSIONER VONIER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Thank you, all.

***We'll now open up Consent Agenda Item PL-20120001213/CP2013-3, consent for the Bayshore/Gateway Triangle Redevelopment Overlay. It's the one we just all reviewed.

And for consent, is everybody satisfied?

COMMISSIONER EBERT: Yes. Make a motion to approve.

CHAIRMAN STRAIN: Made by Diane.

COMMISSIONER KLEIN: (Raises hand.)

CHAIRMAN STRAIN: Second by Barry.

Discussion?

(No response.)

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

COMMISSIONER VONIER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Thank you very much, David. We appreciate your flexibility and language. It works very well.

MR. WEEKS: Thank you. And my last request is, as always, we would very much like to reuse your binders and contents if you're willing to give them up. Thank you.

CHAIRMAN STRAIN: These are really important binders. Why would we want to give them up, David?

Okay, everybody. That's it, I think, for our meeting today. There's nothing else on the agenda. And there's members of the public that want to speak?

(No response.)

CHAIRMAN STRAIN: Nobody's running up here to speak. So I think we're covered.

Is there a motion to adjourn?

COMMISSIONER BROUGHAM: Just one item, please.

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER BROUGHAM: I just wanted to make mention of a new item on our standard agenda, which is Item 14, planning commissioner comments. I made the request to put that on, not for anything specific. But from time to time one of us may have something that we want to comment on or discuss amongst the commissioners. It's pretty much standard with other boards, and so I suggested we put it on our standard agenda.

CHAIRMAN STRAIN: Well, what do -- we have old and -- so it wouldn't be old business you'd want to discuss or new business. It would just be -- then we wouldn't need discussion of addenda.

COMMISSIONER BROUGHAM: No.

CHAIRMAN STRAIN: I'll talk with Judy about taking out 13.

COMMISSIONER BROUGHAM: The only comment on taking out 13 is if someone does add something to the agenda.

CHAIRMAN STRAIN: I don't want to get too complicated in the agenda. The more informal we can keep it, the better it's going to be to deal with the public. That's fine.

The only thing I'd ask, if anybody wants to bring things up as a general discussion, if it's going to be something that we need some time to individually research, give us a heads-up from a prior meeting or something. I don't want to be caught blindsided without knowing --

COMMISSIONER BROUGHAM: I have no ulterior motives.

CHAIRMAN STRAIN: No, I didn't think you did. I just want to make sure we all have an opportunity to understand what the issue is.

Okay. With that, is there a motion to adjourn?

COMMISSIONER VONIER: So moved.

COMMISSIONER KLEIN: (Raises hand.)

CHAIRMAN STRAIN: By Bill, seconded by Barry.

All in favor?

COMMISSIONER VONIER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: We're out of here.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 9:51 a.m.

COLLIER COUNTY PLANNING COMMISSION



MARK STRAIN, CHAIRMAN

ATTEST

DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 5-6-13, as presented or as corrected _____.

TRANSCRIPT PREPARED ON BEHALF OF
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