

September 19, 2013

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida, September 19, 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  
Paul Midney  
Karen Homiak  
Diane Ebert  
Phillip Brougham  
Mike Rosen  
ABSENT: Barry Klein

ALSO PRESENT:

Corby Schmidt, Comprehensive Planning  
Mike Bosi, Comprehensive Planning  
Heidi Ashton-Cicko, County Attorney's Office  
Tom Eastman, School District

MR. BOSI: Mr. Chair, you have a live mike.

CHAIRMAN STRAIN: Mike, that's a first. You just beat me to it this morning.

Good morning, everyone. Welcome to the Thursday, September 19th meeting of the Collier County Planning Commission.

If everybody would please rise for Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Thank you.

Roll call by the secretary, please.

COMMISSIONER HOMIAK: Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER HOMIAK: Mr. Rosen?

COMMISSIONER ROSEN: Here.

COMMISSIONER HOMIAK: Mr. Midney?

COMMISSIONER MIDNEY: Here.

COMMISSIONER HOMIAK: Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER HOMIAK: Ms. Homiak is here.  
Ms. Ebert?

COMMISSIONER EBERT: Here.

COMMISSIONER HOMIAK: Mr. Klein is absent.

And, Mr. Brougham?

COMMISSIONER BROUGHAM: Here.

CHAIRMAN STRAIN: Okay. Mike, do you have any addenda to the agenda today from your end?

MR. BOSI: None.

CHAIRMAN STRAIN: Anybody on the Planning Commission?

(No response.)

CHAIRMAN STRAIN: Okay. The -- just so the audience knows, today's agenda is strictly Growth Management Plan amendments. There are three of them. One is called -- and I think it's -- the first one up is Naples Reserve, then we'll be going to Olde Florida, and then the last one will be the Buckley Plaza. So if you're here for any of those, we'll eventually get to all of them sometime, hopefully, this morning.

The next meeting for the Planning Commission is next Friday, 9 o'clock. It's the AUIR. All of you should have gotten your book handed out by Mike this morning, so -- everybody but me.

COMMISSIONER EBERT: You got special delivery.

CHAIRMAN STRAIN: Yeah. It's called electronic. Okay. The -- anybody know if they're not going to be here next Friday?

COMMISSIONER MIDNEY: I won't.

CHAIRMAN STRAIN: Paul won't.

Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: We still will have a -- one, two, three, four, five. We're still good.

COMMISSIONER HOMIAK: Uh-oh.

CHAIRMAN STRAIN: Uh-oh, that's Paul.

Approval of minutes, August 15, 2013. They should have all been received electronically. Does anybody have any changes, corrections? If not, is there a motion?

COMMISSIONER HOMIAK: Yes.

CHAIRMAN STRAIN: Oh, yes.

COMMISSIONER HOMIAK: Page 38 and Page 59 both mention Chairman Lefebvre, and it should be Chairman Strain.

CHAIRMAN STRAIN: Oh. Well, you read it closer than I do.

COMMISSIONER HOMIAK: With those two changes, I'll make a motion to approve.

COMMISSIONER EBERT: I'll second.

CHAIRMAN STRAIN: Okay. Motion made and seconded by Diane.  
Discussion?

(No response.)

CHAIRMAN STRAIN: All in favor, signify by saying.

COMMISSIONER ROSEN: Aye.

COMMISSIONER MIDNEY: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Okay. Chairman's report. There's -- or BCC report. That's -- nothing new?

MR. BOSI: There were no land use items on the board's agenda.

CHAIRMAN STRAIN: Okay. Chairman's report. We're still moving forward.

Consent-agenda items. Nothing. And there won't be any from today. This is a transmittal hearing. We're not going to need a consent on this, so we'll just hear them and move them whatever direction they need to go after today.

So the first one up is advertised public hearing.

And, Heidi, do we need disclosures on a transmittal?

MS. ASHTON-CICKO: No, you don't.

CHAIRMAN STRAIN: Thank you.

\*\*\*The first item up is PL-20130000139/CP-2013-1, the Naples Reserve RPUD.

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

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

CHAIRMAN STRAIN: Okay. And, Bob, it's all yours.

MR. MULHERE: Anybody know how to get that thing working? Good morning. For the record, Bob Mulhere with Hole Montes. Here this morning with me is Rich Yovanovich, who's the land use attorney working on this project, and Don Mears with iStar Development Company as well.

I'm trying to get a visualizer -- I got the old-school exhibits as well. So if we don't get this working, I'm prepared.

COMMISSIONER STRAIN: How about your new controller there?

COMMISSIONER ROSEN: It's there. It's just not on.

COMMISSIONER EBERT: Kady? Kady?

MR. MULHERE: I hear something. I'll get started.

CHAIRMAN STRAIN: Okay. Oh, there we go.

MR. MULHERE: Great. Just to orient you, the subject property that we're talking about is depicted on this aerial. There are co-applicants for this, and outlined in yellow here is the Hacienda Lakes PUD and DRI.

The subject property here is Naples Reserve Golf Club that would be the actual recipient of this change to the Growth Management Plan.

CHAIRMAN STRAIN: Before we go too far, why have you highlighted both of them? The subject of the GMPA is the southern one, right?

MR. MULHERE: Correct, but the TDRs are coming from here.

CHAIRMAN STRAIN: Some of them are.

MR. MULHERE: Yeah. Some of them. They may come from there. And they're co-applicants as well, and that's why.

I thought, perhaps, just a brief explanation of the TDC program and why we're here -- quite a few years ago now that this was developed -- I think I had hair in those days. I was working for the county when it started. And then after I left the county, I continued to work on behalf of the county through the

development of the rural fringe mixed-use district process.

There was a point in time where a question was raised in the advisory committee related to lands that were in proximity closer to the urban area and that they should be treated differently than lands that were further to the east because there was more pressure to convert those lands.

And working its way through the process what was adopted was that if someone within the urban residential fringe -- and I'll point that out to you.

As you're probably aware, the urban residential fringe is a one-mile strip of land east of Collier Boulevard still designated urban. And when it was first created, it was intended to be a transition between the urban area and the rural lands to the east. And the need for that pure transition area was diminished through the adoption of the rural fringe mixed-use district which then really became the transition area.

And so the rural fringe mixed-use district provisions allow for a landowner in the urban residential fringe to increase their density from what is permitted now in that transitional relatively low-density area of 1.5 dwelling units per acre. You're allowed to increase that to 2.5 dwelling units per acre, and you can do that by transferring that additional density from sending lands, but those sending lands must be within a strip of land one mile from the urban boundary. And I'll point that out.

So this dotted line represents those sending lands within -- within one mile. The sending lands are in orange, the urban lands are in yellow, here's the urban boundary, and here's that one-mile strip.

The issue related to availability of TDRs was analyzed within that one-mile strip. And I believe you should have a spreadsheet that I prepared as data. I don't know what page that's on, but you should have a spreadsheet. Anyway, I can go over that.

What I did was I looked at all of the urban residential fringe lands on the top part of that spreadsheet and identified all of the PUDs that were approved in there and the remaining agricultural lands and straight-zoned lands. There are a few.

And those were subtracted, those lands that were developed and wouldn't be able to use TDRs, those lands that were in conservation easements and couldn't use TDRs, those lands that were committed to right-of-way, public right-of-way, I subtracted all of that so that we could have a clear picture of what was remaining that might potentially use TDRs. And the number of acres available for TDR utilization out of the total 4,553 acres in the urban residential fringe, there were 3,249.87 acres.

There's a slightly higher -- you would think that the -- there would be a straight correlation since you could increase your density by one unit between the number of acres and the number of units that could potentially be transferred into that area, but it's actually a slightly higher number, because Hacienda can use a slightly higher number. They can go up to 1.67.

So the total number of TDRs that could be used are 3,473. Seven hundred twenty-one at the time of preparing this -- 721 TDRs were already used to entitle Hacienda Lake's DRI.

The second part of that spreadsheet evaluated the one-mile sending lands and how many TDRs were available to be transferred into those acres that could accommodate them in the urban area, in the urban residential fringe. And the bottom line is there are 1,083.39 TDRs available, and there are 3,249.87 acres of land that could receive TDRs. That's a two-to-one ratio; pretty good demand.

And the point was that the proposed amendment that you have before you would really have no impact on that program.

In addition, no impact in terms of that one-mile boundary since there's still significant demand. In addition, those TDRs, there's really no difference in the ecological value. I just want to point out, there's no difference in the ecological value between here and here. Two lands immediately adjacent to one another right at this boundary, there's absolutely no difference in the ecological value. They're both highly ecologically valuable. That's why they're put into sending lands.

So the use of TDRs by Naples Reserve will further that TDR program, will compensate a landowner who's holding those TDRs, and will achieve the objectives. By the way, the -- just give me one second here.

CHAIRMAN STRAIN: Michael, while he's looking at --

MR. MULHERE: I got it.

CHAIRMAN STRAIN: -- his next thing, can I ask you a question? The map that's on the board right now, is the one-mile line, the dotted line, accurately placed on that map? I hadn't seen it till today in

regards to his presentation, so I couldn't ask you earlier.

MR. BOSI: Based upon the scale and based upon the location, it would appear that it is encompassing that one-mile area.

CHAIRMAN STRAIN: Thank you.

MR. MULHERE: I just wanted to read an excerpt directly from the Comprehensive Plan and the LDC as it relates to the TDR program.

The primary purpose of the TDR process within the rural fringe mixed-use district is to establish an equitable method of protecting and conserving the most valuable environmental lands, including large connected wetland systems and significant areas of habitat for listed species -- and this is, I think, the important part -- while allowing property owners of such lands to recoup lost value and development potential through an economically viable process of transferring such rights to other suitable lands. And that's really all that this amendment does.

This is a site-specific GMP amendment in that only one specifically identified land will benefit from this. If somebody else chose to avail themselves of the same opportunity, unless the comp plan was changed more broadly, they would have to go through the same process. So I say that so that there isn't any misunderstanding as far as this being precedent setting.

I think that concludes my presentation. I'm sure you have some questions, and I'm sure Rich is available to answer. If I can, I will.

With that, I'll open it up to your questions.

CHAIRMAN STRAIN: Okay. Does anybody from the Planning Commission have any questions at this time?

Mike?

COMMISSIONER ROSEN: Mr. Chairman, yeah. I have had ex parte communications with --

CHAIRMAN STRAIN: Could you --

COMMISSIONER ROSEN: I'm sorry. Ex parte communications with Mr. Yovanovich.

CHAIRMAN STRAIN: We don't have to disclose ex parte at transmittal.

COMMISSIONER ROSEN: What's that?

CHAIRMAN STRAIN: We don't have to disclose ex parte at transmittal.

COMMISSIONER ROSEN: Okay. I thought it would be wise to do that, though.

CHAIRMAN STRAIN: It's up to you.

COMMISSIONER ROSEN: And I've also received an email to my county email box here from -- this is from Maureen Bonness regarding this particular application. I shared this with Mr. Yovanovich on the telephone, because I felt this was public record, being that it was sent to my county email box. Did you all get copies of this by any chance? I don't know if Ms. Bonness sent this to you.

CHAIRMAN STRAIN: Yeah, I got the copy, and I asked staff to forward it to all of you.

COMMISSIONER ROSEN: Oh, okay, great.

CHAIRMAN STRAIN: So everybody should have one.

COMMISSIONER ROSEN: I didn't know that, so I brought copies for everybody in case you didn't.

CHAIRMAN STRAIN: No.

COMMISSIONER ROSEN: Glad to hear that.

Rich, in our conversation, when I read this to you -- and I don't know if you've seen an actual copy of this, have you, a hard copy?

MR. YOVANOVICH: You did forward it to me, so I did get an opportunity to review it, yes, sir.

COMMISSIONER ROSEN: Okay, good, good. You mentioned verbally that you didn't think it was too onerous. Would this be something -- go ahead. I'm sorry. You go ahead.

MR. YOVANOVICH: Let me -- I -- what I did is I went back and looked at what TDRs my client currently owns and how many TDRs they would need to acquire. There was some confusion in my mind whether or not they owned a portion of the qualified TDRs, and we still -- and, obviously, we didn't get enough; that's why we're going through this amendment.

I have, since we talked, learned or confirmed that actually we do not have anywhere near enough qualified TDRs; certainly nowhere near half in our possession at this time.

So we have to go through this process. And I did look at the email regarding the proposed compromise of "just get a half," and right now we're far short of a half.

And, honestly, we've surveyed the different property owners out there, the larger property owners, to see could we buy enough in bulk to even get to the half by just dealing with just a couple of owners of qualified TDRs. And the answer to that question is no, we would need to deal with several property owners, and that's part of the problem that we were having in trying to assimilate enough qualified TDRs.

Obviously, if we could have gotten enough qualified TDRs at a market rate that makes sense to acquire those TDRs we wouldn't be standing in front of you today asking for this Growth Management Plan amendment.

So I know that's a long-winded answer to our previous discussion. But we do not -- we don't control enough TDRs to even go with the one-half right now to make it reasonably achievable.

COMMISSIONER ROSEN: Thank you.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Paul, go ahead.

COMMISSIONER MIDNEY: Where did you come up with the one-half; what is that? I mean, why that figure of one-half that you were aiming for?

MR. YOVANOVICH: Well, there was a need -- there was a proposed compromise in the email from Ms. Bonness. And I don't know if you've seen it, Mr. Midney. She suggested, well, instead of allowing us -- this particular project to go and acquire all of its, quote, qualified TDRs from beyond the one-mile boundary, she suggested, well, why don't you require them to at least get half of their qualified TDRs from the qualified area and then go out beyond the one-mile area for the difference.

In this particular case, it would be about 281 qualified TDRs that we need, so I took it to mean 540 qualified and then you're free to go anywhere else for the other 140. So that's where the half came from.

CHAIRMAN STRAIN: Mike, go ahead.

COMMISSIONER ROSEN: Could I have a follow-up question to Rich when he has an opportunity.

Just from a standpoint of market value, you mention that you felt that they -- the TDRs being offered, some were market valued and some weren't, I guess. Am I phrasing that correctly?

MR. YOVANOVICH: Well, the -- the -- what can -- what a developer -- and you know just as well as anybody, by the time you add your land development costs, your costs to acquire the land, and in these particular cases you have to throw another fee on top of that for a TDR, the ranges we're hearing for qualified TDRs are approximately \$25,000. We know that's negotiable. But taking people at their word as what they want to start with at 25- and what we know we can afford, 25- is too rich with those other costs to be able to develop a project on this particular piece of property.

Between the acquisition -- acquisition costs and the land development costs plus a \$25,000 TDR cost, it's just not -- it's not economically feasible to build the unit and be able to charge what we would have to charge; the market's not there for that type of -- or height price of unit. Does that make sense?

COMMISSIONER ROSEN: How many do you have to buy now?

MR. YOVANOVICH: I'm sorry?

COMMISSIONER ROSEN: How many do you have to purchase?

MR. YOVANOVICH: Well, total for the Naples Reserve project -- and, Bob, correct me if I'm wrong, I think it was 611 we have to buy.

COMMISSIONER ROSEN: And how many acres is that?

MR. MULHERE: Six eighty-eight.

MR. YOVANOVICH: How many?

MR. MULHERE: Six eighty-eight.

MR. YOVANOVICH: The total project's approximately 688. And as you know, this is half urban fringe, urban residential fringe and half receiving. So, you know, you have different rules for parts of the project and other parts of the project.

So we're buying -- we're a pretty big player for the TDR program overall to make it work. So you're looking at 611 TDRs that this project can buy and wants to go buy, but we don't want to be forced into a --

what's on your visualizer, that area, because the owners of those TDRs are asking for a price that we simply can't afford under today's market.

COMMISSIONER ROSEN: Thank you.

MR. MULHERE: I would just also add that it's obviously -- I think you can appreciate it's a lot easier just to negotiate with a single entity. And that's really what we had here was the ability to buy these TDRs from a single entity, and there's an economy of scale there that's beneficial.

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: Yes, I have a question. It's -- the picture has changed as of this morning, because I did not know about that email. But I did go back into your PUD that was done last August. And in your planning, you said you already had 311, and you now do not have 311?

MR. MULHERE: No. The PUD didn't say we had 311. It said we had to acquire at least 311. That was a condition on your PUD. I think what you're reading is under planning in the PUD.

COMMISSIONER EBERT: Uh-huh.

MR. MULHERE: That was a condition placed upon us that we had to acquire.

MR. YOVANOVICH: Let me -- may I?

MR. MULHERE: Yeah.

MR. YOVANOVICH: Thank you.

Remember, when we're going through the PUD process, we were asking for 1,154 units, okay. If you were to look at the base density that's allowed on the acreage we're allowed, you're allowed one-and-a-half on the yellow, and you're allowed one per five on the blue.

In order to get to the density we're asking for under the Comp Plan that existed at the time the PUD went through, we were going to buy -- and I have a cheat sheet for myself. Bear with me for two seconds. In order to achieve the 1,154 units, we were going to have to buy 301 more TDRs for the blue area, and we were going to have to buy -- I have 310, but maybe it's 311 in the yellow area under the then existing Growth Management Plan amendments. We're here asking for a change to how we would achieve the 311 on the yellow area.

So those numbers that you're seeing are based upon -- we had to show staff how we were going to get to the 1,154 under the then existing Growth Management Plan amendment, so that's where those numbers are coming from.

COMMISSIONER EBERT: But, Rich, when you did this PUD last year, you did know -- I mean, all this was available to you; you knew about the TDRs and everything. Are you saying that the board made a problem for you committing 311? Because you turned around right away to make a change to do this growth plan amendment.

MR. YOVANOVICH: We have been searching for and looking for qualified TDRs, and we were looking for and searching for qualified TDRs at the time the PUD was approved.

And, frankly, you know, we would -- you know, if we could find them today at a price we could afford, we wouldn't need a Growth Management Plan amendment.

So under the conditions that existed at the time -- now, keep in mind, when we were going through that PUD amendment, I already had 1,154 units. I was amending that PUD to take out the golf course. So I already had the 1,154, I already have the references to how we were going to get to the 1,154. So that was not new to us when we were changing the PUD, and the PUD change was simply to get rid of a golf course and have more of a water-amenity related community.

So there was -- there's a step that's a few years before that where we went to the 1,154. So the problem wasn't created at this last PUD amendment. It was created at the previous PUD amendment, which I think was '07 or '08.

COMMISSIONER EBERT: So how many TDRs at this point can you count on?

MR. YOVANOVICH: That we have in our pocket?

COMMISSIONER EBERT: Yes.

MR. YOVANOVICH: I have another cheat sheet. I think the number's 330 that are in our actual possession of the 611 we need. So we need 281, is the number. Thank you.

COMMISSIONER EBERT: You have how many right now, three --

MR. YOVANOVICH: Three thirty. We need to buy another 281, and they're all qualified.

COMMISSIONER EBERT: That's all for right now.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: I have a few questions, so -- Mike, the one mile that is allowed for the transfer, those qualified TDRs, basically any of the lands within that one mile are qualified to transfer the TDRs at whatever -- you've got to pay your base. The base are sold at \$25,000. That's fixed by the previous Board of Commissioners. And then the market rate will dictate anything above the base number that's sold; is that correct?

MR. BOSI: Correct. Mike Bosi for comprehensive planning.

Correct, the base credit is Band-Aided that it has to be exchanged for 25,000. The additional credits, the early entry, restoration, maintenance, the conveyance credits, those are market rate -- those are the market rate, whatever the market will bear, whatever the fair exchange between the buyer and the seller.

CHAIRMAN STRAIN: Okay. And, Richard, this is a legal question for you more than anything else. You need 281 more TDRs. You have a project that's about three-fifths in the receiving area and two-fifths in the urban fringe.

The one-mile marker, which you can create TDRs or buy from an area that is allowed to have TDRs, is partially in the receiving area. Why don't you buy 281 TDRs from anywhere that you need to, move them into that receiving area, then buy them back again and move them back into your yellow area? And you don't need a Growth Management Plan change.

MR. MULHERE: There is a limit to the density that you can achieve in the receiving area transferring in. If you're not in a village -- unless you're in a village the limit is one unit per acre. So you can only go from .2 to one unit per acre.

CHAIRMAN STRAIN: Right, but --

MR. MULHERE: You can't transfer in enough to then be able to transfer those to the -- to the yellow area.

CHAIRMAN STRAIN: Well -- and transfer the maximum you can use in the receiving area first, move those to the yellow area, and then rebuy for the receiving area.

MR. MULHERE: Well, to my knowledge --

CHAIRMAN STRAIN: Wouldn't that save this whole process? Since you are allowed to transfer from the area that's one mile marked on that plan that's by the dotted line?

MR. MULHERE: No, but it's only the one mile sending designated lands.

MR. BOSI: Yes.

CHAIRMAN STRAIN: Okay. And it specifically says "sending" in the --

MR. MULHERE: Yes.

CHAIRMAN STRAIN: Trying to figure out a way to get there without all this work.

MR. MULHERE: You did make me think of just pointing out -- probably didn't do this sufficiently, but we've discussed it now, that this is a unique piece of property in that it has both designations, as you've pointed out, three-fifths.

CHAIRMAN STRAIN: Which means that this could never occur again because the urban fringe is very limited. It's a strip from I-75 down to 41, basically, and you are the only property that could straddle both the rural receiving -- rural fringe receiving area and that urban fringe area, if I'm not mistaken.

MR. MULHERE: Correct.

CHAIRMAN STRAIN: So this couldn't happen again if it was allowed to happen on this project because it doesn't apply anywhere else.

MR. MULHERE: There'd be no other circumstance like this, that's correct.

COMMISSIONER ROSEN: Mr. Chairman, I have a follow-up question.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER ROSEN: Rich, is there only one seller of these qualified credits out there?

MR. YOVANOVICH: There are -- so far we have identified three potential sellers that have more than just a couple. Mr. Rosen, if you'll look at that map, you'll see a whole bunch of little property lines on



there.

All of those properties are eligible, but they're mainly, you know, 5-, 10-acre parcels. And to put together enough 5-, 10-acre parcels to generate 281 TDRs is --

CHAIRMAN STRAIN: Daunting.

MR. YOVANOVICH: Thank you. I was -- I was -- I didn't want to say impossible, because nothing's impossible, but it would be -- it would take quite a long time if we were ever successful. And that, thus, is probably one of the problems with the program overall that needs to be addressed. But for this specific project, we've only identified three property owners that have enough in the 60 or above range of TDRs.

COMMISSIONER ROSEN: Okay. Thank you.

CHAIRMAN STRAIN: Okay. Anybody else have any further questions?

(No response.)

CHAIRMAN STRAIN: I've got a lot of different questions. They're mixed up between what was written in the staff report and what the applicant has presented, so I'll wait for the staff to make their presentation, then I'll go through my list. And they may -- I don't know who they'll apply to, so we'll just -- we'll do it that way.

I'd like staff presentation before we go to public speakers, if you guys have one to make.

MR. SCHMIDT: Mr. Chairman, no prepared presentation, but we're prepared to answer questions.

CHAIRMAN STRAIN: Anybody have any questions of staff based on the application or the information?

Paul?

COMMISSIONER MIDNEY: As staff, which do you think is more valuable, to have the conservation lands that are nearer in to sort of set a boundary to protect against the urban sprawl, or is it more valuable to get the conservation lands further in into the area that is, you know, sort of environmentally sensitive?

MR. SCHMIDT: I'm not sure I understand your question, Commissioner.

COMMISSIONER MIDNEY: Well, in the letter it says that the near urban western portions of the environmentally sensitive lands are the most critical for defining the extent of sprawl to the east. Higher density in this zone will increase likelihood of roads being constructed, such as Benfield Road extension, through conservation areas. Do you, as a county staff, have any ideas on that?

MR. SCHMIDT: I would agree with those statements in that it's more of a factor of the proximity of development than it is a proximity of conservation areas.

COMMISSIONER MIDNEY: So do you think it will be preferable to allow the lands to be set aside that are further in the conservation, or should we try to make sure that they're taken only in that one-mile radius of -- that one-mile zone that the ordinance says that we should be trying to shoot for?

MR. SCHMIDT: I think we could find a balance of both.

COMMISSIONER MIDNEY: Okay. Thank you.

CHAIRMAN STRAIN: But speaking of that one-mile zone, Corby, the statement made by the applicant was that there was a deficiency in a number of transfers available from that one-mile area. Is that a true statement?

MR. SCHMIDT: For the aggregation or accumulation of small parcels, we would agree.

CHAIRMAN STRAIN: Okay.

MR. SCHMIDT: There's an adequate number of possible or potential lands or properties in total. But to aggregate them or to accumulate them for a large transfer, he's explained, just doesn't seem reasonable.

CHAIRMAN STRAIN: And because we have established a base price and because we have limited anybody in their position to have to buy from a select handful of property owners in a very specified area, does that lend itself to making the value of those artificially higher than they might be if they're open to the marketplace?

MR. SCHMIDT: With the history of the program thus far, that's not the evidence we're seeing. In fact, those other bonus TDR credits are not as expensive as the base ones that are set at \$25,000.

CHAIRMAN STRAIN: So you're saying you can buy outside TDRs, but they're going to be more

costly than the qualified TDRs within the urban -- within the one mile of the urban fringe?

MR. SCHMIDT: No.

CHAIRMAN STRAIN: Okay.

MR. SCHMIDT: I'm saying those bonus TDRs, for early entry, for maintenance programs, or for conveyance --

CHAIRMAN STRAIN: Right.

MR. SCHMIDT: -- those TDRs that have been severed and redeemed thus far in the program have amounted to less than the base TDR credits have been. They have not all been sold at \$25,000 each.

CHAIRMAN STRAIN: How many of them have been sold; do you know? And do you know what price those were sold for? I reviewed the logs. I know who -- I looked at the people that own those TDRs, who have the, for lack of a better word, the monopoly created by government for that one-mile strip alongside the urban fringe. And I -- you know, I didn't see that many, but I didn't see the prices. They were -- only provided the quantity.

MR. BOSI: The last record of sales of transfer that we have on record, the base would be -- when we add the base and the bonus credits, the aggregate comes out to about \$13,000 per TDR right now is what the -- that was roughly about 12 months ago, this last true transfer that we processed through our department.

CHAIRMAN STRAIN: Where were those \$13,000 TDRs located?

MR. BOSI: In the urban residential fringe.

CHAIRMAN STRAIN: You mean the one mile within the urban residential fringe?

MR. BOSI: Yes.

CHAIRMAN STRAIN: Do you know which project?

MR. BOSI: They were acquired by Soil and Water from individuals on Benfield Road, which is within that one-mile qualifying area.

CHAIRMAN STRAIN: Okay. And how does that compare to TDRs bought in the open market further out?

MR. BOSI: There hasn't been -- there hasn't been transactions of sale of credits from beyond that one mile, that I know of, so I can accurately make a comparison with the price.

CHAIRMAN STRAIN: Didn't the Twin Eagles -- south of the Twin -- Twin Eagles South, I think they call it, the Bonita Bay project south of Immokalee Road, did they need any of the TDRs that -- from the -- from the outside area?

MR. BOSI: They need -- TDRs are not restricted to the one-mile area. They are outside, but that's -- they have been acquired, I think, from acquiring land, and they're generating their own TDRs, not actually purchasing TDRs.

CHAIRMAN STRAIN: Okay. Corby, while you're there, I have some questions concerning the staff report points. Page 6, top paragraph.

MR. SCHMIDT: All right.

CHAIRMAN STRAIN: You mention in the second line of that paragraph, staff believes Winding Cypress should be excluded. Can you explain -- because we're not talking about Winding Cypress today. We're talking about Naples Reserve. I'm a little mixed up on why that language was there.

MR. SCHMIDT: For the specifics of that, I'll let another staff member explain. It generally had something to do with simplicity of math, but it was Mr. Weeks who prepared that statement.

CHAIRMAN STRAIN: Okay.

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

Commissioners, the point here is the applicant was identifying the potential demand for TDR credits within the urban residential fringe.

Winding Cypress is -- PUD/DRI is one of the projects lying within the urban residential fringe subdistrict. Staff's position is that the Winding Cypress project should not be included in calculating the potential demand for TDR credits.

The reason is, as stated in the staff report, because of where they're at in their development. They're approved for a certain number of dwelling units. A significant number of those have already been developed. They have a significant amount of preserve area. We just don't think it's likely that they're going to be in a

position to acquire TDR credits to bring even more density into their project.

CHAIRMAN STRAIN: And so they used their self -- self-provided TDRs to approve what they needed for TDRs to do their project, or they have it by right to begin with?

MR. WEEKS: Winding Cypress does not use TDR credits. All of theirs are based on their designation of urban residential fringe. They're below the one-and-a-half units per acre that they're eligible for without using TDR credits.

CHAIRMAN STRAIN: Do you know how many -- well, Bob's right behind you. Maybe he can answer. How many did you count -- how much in your analysis did you include the Winding Cypress, just out of curiosity? What kind of factor is it?

MR. MULHERE: Yes, I did want to -- I did want to discuss that. I included all of it, but there's a reason why I did. There are -- there is undeveloped land within Winding Cypress, and your density is based on the gross acreage of the PUD, residential acreage of the PUD. They could -- now, granted, I'm not saying this is easy, but they -- this is a more conservative approach that I took. They could go in and amend -- they could go in and buy TDRs based on the total acreage and use all of that on the undeveloped portion if they chose to.

CHAIRMAN STRAIN: Well, they'd have to amend their DRI/PUD because right now it's a golf course with estate residential around it. So they come in with a higher density product, buy the TDRs, and do it that way.

MR. MULHERE: That could be done.

So I thought I was taking this most conservative approach to determine whether or not TDRs could be used.

CHAIRMAN STRAIN: So you're saying that they might not build a golf course -- they could choose not to build a golf course because we have so many of them that we're not building anymore.

MR. MULHERE: Correct.

CHAIRMAN STRAIN: Okay. David, is that a logical -- or theoretically possible?

MR. WEEKS: Theoretically, it is possible. Winding Cypress actually has amended their PUD. They no longer have a golf course in the southern portion of the project. You might know that Verona Walk is the development that's in the, more or less, northern half of the Winding Cypress PUD. The southerly half, they've removed the golf course. They have a tremendous amount of preserve area, so they just have, more or less, a horseshoe-shape band of where residential development could occur. That's what their PUD master plan presently shows, and their amendment that is in-house continues to show just that narrow horseshoe shape.

It is possible -- staff's not saying it's impossible. Our position is we don't think it's likely. We don't think it's plausible.

CHAIRMAN STRAIN: And what do you -- do you happen to remember what the -- what the density was in that horseshoe shape that's left undeveloped at this point? Say they were to develop it. Were they currently planning to based on their PUD/DRI to limit themselves to a certain density that could be increased through a modification?

I'm just trying to understand the justification for the analysis that was provided for the amount of credits needed.

MR. WEEKS: Yes. I don't know how many units they have built so far. I just know what their total is approved for and, as stated in the staff report, their amendment would increase that from 2,300 to over 2,800 dwelling units.

CHAIRMAN STRAIN: Thank you.

COMMISSIONER EBERT: Can I --

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: David, so are they going to come in or, Corby, are they going to come in -- do they have something in the works now that they're going to come in and increase it to 2,800?

MR. WEEKS: Yes. The present PUD amendment that is being processed at the county for Winding Cypress is to increase their total dwelling units from 2,300 to 2,854.

COMMISSIONER EBERT: Okay. So that's one of the reasons you're taking that off the table.

MR. WEEKS: Correct, correct.

COMMISSIONER EBERT: Okay.

MR. WEEKS: And I would also want to point out that I think it's only fair to say that though staff is of the position that Winding Cypress should be excluded from that calculation of demand, we still reach the same conclusion that the applicant does, and that is there's far more demand for TDR credits within the urban residential fringe -- potential demand within the urban residential fringe corridor than can be -- than the supply can provide for within that one-mile corridor of sending lands.

COMMISSIONER EBERT: Do you feel this program should -- somebody should take a look at it again to see the workings of it?

MR. WEEKS: Sure. I think that's a fair assessment that staff agrees. We certainly know that some of the development community and I think some of the citizens in the community would like to see the rural fringe program revisited, and staff is supportive of that. What might the outcome be? We may end up right where we're at now, but we definitely think it's worth taking a look at.

COMMISSIONER EBERT: Okay. How many TDR credits are there right now actual, available within that one mile?

MR. WEEKS: I'm going to defer to the applicant for their calculations. I know it's in their application.

MR. YOVANOVICH: Is your question how many properties within that one mile have gone through the process and severed their TDRs and put them up for sale on the market, or are we talking about a theoretical number as to if everybody took care -- I just want to make sure we answer the right question. Bob knows that number, theoretical. We have a theoretical number.

COMMISSIONER EBERT: Yeah.

MR. MULHERE: Give me a second here. There are 1,311.77 acres of sending lands within the one mile that have not severed their TDRs. So 45 percent have not severed TDRs.

I'm looking for -- I mean, so 721 TDRs in that one-mile boundary to date have been severed. I don't know the exact number that's remaining, but it's relatively low in comparison to the demand, and that we do agree -- the numbers may be a little bit different, but we both -- staff and we agree that that conflict does exist, and that's why we're here.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: Okay. I still have questions. So let's now go to Page 7, findings and conclusions.

You have five bullet items under your findings. First one is impact upon the TDR program could be noteworthy. A number of TDR credits originally intended for use in areas of designated receiving lands will be redirected to the urban residential fringe, a relocation of TDR credits.

That, to me, on a program that isn't moving along like we anticipated and it's been in place for a decade, probably is a positive, not a negative. Would you agree?

MR. SCHMIDT: Agreed.

CHAIRMAN STRAIN: Okay. And the second bullet, this GMP amendment could potentially devalue TDR credits generated from sending lands within one mile of the URF. Well, if they're devalued to the value everybody else in the TDR program is marketing them at, I don't see anything negative on that one either. Is that what you were trying to say there?

MR. SCHMIDT: It is.

CHAIRMAN STRAIN: Okay. The third bullet, this GMP amendment would satisfy a portion of the potential unmet need of the urban residential fringe for TDR credits. That would help regulate the market rate and make it more competitive, I would assume.

MR. SCHMIDT: (Nods head.)

CHAIRMAN STRAIN: Okay. The fourth bullet, through this amendment -- though this amendment could be viewed as self-serving, it may further the success of the TDR program protection of sending lands. That's a true statement. You stated it.

MR. SCHMIDT: Yes.

CHAIRMAN STRAIN: Okay. And the last one, correlating amendments to the Naples Reserve

PUD may be submitted subsequent to the concurrent -- or concurrent with the adoption phase of the GMPA application.

And from my discussion with the applicant, they -- they are in or they are planning to go in for a PUD amendment that will be available at the adoption phase. Is it -- am I remembering the right project or not?

MR. YOVANOVICH: Wrong one.

CHAIRMAN STRAIN: Wrong one. That's the next one, okay. Well, on the one after you, too, so there's been three of them all in the same hopper, I guess.

As far as correlating amendments to the Naples Reserve PUD, is that going to be -- where'd you derive that information from, Corby? If the applicant hasn't -- isn't planning to do it, and he doesn't look like, with his head moving, that he's intending to. So just out of curiosity, what's that last bullet?

MR. SCHMIDT: Yeah. We knew it was a possibility, if not a probability, because of those 612 credits that are necessary to develop the project, 311 of those must come from qualified lands. The remaining portion, those 301 -- those 301 TDRs from other sending lands, not enough to make the project roll, and there's limitations there. We thought they would be amending the PUD, perhaps, to remove that limitation. So all of those TDRs could come from outside if necessary.

CHAIRMAN STRAIN: Okay. The findings and conclusions are all positive from your staff report. The concerns over the pricing structure and the movement of the qualified TDRs that are within the one mile, you didn't touch on that, so I'm assuming from your position that's not a negative, and this particular project can't be repeated along that urban fringe boundary in any way because of the mix of receiving area and urban fringe area; is that fairly accurate?

MR. SCHMIDT: There may be similar circumstances where there are other properties that can do so. The location of this subject property being straddled on two different planning designations or zoning designations, is -- doesn't make it unique for other factors. Some of those other properties in the area may choose to send or ask you or the county board to change the plan to send TDRs from further away than that one-mile distance as well. Nothing would stop them from doing so.

CHAIRMAN STRAIN: Right. Anybody can come in and ask for a change in the plan at any time; that's a given. But is there any other project that you can conceive along this currently-planned corridor that has a piece of the project in receiving area and a piece in urban fringe that would qualify under the same circumstance as this circumstance qualifies under?

MR. SCHMIDT: Not currently.

CHAIRMAN STRAIN: None?

MR. SCHMIDT: None.

CHAIRMAN STRAIN: Okay. That's fine. Thank you.

I don't have any other questions. Anybody else?

(No response.)

CHAIRMAN STRAIN: If not, we'll move to public speakers. Mike, if you'll -- and those members of the public wishing to speak, you can use either microphone. Please state your name and when -- and address when you come up.

MR. BOSI: Chair, there is one public speaker slip, and it's Mr. Joe Bonness.

MR. BONNESS: Hi. Good morning, Commissioners. Joe Bonness. I represent Willow Run Land Trust. We're one of those unique properties that is sitting in the urban fringe and in the rural fringe in the one-mile qualified zone.

During the purchasing of the property, and as we've gone through the development, it was always proposed to us that we were in that one-mile qualified area and that we had a higher valuation for our property.

That was part of the give and take when we were pushing the rural fringe is that the properties that are within that one-mile zone are obviously much more expensive properties. They're closer to utilities, they're closer to roads and everything else. They're much more developable than this stuff that's farther away. Has a higher value as we came in, only everybody's just being compensated with TDRs to be able to sever their rights to be able to develop their property.

So they were of a higher value to begin with coming in. That was part of the agreement between the government and the people, that we would have a higher value, and that's why you have to qualify -- the qualification that's going on in there.

It's also looking at the standpoint from the urban -- urban fringe is that that would be the purchasing area to be able to do that. That's an easier area to develop. Once you get into the farther receiving areas, they're going to have much higher expense, because they've got to build roads, they've got to build sewers and everything else to get to those areas. So they will have higher costs. They will need to have cheaper TDRs as they go through.

I'm also from the standpoint of, you know, I have qualified TDRs that are out there. We've been waiting for properties that are in the urban fringe to develop so that we could sell them. I'm also one of the units that would have the possible need for the TDRs, and I can see -- from my standpoint, I've got 400 acres that's in there. That would probably qualify for up to -- at a two-and-a-half multiplier of possible uses of residential units in there. That would bring me on up to close to a thousand units that I could put on there; although, I'm going through the PUD plans right now, and I can see that I'm going to be at 400.

There's basically 200 unused. Possibly the demand is being lowered by actually 600 units that will not be needed to be transferred from the other development.

So one of the things is, we're taking a look at the entire needs, the entire areas that are going to be able to send them; the needs are going to be less than are being -- than the whole thing is being looked at.

So I know from my standpoint, I can see that I'm going to have a reduction of, what, about 600 units that are going to be taken off from the demand side. I'm sure that that's going to happen in some other areas that are going on at the same time.

So, basically, that's -- I'm being impacted by this. I'm going to end up with a devaluation on what I had intended and, of course, that also goes a long ways back as to how we had intended on developing the property at that point. We had always figured that we were going to get a better compensation for our TDRs that were in that location. That was part of the growth amendment, and so we did not object to it at the time that that went through.

Thank you.

CHAIRMAN STRAIN: Well, a couple questions. So, basically, you're saying that because you have TDRs generated from that one-mile strip, you are going to charge more than what you could get them from other parts of the program?

MR. BONNESS: Yeah. It's -- we had a much more valuable property. If you're comparing us against something that's way out at the far back end of the Picayune, obviously, they got into that property for very, very small dollars, you know, back when they purchased those. The stuff that was along, within two miles of 951, was much more expensive property at the time, and the compensation levels should be higher for that property. And that was one of the reasons, you know -- one of the selling points as they were trying to sell the growth -- you know, the rural fringe growth amendment.

CHAIRMAN STRAIN: And are you representing Willow Run Quarry Preserve?

MR. BONNESS: Yeah, Willow Run Land Trust. We have 560 acres. It's -- basically it's straddling. We've got 160 acres. It's in the sending, and the rest of the property is in the urban fringe.

CHAIRMAN STRAIN: Yeah. I've looked at your property. Do you have any other corporations, companies, LLCs, general partnerships, limited partnerships, or any type of other properties owned within that one mile under different names?

MR. BONNESS: Yes, we do.

CHAIRMAN STRAIN: Okay.

MR. BONNESS: Winchester Lakes has a 10-acre parcel that's in the urban fringe, but that's part of the 560 that I'm referring to.

CHAIRMAN STRAIN: You own Southern Stone?

MR. BONNESS: Southern Stone, but it all falls underneath the Willow Run Land Trust as the ownership.

CHAIRMAN STRAIN: Okay, thank you.

Anybody else? Go ahead. Mike.

Mr. Bonness, I think Mike's got a question.

COMMISSIONER ROSEN: Yeah, a fast question for you.

You mentioned just now that -- and you might have loosely used the term you had an agreement, you know, with the county when this program was put together. I guess the question is for you or might be for staff possibly. Is there -- so it's a dual question, I guess. Corby, maybe you can answer the question.

Is there documentation when this program was put together that there was an anticipation that those lands, you know, the qualified lands closer to 951 for, you know, lack of a technical term, were to be valued higher under TDR credits than other lands to the east?

COMMISSIONER EBERT: David probably.

MR. MULHERE: I can answer that question.

CHAIRMAN STRAIN: You were the -- you were the staff person in charge at the time, right?

MR. MULHERE: There was an argument made that they were of higher value for exactly the reasons that Joe iterated. And there was probably two ways to handle that. One way would be to assign a higher ratio of TDRs to those lands. There was no support for that.

Second way was to create greater demand for TDRs from those lands. And it was thought that because they were closer to the urban area and there would be greater demand for development in the urban residential fringe for the exact reasons Joe said -- utilities are provided there, close to roads -- that those TDRs within that one-mile boundary would be utilized first, would have the greatest demand; therefore, there would be -- the market would take care of the fact that there was a higher value. The market would take care of it.

CHAIRMAN STRAIN: Mike?

MR. BOSI: And, Mark -- or, Chair, that hits the original point, I think, that question that you had asked Corby early. The mechanics of the program is definitely -- there's not a higher valuation that was placed on those programs (sic), but it was a higher valuation based upon the structure of the program, because of the uniqueness of that one-mile strip, because they could entitle (sic) within their urban residential fringe; therefore, there is a greater demand for those TDRs; therefore, the structure of the program was designed to make those more attractive and, because of that, the market would place a higher value on them because of the close proximity and the ease of development within the urban residential fringe.

So the program was designed to place a higher valuation upon those TDRs within that one-mile strip.

COMMISSIONER ROSEN: All right. So in follow-up to your response, so this amendment is restructuring that?

MR. BOSI: This amendment for this unique parcel would alleviate them of the requirement to purchase within that one-mile strip; therefore, it would -- it does run counter to the original construct of the program itself.

COMMISSIONER ROSEN: Thank you.

CHAIRMAN STRAIN: Mike, while you're up and talking on a few things, they need 281 credits, TDRs, that they're asking to be able to go anywhere to buy. If they don't get that permission, they have to buy them within that one-mile strip. We were already told that the one-mile strip can only provide up to 50 percent of the needed TDRs to accommodate the urban fringe areas that might use them, which means we're still going to be short 50 percent.

So if these 281 credits are used elsewhere or taken from elsewhere, we're still not in balance, so that means there's really no net loss to the people who got the control of those qualified TDRs, because they're still far below the 100 percent needed at buildout for all the TDRs that could possibly be generated from in that one mile. Is that accurate?

MR. BOSI: That's a fair statement. I think what the result is is individuals with TDRs within that one mile, what you're doing is delaying for when that demand is going to be placed upon those TDRs.

CHAIRMAN STRAIN: Well, the same factor, Naples Reserve doesn't have to go right away. So the -- when it's the delay or immediate action, it's really not part of a factor in regards to timing, because another project could come along and utilize the TDRs that are within that qualified area much quicker than Naples Reserve might decide to go.

That project's been sitting there probably for a decade, if I'm not mistaken. We've had a lot of changes to that project over the years, but it's been there a long time. Doesn't mean it's going to go tomorrow.

Thank you.

Anybody else? Any other public -- anybody else from the public like to speak on this matter?

(No response.)

CHAIRMAN STRAIN: Okay. Any closing statements, Richard?

MR. YOVANOVICH: I just want to address a couple of points that were just brought up. I want to remind the Planning Commission that the property owners in orange on the left side of that hashed line, they can sell their TDRs anywhere to anybody who has receiving lands. So they're not limited to where they can sell their TDRs. So they still have a market out there.

I have been involved in some arm's-length transactions relating to the sale of TDRs, recent sales of TDRs. The market price for TDRs today, nonqualified TDRs, is about \$15,000 a unit. Okay. That's what developers can afford to pay and are paying for nonqualified TDRs.

So there is a disconnect between qualified TDRs at 25- and what developers can afford to pay of \$15,000. The developer's not going to go forward and spend more for the TDR than they can afford to spend. So at some point, the holder of those qualified TDRs has got to make a decision, do they want to respond to the market and what a developer can pay or not, and then their TDRs will not be purchased from the urban residential fringe area. They'll have to sell it to someone else.

So they have a bigger universe to sell to whoever they want. So they're not being harmed by what we're doing. We're saying today this is what we can afford to pay. If you want -- if you want us to buy them from you, fine, at what we can afford to pay; otherwise, hold on and get your price from whoever you want, but that's not going to be from this particular project.

This particular project is moving forward. It's recently had a plat approved, and it is moving forward. So the decision day as to whether or not to max out the density or not isn't that far away. That's why we're going through this process.

If we're going to be forced to go buy 281 units of qualified TDRs at the current requested price from people within that area, it's just not going to happen. That's why we're here is the market's not working for that area. The market -- it was always supposed to be a market-driven program; willing buyer, willing seller.

The sell side is not working right now in that area, and that's why we're saying on this particular project, let us move forward. If you need to tinker with the whole program, tinker with the whole program, but you've got a project that's in the position to use TDRs at this point, and that's why we're in front of this Planning Commission today, because we are moving forward.

CHAIRMAN STRAIN: I have a question, Mike. You and I exchanged some questions and answers earlier, and I thought you said the rate of the TDR sale in that area was around 13,000?

MR. BOSI: The last sale transaction that we processed, the total -- the TDRs basically sold for 13,000.

CHAIRMAN STRAIN: Do you know how long ago that was, just out of --

MR. BOSI: Twelve months ago.

CHAIRMAN STRAIN: Why are you getting hit with 25-?

MR. YOVANOVICH: Because I can't get someone to sell it to me at 13-. I have to go outside of the qualified area to be able to buy them at the 15- right now.

CHAIRMAN STRAIN: So they were selling in the area for 13,000, but when you need them, they're going for 25,000?

MR. YOVANOVICH: I can assure you that if someone said, I'll sell you 281 qualified TDRs for \$13,000, I don't think we're here today.

CHAIRMAN STRAIN: Okay. Well, then --

MR. YOVANOVICH: Okay. So --

CHAIRMAN STRAIN: If someone who has a qualified TDR is aware of this process and they want to come to you at some point and offer you the rate that Michael has already acknowledged was on the books for those qualified TDRs, you're willing to buy them?

MR. YOVANOVICH: I don't know why we wouldn't want to buy them at that rate.

CHAIRMAN STRAIN: Thank you. Anything else you wanted to add, Rich, or you --

MR. YOVANOVICH: No. I just wanted to make sure you-all were aware of more current numbers



for nonqualified TDRs because, you know, Mike wouldn't know that. I mean, he's not privy to that information.

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: You're not -- Rich, could you lower the density a little bit on this project?

MR. YOVANOVICH: Keep in mind, the intent through the TDR program all along -- and I had something to do with urban residential fringe lands being deemed receiving lands. The intent was we need to find as many receiving lands out there as possible to compensate people who are orange.

So you need -- you need a lot of receiving lands to fully compensate the people in orange, because those were the people, previous to this program, had development rights on their property that was taken away, and the compensation they were given was TDRs.

You have to -- it has to -- and it has to be a balance between the market. You can't artificially generate a price for a TDR because -- and Mr. Rosen knows this and Mr. Strain and others who have been involved in development, you can only afford to pay what you can afford to pay.

You can say you're going to have to pay 50- or 25-, whatever the number is; the market's not going to support that number. We're running into market problems.

So we could go down lower, but if we go down lower, remember, you're now taking receiving lands out of the equation for people who own orange. And I don't know that that's really what's going to help the TDR program work.

You really want to encourage receiving lands to max out their density to the extent they can with a good quality project so that people in the orange do receive compensation.

We're not trying to -- we're not trying to get out of buying TDRs. We're just saying we need a bigger universe.

COMMISSIONER EBERT: Well, to hit the 1,154 that you wanted, I'm reading in here that you already have 542, which is generated on your own property. You're getting 190 from Hacienda.

MR. YOVANOVICH: I need 281 qualified TDRs. That's what I have left to buy. Out of the 311 I am required -- under today's program, I have to get 311 qualified TDRs for the yellow portion of the project. I still have 281 more to go.

COMMISSIONER EBERT: So -- okay. At this point you -- you're stalled, is what you're saying?

MR. YOVANOVICH: What I'm basically saying, at the current price people want within that one mile, the qualified area, those 281 potential TDRs drop out.

COMMISSIONER EBERT: Aren't there.

MR. YOVANOVICH: Drop out, potentially. I'm not saying they will; potential.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: Paul?

COMMISSIONER MIDNEY: If we let this go through, is there a chance that the lands in that one-mile orange zone will opt to develop instead of going for conservation?

MR. YOVANOVICH: They can't. They can't. They're sending. They're sending. They're orange.

MR. BOSI: And, Commissioner Midney, the only ability for those properties within the orange is they are still entitled to build a dwelling unit per parcel or at a one-to-40 density. But other than that, they're restricted beyond -- only to those options.

COMMISSIONER MIDNEY: But it looks like most of the parcels are pretty small, less than 40.

MR. BOSI: Yes.

MR. YOVANOVICH: So they still would get one. You get whatever your legal lot is, or -- so if you have a 10-acre piece, you get one.

CHAIRMAN STRAIN: That's your base right. That underlies every overlay we have in the county, including the RLSA and everywhere else.

MR. YOVANOVICH: Right. But the old -- yeah, the old days you would have been one per five --

CHAIRMAN STRAIN: Right.

MR. YOVANOVICH: -- so you would have had two homes you could put on that 10-acre piece. Now you only get one.

CHAIRMAN STRAIN: Okay.

COMMISSIONER MIDNEY: Is the average lot, would you say, about five acres or two acres?

MR. BOSI: I would probably be inaccurate if I quote the average-sized lot, but there are a number of small parcels within that -- that one-mile area. There are some opportunities for larger landholdings, but there are a number of smaller property owners within that urban residential fringe. It is fragmented in terms of ownership.

COMMISSIONER MIDNEY: Thank you.

COMMISSIONER ROSEN: Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER ROSEN: I have a follow-up question for staff, if I could.

CHAIRMAN STRAIN: Sure.

COMMISSIONER ROSEN: Mike, you mentioned before about 12 months ago, I guess it was, unqualified TDRs sold for about, did you say \$12,000 each; is that right?

COMMISSIONER EBERT: Thirteen.

MR. BOSI: Thirteen thousand, and they were qualified. They were in the --

COMMISSIONER ROSEN: Oh, they were qualified.

MR. BOSI: -- within -- they were within the one-mile urban residential fringe. They were on Benfield Road. A number of property owners have severed, and Soil and Water had acquired those.

COMMISSIONER ROSEN: Thank you.

CHAIRMAN STRAIN: Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. With that, we will close this public hearing and look for a motion for a recommendation. Does anybody wish to make a motion?

(No response.)

CHAIRMAN STRAIN: Well --

COMMISSIONER HOMIAK: I'll make a recommendation to approve. You're adding the text, just text changes?

CHAIRMAN STRAIN: Yes.

COMMISSIONER HOMIAK: So I'll make a motion to approve PL-20120000139/CP-2013-1, recommend -- we're recommending that Board of County Commissioners forward this to the Department of Economic Opportunity.

CHAIRMAN STRAIN: Okay. Is there a second?

COMMISSIONER BROUGHAM: I'll second.

CHAIRMAN STRAIN: Okay. Mr. Brougham seconded. Made by Ms. Homiak.

Discussion?

(No response.)

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

COMMISSIONER ROSEN: Aye.

COMMISSIONER MIDNEY: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Thank you very much.

\*\*\*Okay. The next item up is PL-20130000365/CP-2013-4, the Olde Florida Golf Club. Property located on the north side of Vanderbilt Beach Road extension, two miles east of Collier Boulevard.

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

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

CHAIRMAN STRAIN: Thank you.

Okay. This is the second GMPA amendment today. We will break at 10:30 for 15 minutes for the court reporter to rest her weary fingers.

And with that, Richard, I guess it's all yours.

MR. YOVANOVICH: Good morning. For the record, Rich Yovanovich on behalf of the petitioner. With me today is Bill Barton, who is a principal in Olde Florida; Margaret Perry, Tom Trettis, Ray Piacente, and Matt Crim all with Stantec, who are various consultants working on this project and can answer any questions you may have.

Today's request is to change the Growth Management Plan designation on the property outlined in red, which is the Olde Florida Golf Club, from neutral to receiving lands.

Olde Florida Golf Club is approximately 553 acres. It was originally zoned golf course in 1991. The original plans for Olde Florida were to have 36 holes of golf and the related number of members to support 36 holes of golf.

As you can see from the aerial on the visualizer, 18 holes of golf has been constructed today, and this portion of the project was originally intended to be the second 18 holes. I don't think I need to remind this board about the change in economics for private golf clubs since 1991.

And I think it's fair to say that in today's world, the second 18 holes is really not financially feasible and really not what the members want anyway. I think they're very comfortable with their 18 holes and the club they have. So we're going through this process to change the designation from neutral to receiving.

By way of brief history, when this property was originally -- when this property was originally designated neutral lands in 2002, it really didn't matter to Olde Florida Golf Club what it was designated, because neutral lands supported what they wanted, which was golf courses.

So you had asked a question, why didn't you chime in and say, hey, you know, why didn't you object to neutral and ask for receiving at the time since this property is essentially surrounded by receiving lands? And I know that graphic is in your -- in your materials, but I'll put it up for you.

At the time it really didn't matter to Olde Florida Golf Club because what they wanted to do, again, was to have a golf course, and they could do that under the neutral designation.

But you can see it was basically surrounded by receiving lands and is currently surrounded by receiving lands. The little orange that you see there today is basically Twin Eagles South, and that was originally neutral land, not sending lands. They came through and did a Comp Plan designation to change the white to orange.

What we're asking for today is basically to have a map that looks like this, which we believe is consistent with the environmental quality of the property as it existed in 2002 and it exists today.

And I want to -- we went to the EAC, and the EAC unanimously recommended approval of the request. But I do want to show you some of the environmental data that existed in 2002, and it exists today, to show you that, really, I think it should have been designated receiving lands in 2002 based upon the environmental data and certainly should be designated as receiving lands today based on the environmental data.

Can you see that? There is pink crosshatched areas -- there you go. Thanks, Mike.

The pink crosshatched areas deals with various listed species that existed in 2002. And as you can see, the Olde Florida property as well as the property that's receiving lands around it, from a listed species standpoint in 2002, is basically the same.

The crosshatching is secondary panther lands --

Right, Tom?

MR. TRETTIS: (Nods head.)

MR. YOVANOVICH: -- and the receiving lands surrounding us and the Olde Florida property is secondary panther. And I've got another graphic I want to show you.

But today -- here's 2013, in July, 2013. No real change. The receiving lands around us, the Olde Florida property, today is basically the same as the property that's been designated neutral for Olde Florida.

Over time there's been a change to the hydrology of the property, and there are actually less wetlands today than existed back in -- when this -- when Olde Florida was actually originally permitted. And I'm

going to put up a -- on the left is the original permitting for the Olde Florida Golf Club, and you'll see the purple is what was considered to be wetlands at the time.

If you look to the right, it's what would be considered to be wetlands today, and you'll see it's very different. And I'll point out some of those differences.

This area here, based upon the canal system that is in this area, is no longer a wetland. This area still is a wetland. Interestingly enough, we created some wetlands on our property. I could tell you that wasn't intentional, but somehow we created some wetlands.

This has become a created wetland because we somehow built a little dam that has allowed water to back up and create a wetland in this area, and these are two areas where there was some scrape-down that occurred related to the construction of the golf course. That has also resulted in the creation of some wetlands.

I think the Corps has recognized that those are isolated wetlands and really not something that we're going to have to deal with them permitting-wise.

So the hydrology of the property has changed significantly over time as far as it has become less wet, and the quality of the wetlands that remain today are not high-quality wetlands.

I wanted to address an issue that came up and was discussed at the EAC, and there may have been some confusion, and I promised Nancy I would correct the confusion if there was any that occurred.

CHAIRMAN STRAIN: Well, I think she's here to make sure you do.

MR. YOVANOVICH: I think she did say that.

And, actually, we learned some things at the EAC, or I learned some things at the EAC that I wasn't aware of.

First of all, there is -- this land is lands that were acquired through the Conservation Collier Program. And we were asked, how does that land factor in or figure into the potential future development of this Olde Florida property if it gets redesignated to receiving lands?

Well, as you can see, the Conservation Collier property connects to -- this area right here is part of the Olde Florida Golf Club and is already a recorded conservation easement, and then you have the remainder of the golf course that occurs. And that golf course, I can assure you, is going nowhere and will be there for the membership of Olde Florida.

There was a corridor -- there's -- I reference in your staff report to a 300-foot-wide corridor that basically connects the Twin Eagles portion -- the portion of Twin Eagles north of Immokalee Road and the portion of Twin Eagles south of Immokalee Road, and in this general vicinity is an underpass under Immokalee Road.

There are animals, including un-collared panthers using this underpass and, presumably, this corridor. And the orange is what we've been able to determine from the latest Water Management District submittal for Twin Eagles as to their corridor.

I think it's an average of 300 feet. It's clearly wider than 300 feet here and, clearly, more narrow than 300 feet here. But it is a corridor that has been established and been committed to by Twin Eagles, and it actually is recognized and enhanced through what we've already got on the ground and will remain on the ground as we move forward with the project.

Again, this is a conservation area that already exists, and this is the golf course that I showed you on the aerial that will remain in place.

I could tell you this yellow area is a 300-foot-wide buffer that Olde Florida is going to require that anybody who buys and develops this property will have to respect in their plans.

So when you look at everything from the yellow to the east, all of this will stay native or golf course and we believe connects with the existing corridor in Twin Eagles South as well as the conservation lands already acquired by Conservation Collier.

So we think that we have appropriately taken care of that corridor that is partially implemented or -- I don't know if "partially" is the right word, but is part of the underpass that exists on Immokalee Road.

So I wanted to make sure we clarified that, because I was not aware of the Conservation Collier property at the time we went to the EAC. So we prepared this exhibit to show you how it all works together, and I wanted to make sure I covered that.

We think that the GMP amendment that we're proposing, obviously, is consistent with the environmental data that existed in 2002 and is consistent with the environmental data that exists in 2013. And that alone should justify the reclassification of this property from neutral to receiving lands.

However, as we talked a little bit about the last -- in the last petition, there is a lack of receiving lands for the sending lands, the TDR program. This Comp Plan amendment would allow this property to acquire about 443 TDRs that it couldn't acquire today because it's designated neutral. It can be developed at 110 units for the project, but with the Comp Plan amendment, it could be developed at 553, which would be the one unit per acre you can get to through going to receiving lands.

This is also a project that doesn't own sending lands somewhere else. So this isn't a project where they're simply trying to create a place for them to use an asset they already have.

So this project will be in the market to go buy more TDRs. And they can get TDRs from anywhere. They can be the qualified TDRs we talked about in the last petition, or they can be TDRs that are not qualified.

So this Comp Plan amendment would increase the number of receiving lands and, therefore, improve the market for those people who own orange land on the map.

We went through the analysis of transportation, and the access will be Vanderbilt Beach Road. Our transportation analysis shows that we're not going to adversely impact Vanderbilt Beach Road. We're not going to require that it be made four lanes. We're not going to require that it go to the east.

Our project has no impact on that. And I could tell you that this project would be fine if Vanderbilt Beach Road stays like it is, because it would be a nice entrance to the project. And the desire to make Vanderbilt Beach a bigger project is not something that this project either requires or necessarily would want to occur.

We looked at water and sewer impacts, and we'll have to extend water and sewer lines to the project, but that is -- there's adequate capacity to provide both water and sewer service. So from an overall infrastructure impact, we don't have any negative impacts on the infrastructure that exists and, of course, we'll pay our impact fees and everything we're required to for this project.

So, from an infrastructure standpoint, the Growth Management Plan amendment is consistent with -- internally consistent with your Growth Management Plan and, from an environmental standpoint, we believe the redesignation of this property to receiving lands is consistent with the environmental goals originally established by the governor and cabinet when the county's EAR-based amendments were challenged back in the late '90s.

So with that, I think that adequately explains what the purpose of this GMP amendment is, how it fits in environmentally, and how it fits in infrastructure-wise.

And with that, I'm available to answer any questions you have.

CHAIRMAN STRAIN: Okay. Questions from the Planning Commission. Paul?

COMMISSIONER MIDNEY: You say, Rich, that there's less wetlands today than there was, I guess, 13 years ago. Is this -- I'm wondering why that is. Is this an isolated incident, or is this going on everywhere in this area, and what does this say about our watershed management?

MR. YOVANOVICH: Well, I'm going to let Tom talk about watershed management. But, generally -- he can explain to you the canal system that exists in this area and why --

COMMISSIONER MIDNEY: I saw that on the map, but it doesn't look good. That's draining everywhere in, you know, the Estates.

CHAIRMAN STRAIN: If someone were to go out there today and do a jurisdictional line determination based on where water's standing, they'd probably find a different story, wouldn't they?

MR. YOVANOVICH: My house is wet.

CHAIRMAN STRAIN: Every house -- I drove here down Logan or Oakes and, both sides, people had water up to their -- they're going in their garages. It's just unbelievable this time -- this year, so anyway. Go ahead, sir.

MR. TRETTIS: For the record, Tom Trettis, Stantec.

CHAIRMAN STRAIN: Is your father a judge?

MR. TRETTIS: He was a judge for 20 years.

CHAIRMAN STRAIN: He married my -- didn't marry me. Married my wife and I. I recognized your name, so I didn't know --

COMMISSIONER EBERT: We're glad it's legal, Mark.

MR. TRETTIS: I get that all the time. My dad either put people in jail or married them.

CHAIRMAN STRAIN: In this case it was just the latter.

COMMISSIONER HOMIAK: He was hesitant to tell you.

MR. TRETTIS: I'll try to explain how the hydrology was affected on this property.

This is a modern aerial right here, so try to imagine this area without any of the development. But, historically, surface water used to flow in this area from a north to south direction.

So surface water would flow from what is now the Corkscrew Marsh down through the Corkscrew Swamp Sanctuary, through the Bird Rookery Swamp, and then across Immokalee Road and into Golden Gate Estates.

Well, when Immokalee Road was constructed, so was the Cocohatchee Canal to the north of it. So all sheet flow now is diverted west to the Gulf of Mexico. So sheet flow has been eliminated. That's one way the hydrology was interrupted.

The second way is the canal system, Golden Gate Canal, over a hundred miles of ditches, canals, structures. And in this particular area you can see you have the Cypress Canal to the south, 951 canal to the west, Cocohatchee to the north, Golden Gate main, the Curry, the Corkscrew Canal. These canals were put in to relieve flooding. What they effectively did was lower the water table 4 to 6 feet, some experts say. So in this particular area the water table has really, really been drawn down.

Back in 2007, WilsonMiller/Stantec put a series of groundwater monitoring wells across the property to monitor the groundwater table during a typical rainfall, and for several years we collected the data.

What the data indicates is on a standard or a normal, typical rainfall year, water table is down a foot and a half to two feet below the ground surface. You're right, it would probably be under water today, but the water drops very quickly.

We were able to go in and change the wetland determinations with that data and reduce the wetland acreage from about 70 acres to about 30 acres of isolated wetlands.

With the drawdown of the water table, that has allowed exotic nuisance species to move into the property, that Brazilian pepper, Melaleuca, downy rose myrtle, and also even native species such as muscadine grape and poison ivy really just dominated the habitats out there making it less desirable for some species; not all species, but for some species.

Does that answer your question?

COMMISSIONER MIDNEY: Yes, thank you.

CHAIRMAN STRAIN: Okay. Thank you.

Does anybody else have any questions of the applicant?

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: Rich, you said right now in neutral lands you could put 110 homes there?

MR. YOVANOVICH: Yes, ma'am.

COMMISSIONER EBERT: Okay. To be honest with you, I worry more about that road system. I understand where it's going to, that it's just going to come in where your entrance now is, and you -- is that correct?

MR. YOVANOVICH: Yes, ma'am.

COMMISSIONER HOMIAK: And you don't plan on going any further. I understand there's supposed to be a school a little further of the -- to the east. I guess I'll just ask Mr. Podczerwinsky about this, because now you're going to bring in utilities. I also understand that you're looking at maybe combining two of these to make a PUD; is that correct?

MR. YOVANOVICH: Yes. And I'm happy to discuss that, but I did -- I was focusing on the GMP amendment so --

COMMISSIONER EBERT: That's right. That's fine. But with these neutral lands, if we take the

neutral lands, we're taking how many acres from this project, from the neutral, and putting it to receiving?

MR. YOVANOVICH: Five hundred fifty-three.

COMMISSIONER EBERT: Okay. So how many -- how many acres of neutral lands will be left within the county; do you have any idea?

MR. YOVANOVICH: That may actually be in the staff report. I'm not 100 percent sure, to be honest with you.

CHAIRMAN STRAIN: Diane, just so you know, by the way, they are going to be bringing in a PUD amendment at the same time of adoption --

COMMISSIONER EBERT: Yeah, I know.

CHAIRMAN STRAIN: -- so we'll get a bigger picture of the details at that point, if that helps your questioning any.

COMMISSIONER EBERT: Well, in looking at this -- the map that I had with neutral lands, there is not a lot of neutral lands left anymore, and I just kind of wanted to know what will -- at some point we are going to lose all the neutral lands?

MR. SCHMIDT: Yes. If I may?

On Page 3 of your staff report, we attempted to give you some of those figures, not only throughout the county where rural fringe mixed-use district lands have changed historically, but then in about the center of the page, those acreage figures as they would be if this redesignation were to be approved. And the number for neutral lands, which was once more than 9,600 acres, today at 9,400-some acres, would be reduced to around 8,870.

COMMISSIONER EBERT: Okay, okay.

MR. YOVANOVICH: There's a significant amount of land still in neutral. And remember when the program was originally started, neutral was supposed to be, okay, these are -- you really -- there's no reason to make them sending lands. We're going to let people keep what they had at that time, which was golf courses, one unit per five acres.

COMMISSIONER EBERT: Okay. Very good. Thank you.

CHAIRMAN STRAIN: Okay. With that, let's take a 15-minute break. We'll come back at 10:45.

(A brief recess was had.)

MR. BOSI: Chair, you have a live mike.

CHAIRMAN STRAIN: You did it again. Mike, I'll tell you about that in a minute. I've got to deal with Mike Bosi now.

Okay. If everybody will please remain in their seats so that Mike Bosi can move things forward here.

COMMISSIONER HOMIAK: That's pretty good. Twice in one day.

CHAIRMAN STRAIN: He's one step ahead. Don't let that rub off on Ray. I'd really be in trouble.

Okay. We left off on questions from the Planning Commission of the applicant. Diane had had one or two questions. Do you have any more at this time, Diane?

COMMISSIONER EBERT: Not at this time.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. Could you put that map of the panther corridors back up. The first one -- or the second one. The one that shows the different -- there you go.

Just so I understand it, the dark purple, whatever you want to call them, that's Conservation Collier. The red line is the approximate 300-foot corridor that extends from Immokalee Road down to Vanderbilt Beach Road. Is there a panther crossing or some kind of a tunnel on Immokalee Road, I assume?

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: Yeah, right about up here.

CHAIRMAN STRAIN: As it gets to your property, that northeast corner that looks a little shaded purple, that is all deeded -- or dedicated conservation by easement?

MR. YOVANOVICH: Yeah. It's part of the -- it's part of the permitting for the golf course as a

conservation easement.

CHAIRMAN STRAIN: Okay. So what actually happens, when it gets to that property, the corridor widens and maintains its width all the way down to Vanderbilt Beach Road?

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: Because, more or less, your property is going to suffice as a corridor. You don't have any fences keeping your property separated from the adjoining properties?

MR. YOVANOVICH: No. It's a -- I think "network" is better word than "corridor."

CHAIRMAN STRAIN: Network?

MR. YOVANOVICH: Network.

CHAIRMAN STRAIN: Okay. How about your perimeter of the golf course up against the orange corridor area; do you have fences along that?

MR. YOVANOVICH: No, sir.

CHAIRMAN STRAIN: Okay. So they can free roam then. That 300-foot separation, are you intending to put fences there?

MR. YOVANOVICH: By the yellow?

CHAIRMAN STRAIN: Yeah.

MR. YOVANOVICH: I don't think so. I don't think --

CHAIRMAN STRAIN: Okay. Well, I'm just --

MR. YOVANOVICH: We haven't required that.

CHAIRMAN STRAIN: Nancy's listening, so I figure that if she hears anything out of line, when she gets up, she'll certainly set us straight, so.

Okay. On Page 11 -- this is actually for Corby. I'll wait till you do your non-presentation.

Anybody else have any questions of staff? If not, Corby. Were you going to have anything different than the last time?

MR. SCHMIDT: No, Mr. Chairman.

CHAIRMAN STRAIN: Okay. So anybody have any question of staff before I have a couple?

(No response.)

CHAIRMAN STRAIN: Corby, on Page 11 of your staff report, it says -- the bullet second from the bottom, it says, the redesignation of the subject site as proposed would allow for a loss of approximately 111 acres of native vegetation. But because it becomes receiving, would -- they're required, then, to generate more TDRs, which would generate more acres of native vegetation that would offset, theoretically, the 111? Is that how the system's expected to work?

MR. SCHMIDT: That's a fair statement.

CHAIRMAN STRAIN: Okay. The next page, Page 12, the second bullet from the top, there's talks about the receiving lands in this area are now characterized by the presence of a 300-foot-wide wildlife corridor, 100-foot-wide golf course buffer, established native preservation acreage on the Olde Florida Golf Club property, Conservation Collier lands, wildlife passage under Immokalee Road.

This corridor, is it formalized in any manner? I know -- I understand what that property is dealing with. It's got an existing golf course. They're going to put a 300-foot buffer in, and they've got a conservation easement in the northeast corner.

But the -- from Immokalee Road down, has that been formalized by any recorded easements that you know of?

MR. SCHMIDT: It has been formalized in some manner, not within the county jurisdiction. And I think Nancy Payton may be able to speak to that.

CHAIRMAN STRAIN: Okay. I'll wait till we get to public speakers then.

Your last bullet on Page -- it's on Page 12, subsequent zoning activity must include a request to modify ("rezone") the RMFU overlay changing the RMFU overlay/neutral lands zoning overlay on the subject site to RMFU overlay/receiving lands in the zoning overlay.

This request may be concurrent with the adoption phase of the GMP application. I'm very confused by that bullet.

MR. SCHMIDT: It's just a matter of a map change at the zoning level to match what they're doing



here, and they're allowed to be concurrent with the adoption phase.

CHAIRMAN STRAIN: Say that again.

MR. SCHMIDT: In order for them to move ahead with the development as you've heard it presented

--

CHAIRMAN STRAIN: Yes.

MR. SCHMIDT: -- they would need to rezone the property in some manner.

CHAIRMAN STRAIN: Correct.

MR. SCHMIDT: They can do that when they come back during adoption of this Comp Plan amendment.

CHAIRMAN STRAIN: That's all you were trying to say?

MR. SCHMIDT: Yes.

CHAIRMAN STRAIN: I like the simpler explanation. Thank you.

It is my understanding, too, that they intend to come in -- and will you confirm it, Richard -- with a Planned Unit Development document at the adoption stage so we'll have a better view of what you're planning to do with the property.

MR. YOVANOVICH: The answer to that question is a -- is yes unless the current purchaser decides during the due diligence not to move forward. But we are preparing to submit the PUD within days.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: So -- I just got -- apparently due diligence expired at midnight last night, so yes.

CHAIRMAN STRAIN: Oh. So they are moving forward. Well, that's good. Well, the reason that's important --

MR. YOVANOVICH: My hedge was unnecessary.

CHAIRMAN STRAIN: Going to receiving, as you know, is the most flexible zoning overlay portion of the receiving -- of the RMF -- the fringe, the rural fringe. So it helps us understand what you intend to use that property for with the wide variety of uses that could apply.

MR. YOVANOVICH: I understand. And if -- and I know the chair remembers this. The property is currently -- it got rezoned back to ag, and it has a master plan on it and some details on it that will have to go through the rezoning process at some point in the future, regardless of whether we do it this time or sometime in the future. So you'll get to see the project again.

CHAIRMAN STRAIN: And I appreciate your going to the local civic organization last night, although circumstances didn't allow me to be there. So I have talked to a couple people who did attend, and some of the information they provided I wanted to run by you today, also for the benefit of staff, because between most of it -- transportation and/or fire and yourselves, if these questions could be addressed adequately at the adoption hearing, if we get that far, it would be helpful to understand the project better.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: And at least some of the concerns in the neighborhood.

One was, is there a potential to interconnect, not necessarily this project, but somewhere close to this project, a corridor to Immokalee Road? Now, that may not be the -- within the requirements of this applicant to do, but I think there's -- from what I understand there was a concern about evacuation and traffic, that if there was another access to Immokalee Road, no matter how small, one of the other streets on either side or down a little bit closer -- not as close to 951 as having to go all the way out there -- and I mostly would be seeking transportation department's input on this by the time we get to adoption.

You haven't got to do anything now, John. Just wait til -- I'd rather have it researched and come back with a depiction, graphically, of how that could fit and how it couldn't and why it couldn't.

The 13th Street bridge, at some point you should show where that lies in relationship to your property. There were some questions about that, I understand, last night.

I know that the school system has a school in that area, and there's been some effort to make sure the road gets extended to at least that far and ties into the school site, which may include a bridge operation, I'm not sure, but those particulars ought to be understood. And, again, it may not directly impact your project.

MR. YOVANOVICH: You just want the information?

CHAIRMAN STRAIN: It would help us better understand how your project's fitting in with the overall picture. The third thing is, there seemed to be a concern that with the density you proposed to put there, that on Sundays when the church to your west has services, there may be a fire -- let's say a concern just getting access through emergency vehicles.

If the fire department or someone could just confirm they don't -- they do or don't have a concern there, that would be helpful.

Evacuation egress. Whenever you do come back in, if you could show us the evacuation routes that you're intending to use, that would hopefully answer that question.

And the other one is more of a transportation issue, not yours, but it would help overall area -- they're looking for an overall transportation picture/graphic of the area trying to show how the roads are all going to interconnect that would be impacted by this particular project's future density that would occur because of the change from neutral to receiving.

So I don't think those are unwarranted concerns. I think they can be supplied with that information. So if between now and adoption you could get together with transportation staff, that would be one way to get there.

Those are all the concerns and questions I have at this point until I hear more.

Mike, we might as well start calling public speakers.

MR. BOSI: Thank you, Chair. We have two public speakers. The first is Nancy Payton, and to be followed by Jeffrey Kohn.

CHAIRMAN STRAIN: Now, that's a first for Nancy to be first. She usually requires -- requests to be last, so --

MS. PAYTON: No, I never request to be last.

CHAIRMAN STRAIN: It just happens that way.

MS. PAYTON: And, in fact, if you know the history of me speaking, often I was called first. It was like set up Nancy no matter when I put in, but times have changed. No. I speak whenever I'm called.

Rich did a very -- Nancy Payton, Florida Wildlife Federation.

Rich did a very good job about explaining how Olde Florida fits into a regional habitat network that starts at CREW, comes down through Twin Eagles and Bonita Bay property. There is an underpass on Immokalee Road that has been documented in use by Florida panthers and bobcats and other wildlife. There currently is a camera on there now as part of a University of Central Florida study on wildlife movement and underpass design.

We also provided photos -- Wildlife Commission did -- photos of panthers using the 13th Street bridge to show the network that they can use, and also photos in northern Golden Gate Estates just south of the canal to show that this is part of a habitat network that goes from northern Golden Gate Estates up into CREW, includes Twin Eagles, north and south.

Olde Florida's an integral part of that because it provides some habitat connectivity into the River Road's Conservation Collier project. So it has a lot of environmental values and contributes significantly.

And to us, it really doesn't matter whether it's neutral or it's receiving. It's maintaining and enhancing that habitat network, which it does. It plays a very important role.

There was a question if the -- I prefer to call it the Twin Eagles linear preserve, and that is a formalized commitment; and I can be backed up by Mr. Anderson who is here who represents the current owners of Twin Eagles, that that still is very much a valid agreement and requirement. So that connection is going to be there.

They also cooperated with the University of Central Florida study allowed access through their property to put the cameras and to check the cameras. So that is an ongoing partnership, and we foresee no problems that would undermine that important network.

I wanted to comment about neutral lands. Neutral lands were not something that was generated by the study. It was out of necessity that neutral lands were designated, because it was finding that schools had purchased and the county had purchased parkland on land that was really -- met the sending land designation but didn't rise to the level of receiving.

So neutral went in there, and neutral also was applied to existing projects like Olde Florida, Mirasol

got a neutral designation, and then there was a request from the Corkscrew community to remain as-is as neutral. So it was more a political designation than anything that was generated by environmental values.

There are two schools that are proposed on that property east of Twin Eagles and a regional park the next -- the last I knew.

A fence on the west side; that might not be a bad idea, or some sort of deterrent to keep a wide-ranging species, like bears and panthers, away from where the concentration of people is going to be. So that's maybe a good thing that could be discussed at the appropriate time. But I did want to comment because I sat here; and when you mentioned fencing, I thought, you know -- or some sort of psychological barrier might not be a bad idea.

So I wanted to come, close, and support the conservation amenities that are associated with Olde Florida and to make it clear, because it did kind of get into a hiccup at the EAC, that it is a very important component of a regional conservation network.

CHAIRMAN STRAIN: I have one question for you, Nancy. Since I live just south of this project, should I fence my yard to keep all the animals out? Are they all going to be coming -- heading right down to me?

MS. PAYTON: Well, we have a board member who lives just very close to this property who has photographed panthers and black bear and other wildlife, and I thought that was one of the treasures of living in the Estates is sharing it with nature.

CHAIRMAN STRAIN: And it has been. When they tear down my chicken coop, that becomes a problem. But just out of curiosity, though, when -- if Vanderbilt Beach Road were to extend into the six lanes that are planned, what -- how were you thinking of treating that in regards to the termination of the corridor that's on the map right now?

MS. PAYTON: Well, there might be an opportunity to do something with the bridge at 13th that currently exists but likely would be expanded. They do do wildlife ledges that allow wildlife to go along the bank or along the -- underneath the bridge, and that's being used in several areas, or maybe there'll have to be something different. But it would be nice to keep that habitat connectivity into northern Golden Gate Estates, because I think people enjoy -- most people -- and those that don't, do have fences around their property or clear it so it's really not that desirable for many wildlife.

CHAIRMAN STRAIN: Well, actually, the fence is really to keep the ATV riders out, because they'll run across the Estates, and they don't care whose property they're on. So that's the biggest problem.

MS. PAYTON: True.

CHAIRMAN STRAIN: Okay. Thank you very much.

MS. PAYTON: Thank you.

CHAIRMAN STRAIN: Anybody else? Do we have any other speakers, Mike? I think we have one more.

MR. BOSI: Yes, sir. Jeffrey Kohn.

MR. KOHN: I've been in the area for --

CHAIRMAN STRAIN: You need to state your name and address for the record, please.

MR. KOHN: I'm sorry. I've never done this before.

CHAIRMAN STRAIN: That's okay.

MR. KOHN: Jeffrey Kohn, 2921 Sherman Avenue.

CHAIRMAN STRAIN: Thank you.

MR. KOHN: I've lived in the area for a decade, and I feel I know this area and this neighborhood pretty well. I go running almost every day past Everglades Golf Club and Olde Florida. And I took the day off from work today so I could be here.

I want to say that I don't believe in NIMBYism, and I'm not here because of that, but I do have some concerns about the impact to wildlife and the existing roads in the area, specifically, Douglas Road.

COMMISSIONER BROUGHAM: Can you speak into the microphone?

CHAIRMAN STRAIN: Yeah. You need to bring the mike a little closer to you. There you go. And where is Douglas Road on this map? Could you -- is it on the map?

MR. KOHN: It's on this road. Let's see. You'd probably have to zoom in for us to --

CHAIRMAN STRAIN: Okay. You might -- there's a --

MR. KOHN: It runs along the west side of Everglades Golf Club. So if you could find the western border of Everglades Golf Club, Douglas Road is the -- you know, the western border.

CHAIRMAN STRAIN: Okay.

MR. KOHN: And Douglas Road would become the main entrance for this new development.

CHAIRMAN STRAIN: No. We better know where this road is, then, before you go further. Everglades Golf Club is further to the west than this map is showing, Mike. Is that the extent --

MR. KOHN: Correct, I think that's right.

CHAIRMAN STRAIN: Okay. Where is -- now let's take a look and see where Everglades -- or Douglas is.

MR. YOVANOVICH: Right here.

CHAIRMAN STRAIN: That's it right there. Okay. That's -- yeah, that's to the west of the Everglades Golf Club, which is not part of today's application, so --

MR. KOHN: Correct. The map that was shown last night at the Estates Civic Association meeting showed the entrance; the new entrance would come off Douglas; is that right?

MR. YOVANOVICH: No.

MR. KOHN: No?

CHAIRMAN STRAIN: We'll let you finish, then he can come up and, what we call, rebuttal. He'll go ahead and explain anything that you bring up. So I'm sorry to keep interrupting, but I'm just trying to make sure we understand what you're trying to say so he can answer your questions.

MR. KOHN: Yeah. The way I saw the map was -- it looked like the entrance was off of Douglas. But in any case, you know, I'd like to just say a little bit about the area.

Of course, all the land is zoned agricultural. And just to give you a sense of the area -- well, again, I guess this is in dispute now. But literally across the street from Everglades Golf Club there's a field with cattle. That might give you some sense of the agricultural nature of the area.

And Douglas Road literally serves, currently serves, less than 10 homes. This would be a, you know, needless to say, pretty significant traffic impact to Douglas Road.

You know, when I drive to work every day, I see the kids riding their bikes on Douglas. They walk down to the end of the road, the corner of Douglas and Vanderbilt Beach Road, to wait for the bus. And it's hard for me to imagine that they could still do that.

There's no sidewalk. And -- so this would put a pretty serious pressure on the existing roads there including, in particular, Douglas.

I -- Nancy said quite a few things I was going to say about the panthers, but I'll just add that there are panthers in the area. One of the neighbors who couldn't be here today just literally a couple weeks ago lost a couple of goats to panther. My property is less than a thousand feet from what I thought would be the entrance to the new development, and there was a Fish and Wildlife camera on the property adjacent to me, a panther camera.

Numerous gopher tortoise burrows on my property. Of course, lots of deer. And there have been black bear seen on Douglas itself as well as lots of other nearby areas.

And -- well, I was going to say a number of other things about the panthers, but I think probably Nancy said most of them. And maybe I could turn it over to Mr. Coster (sic).

CHAIRMAN STRAIN: Yovanovich.

MR. KOHN: Yovanovich, I'm sorry.

CHAIRMAN STRAIN: He's got one of those long last names that's sometimes hard to say.

No, we appreciate your input, because when they come back in with the next round, which is adoption hearing, with the PUD plan, if they come in with the PUD plan, which they're going to try to, that will provide the details that you're concerned about, and it's at that stage it's easier to institute corrections or changes or stipulations that make it more palatable if it's a problem to you. So that's when we would look at those.

At this stage it's basically a conceptual overlay that says they can come in and apply for a detailed rezone, and that's what would happen next. And the detailed rezone is probably more where your issues

would be addressed on an individual basis than this particular level, especially since it's on the project next door.

MR. KOHN: Yes, questions concerning the density and that sort of thing.

CHAIRMAN STRAIN: Well, that will come up in the -- usually comes up in the next stage, yes.

This just opens the door for them to apply for it. It doesn't guarantee they're going to get it. Then what happens is, the next stage is where the public is again notified. You can come in and voice your concerns, and then it's this board and -- to make it -- this board would then make a recommendation trying to address everything we can, and it goes on to the Board of County Commissioners for final approval after that, or denial, whatever that the case may be.

MR. KOHN: Got it. And I apologize if I was incorrect about the entrance to the development. That's the way I read the map as it was presented last night at the meeting, but --

CHAIRMAN STRAIN: You may have seen information that we have not yet seen, because ours was limited to that red area that's on the map right now. And the Douglas Road is farther to the west than that, on the other side of the project next door. That project, from what I understand, will be somehow brought into this one, but we have not seen the documents on that yet.

MR. KOHN: Okay. So I guess I'm a little ahead. I apologize for that.

CHAIRMAN STRAIN: No. It's better to be ahead, because at least they'll know that the questions will be here when they come back in. It's better to address ahead of time than late. So thank you.

MR. KOHN: Good. And if they -- if we could, I mean, I would be interested to see where the proposed entrance is.

CHAIRMAN STRAIN: Well, I'm sure that will be addressed in the next -- thank you very much. And before we go back to Richard for rebuttal, is there any other speakers registered?

MR. BOSI: No, Chair.

CHAIRMAN STRAIN: Anybody else in the audience that would like to speak on this issue?

(No response.)

CHAIRMAN STRAIN: Okay. Rich, you want to -- anything you want to rebut? I'd sure like to -- whatever you did show last night that seemed to indicate the entrance on Douglas, I'd like that clarification, if we could.

MR. YOVANOVICH: I'll be happy to put up what the -- what we -- to put it in context, we went to the Golden Gate Estates Civic Association last night to discuss the proposed Growth Management Plan amendment. And as we always do, we fully disclose the status of what's going on. And we knew we were -- we already had a preapp for a PUD, and we wanted to share with them where we were in the PUD.

The gentleman who just spoke -- we didn't get into the details of the PUD. We showed them the master plan as it is configured today. And I can understand where we may have gotten confused regarding access. And let me show you where I think the confusion came about.

Unfortunately, I don't have this in an 8-and-a-half-by-11. But this would be the main entrance to the development. There would be a secondary entrance off of Douglas, but the main entrance is off Vanderbilt Beach Road.

And as you-all are aware, typically the county likes you to have two exits from your development. So that's why the secondary exit exists over here. But the primary exit, where most of the traffic will occur, is going to be off of Vanderbilt Beach Road.

CHAIRMAN STRAIN: You know, in --

MR. YOVANOVICH: And we told them we would come back with the final -- we would go back to the Golden Gate Estates Civic Association once we submit the PUD, and we'll give them copies of all the documents and do another presentation to the civic association at that time.

CHAIRMAN STRAIN: Well, as you develop your PUD, looking ahead at the neighborhoods concerns, you may want to take that into account, especially how you're going to address sidewalks.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: Any changes to the road system. But if you look at the Vanderbilt Beach Country Club which, is to your west, they have a main entrance on Vanderbilt Beach Road as well, but they also have a secondary entrance on 951 that was required. Well, that secondary entrance turned out to be

hardly any traffic. It's a very low-volume entrance. And you may want to look at that as an idea and what you would have to -- or consider constructing as your secondary.

Works out well for them. Same kind of situation.

MR. YOVANOVICH: Correct. Thank you.

CHAIRMAN STRAIN: Thank you.

MR. YOVANOVICH: And that's what we showed last night.

CHAIRMAN STRAIN: Okay. Did you want to have anything else -- anything else in your final remarks?

MR. YOVANOVICH: I don't think so. If you've got any further questions, we're happy to answer them.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. Thank you.

We'll close the public hearing and entertain a motion. Anybody?

COMMISSIONER BROUGHAM: Yeah, I'll make a motion that we forward with a recommendation for approval Petition CP-2013-4/PL-2013-0000365.

COMMISSIONER EBERT: I'll second.

CHAIRMAN STRAIN: Motion made and seconded. Discussion?

(No response.)

CHAIRMAN STRAIN: Hearing none, all in favor, signify by saying aye.

COMMISSIONER ROSEN: Aye.

COMMISSIONER MIDNEY: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Thank you.

MR. YOVANOVICH: Thank you.

CHAIRMAN STRAIN: \*\*\*Next item up is another, and final, Growth Management Plan amendment for today. It's PL-20120002909/CP-2013-3. It's the Buckley mixed-use subdistrict located on the west side of Airport Road and approximately 330 feet north of Orange Blossom Drive.

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

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

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

MR. ANDERSON: Thank you, Mr. Chairman.

For the record, my name is Bruce Anderson from the Roetzel & Andress law firm. I'm pleased to have with me today Mr. Jim Dentinger, the president of McGuire Development. Also here today to testify is Tim Hancock, planning director of Davidson Engineering; and we have Mr. David Stevens, a leading commercial realtor with the Investment Properties Corporation of Naples.

Before I get into my brief overview, I want to acknowledge and thank the retiring members of the Planning Commission for your public service. This community is a better place to live and work because of the work you've done in this chamber.

This Growth Management Plan application is to amend the existing Buckley mixed-use district. And it was approved 11 years ago in 2002.

And I want to emphasize that this is not, it is not a request for new commercial. This property is already zoned for commercial uses, approximately 171,000 square feet plus residential.

Much has changed since this was first approved. What was thought to be the latest and greatest in 2002 was the concept of mixed use with people living above commercial establishments. That's what the

current Buckley district requires, integration of residential and commercial in the same buildings.

The chief purpose of this amendment is to eliminate the requirement that both residential and commercial uses must be constructed on the property.

What is being proposed is simply rearranging what's already been approved, but that is no longer marketable in 2013.

The staff report makes reference to the fact that there are locally some varying types of mixed-use developments, and they cite Village Walk, Island Walk, Verona Walk, Fifth Avenue South, and Mercato. These are not valid comparisons. All of these projects are much larger than the 22-acre site that we have before us today.

The staff report glosses over this important distinction and is dismissive of the vast difference in acreages.

The staff report contends that mixed-use concept can be creatively applied to infill properties such as this one; however, they provide no data or support or analysis to back up that contention.

Perhaps in the ideal planning theory, it could be creatively applied, but my client is constrained by the reality of the marketplace. And there is no demand for mixed use at this location.

When you read the findings and conclusions in the staff report, you would think that this is a brand new subdistrict being created from scratch. Their recommended findings and conclusions refer to expansion of commercial development, but there is no -- there is no expansion.

The only change is to remove the distinction between retail and office. There's no increase in commercial square footage proposed, and none of the already approved commercial uses are proposed to be changed.

The staff report contains many inaccuracies. Tim Hancock will testify about the significant errors which undermine and form the basis for staff's position.

Lastly, I want to share with you that a PUD amendment, a companion PUD amendment, has been filed for this property. It's under review by staff at this time, and it would be heard in conjunction with any approval hearing -- final approval hearing on this Comprehensive Plan amendment. So some of the details of that application Mr. Hancock will get into as part of his presentation.

And following Mr. Hancock's presentation, we'll be available for any questions that you might have.

And I'll ask Mr. Hancock to come up and offer his planning testimony at this time.

CHAIRMAN STRAIN: Okay. Thank you.

MR. HANCOCK: Good morning, Mr. Chairman, members of the Planning Commission, Tim Hancock with Davidson Engineering here today to present professional testimony with regard to being the project planner for the Buckley MPUD, also a co-agent for the petition representing McGuire Development.

Mr. Anderson has given you a broad overview of how we got to this point. I do want to mention that one of the first things that our client asked us to do when he began taking a fresh look at this project was to sit down with the neighbors.

We met with representatives or a representative of the Lakeside community, which is directly to the west. And you can actually see the oval shape on the right-hand side of the map before you. That is the Lakeside community.

CHAIRMAN STRAIN: That's east.

MR. HANCOCK: I'm sorry, east. Thank you. Other than being directionally challenged, this day should be fine.

To the east, the Lakeside community. We met with a representative there. And their primary issue, because it's across the street, was --

CHAIRMAN STRAIN: You might want to slow down a little bit, Tim. She's got to type as fast as you're talking, and I don't know anybody that can do that right now, so --

MR. HANCOCK: Slowing down, not my strength.

The Lakeside community, their primary concern expressed to us was they would like to have a traffic signal at their entrance. And while we would love to have a traffic signal at our entrance, we're not going to meet the spacing requirements on Airport Road because of Orange Blossom to the south and the traffic signal to the north. Beyond that, they've taken a very limited interest in what we're doing.

To the west, and directly abutting the project, is the Emerald Lakes PUD. This is the community most directly affected by the Buckley MPUD and any potential changes. To date we have had at least four meetings with representatives of the Emerald Lakes community, including presenting to them the content of this Growth Management Plan amendment as well as the proposed master plan for the PUD.

We anticipate continuing with those meetings, continuing that dialogue. As a matter of fact, one of the residents just this morning picked up a full-size copy at our office of our master plan, because he's particularly focused on landscape, which will be a part of the zoning process later. So we've enjoyed that relationship, and we continue to work with them at every opportunity. And I believe there are some residents of Emerald Lakes that you'll be hearing from today.

As I stated, Mr. Anderson gave a broad overview of the Growth Management Plan amendment. And before moving into my analysis and testimony, let me quickly address the project acreage. Previously it was cited as being 22.84 acres. Our survey, much to the dismay of our client, showed 21.7 acres, and the result -- and that's contained in the application before you. But it was a result of the Airport Road widening in area that originally was described as an easement, which was later not, in fact, an easement, has affected the acreage of the property. So if you see those two acreages bandied about, the actual and correct acreage is 21.7. If anyone here can find 22.84, please let us know. We'd like to have it back.

When the subdistrict was created in 2002, it was touted as a first of its kind in Collier County and actually referred to by the agent in that application as an experiment. Unfortunately, this experiment and others like it have failed.

As currently permitted in the Buckley PUD, as Bruce mentioned, there's 171,300 square feet of commercial development consisting of a mix of office and retail commercial uses, and 251 dwelling units. That is in the PUD ordinance. The growth management language allows up to 326 dwelling units.

This is all contained on a 22-acre parcel. Forty percent of all residential development is required under the current GMP to be physically integrated with commercial in the same buildings. Commercial development beyond a certain point cannot even be built until you build mandatory required residential units.

The petition before you seeks to do the following: Number 1, decouple the residential and commercial development. Eliminate that link, and let it move forward as is directed by the marketplace.

Number 2, maintain the existing approved C1 to C3 commercial square footage of 7,500 square feet per acre but remove the arbitrary cap of 15,000 square feet for each building.

And, three, to allow the mix of land uses within the project to be driven by the market without increasing the intensity over what is currently approved.

It is the position of the petitioner that government does not and should not drive the market. But the adoption of land use regulations can either promote a particular style of development or it can prohibit it.

While this mixed-use subdistrict was adopted with the intent to promote a particular mixed-use concept that was an introduction at the time over 10 years ago, as we stand here today, it stands instead as an impediment to any realistic opportunity to develop this site.

An amendment to the Growth Management Plan is necessary in order to remove these impediments and allow reasonable development to occur.

One key area of disagreement with staff is the viability of the mixed-use concept on this site. The petitioner's request to simply not be required to include a residential component as a part of the project is contrasted by staff's recommendation of forcing the continuation of mixed use on this site.

With regard to the mixed-use requirement, staff indicates on Page 5 of their staff report varying types of mixed-use developments as quote, working examples, end quote, of successful projects in Collier County.

It is my testimony that the projects cited in the staff report are not comparable in nature to the subject site and fail as appropriate comparisons.

Staff first points to the town center components in Village Walk, Island Walk, and the Verona Walk communities. These are not mixed-use developments. These are residential communities with small commercial amenities that exist for the use and benefit of solely their residents.

The general public does not have use of these facilities, and they are very limited in their size and scope.

Staff then cites Fifth Avenue South and Third Street South of why mixed use could work on this



22-acre site. Unlike the subject property, Fifth Avenue and Third Street are public thoroughfares and part of a grid system of streets in the City of Naples that have been part of the commercial landscape for more than 50 years. The commercial portion of Fifth Avenue South alone is over one-half mile long and was established prior to the introduction of residential units being constructed over commercial.

This area's considered by the -- as a center and focal point of the City of Naples and, by contrast, the site you're looking at today is 22 acres isolated adjacent to a single arterial roadway. Hardly, in my opinion, a valid comparison.

Also cited is Bayfront, a 60-foot -- a 65-foot-high high-rise residential structure, waterfront, upscale, with a commercial marina. Yes, there's residential over commercial, but it's also located on the Gordon River and has a commercial marina as its anchor.

Lastly, staff points to the Mercato MPUD. This is a 53-acre commercial development, two-and-one-half times the size of the Buckley parcel, with 495,000 square feet of commercial development approved, 486,000 of which is already developed; 175 residential units, but only 92 have been developed.

The main throughfare for the Mercato project connects one arterial road, Vanderbilt Beach, with another arterial road, U.S. 41. The size, the commercial mass, and the location of that project in no way parallels the Buckley parcel.

To compare any of these projects, much less all of them, to the Buckley piece is, at best, a comparison of apples and orange.

It's safe to say that in Collier County there are no mixed-use projects that compare favorably to the Buckley parcel. And I can find no basis for the position taken by staff on Page 5 of their report that states the mixed-use concept can be, quote, creatively applied to infill properties such as this one.

A second key focal point in the staff report is their commercial land use analysis wherein they determine, as stated on Page 10 of their report, that the market is, quote, saturated, end quote, with uses similar to what is proposed.

Please remember that while this language that we're proposing seeks to alter the style of development on the site, no new commercial square footage is being requested.

Staff goes to great lengths on Pages 9 and 10 to cite the more than 3.7 million square feet of commercial use opportunities in the area. Their analysis, unfortunately, is a paper exercise which grossly overstates the availability of commercial development in near proximity to the site.

For example, on Page 9 of their analysis, they start with the remaining commercial opportunities in Activity Center No. 11, which is the intersection of Vanderbilt Beach Road and Airport Road just a little bit north of the subject property.

According to staff's analysis in your staff report, out of a total of 1,250,000 square feet of approved commercial zoning at this intersection, over 200,000 square feet remains to be developed. This assertion, however, is simply not true. The majority of the remaining commercial square footage identified in the staff report is due to a combination of error or as a result of calculating phantom square footage resulting from projects that were built out at an intensity below what they were approved for.

To illustrate, staff indicates that the southwest quadrant of Activity Center No. 11 has over 93,000 square feet of commercial development remaining. That would be the area that my pen is pointing to. As you can see from that particular quadrant, there are only three vacant parcels. Everything else is built.

The largest of them, right here, is currently under development as the Alamo Gun Shop and Range. The other two parcels within this quadrant are .2 acres and .5 acres respectively, which could support a combined total of 5- to 10,000 square feet of commercial development.

This is a mere fraction of what is identified in the staff report, resulting in an overstatement of availability.

Additionally, the small acreage does not front on collector or arterial roadways, as the Buckley does and, therefore, should not be considered similar in nature to the Buckley site.

While stating that the overall permitted square footage in the area is an interesting point for discussion. Three point seven million sounds like a huge number. The demand is not affected by what is allowed in a zoning document, but what is readily available. This is the key difference between the analysis we have provided as a part of our application and the one presented by staff.

Addressing the balance of just this activity center, similar errors can be found. With regard to the northwest and northeast quadrants, staff indicated 331,000-plus square feet are approved. The unbuilt acreage, however, involves only two parcels highlighted in red in the northwest quadrant totaling 2.27 acres. That would accommodate 15- to 17,000 square feet of retail development. This is less than 5 percent of the approved retail space in that quadrant.

Moving to the southeast corner of Activity Center No. 11, staff indicates there are 75.86 acres of land allowing 600,000 square feet with 18 percent undeveloped.

The problem is, in reality, this quadrant of Activity Center No. 11 lies within the Vineyards PUD. That PUD is 1,900 acres in size. It's a DRI. It covers three square miles and extends from this intersection at Airport and Vanderbilt Beach Road in the northeast all the way to I-75 and Pine Ridge Road at the southeast. And, I'm sorry, this is the northwest extending to the southeast, which is the intersection of I-75 and Pine Ridge Road.

Of the 75.86 acres in that commercial PUD, only 32 lie within Activity Center No. 11, and that 32 is 100 percent built out with no vacant land available.

Just summarizing Activity Center No. 11, despite the staff conclusion that hundreds of thousands of square feet are available, the reality is there are four parcels of land totaling less than 3 acres which are unbuilt which would support just over 20,000 square feet of retail development.

As you can see, there's a stark difference between what staff considers in their report available and what the market deems to be actually buildable square footage.

I apologize having to do this out of the necessity because of the content of the staff report, and I will try and be a little bit quicker with continuing through the differences between the staff analysis and what we find on the ground.

What you see here is Activity Center 13, just to the south of the subject property at Pine Ridge and Airport Road. Similarly, the summary of the staff analysis for this activity center shows that there are 306 acres of land; however, only 26 acres, or 8 percent of that, is vacant and available for development. This would support less than 200,000 square feet versus the 325,000 square feet staff cites in their report as being available.

All of these 26 acres also lie within the Pine Air Lakes DRI, some of which is sufficient in depth to accommodate the largest of the big box retailers. You may know this development as containing the Costco warehouse, the Best Buy, the Lowe's. These are the biggest of the big.

The Buckley site may compete with Pine Air Lakes for the small to mid-size retailers but is not a site that could accommodate the needs of the very large discount retailers.

Let me side branch on that for just a moment to give you a point of reference. If you look at the new Super Target and Super Wal-Mart sites, you will find the minimum depth they require to achieve their floor plans is 8- to 900 or more square feet. The Buckley parcel has 500 feet of total depth. We couldn't fit it on there if we tried or if we wanted to. That's not even discussing the issue of the fact that they tend to be at signalized intersections. We're not a signalized intersection. We're a mid block.

So when we look at those two things, this fear of big box retail dominating this site, I think, needs to be recognized as just that, a fear.

Furthermore, if Mr. Stevens finds an opportunity to speak later in response to any questions or concerns about market demand, I believe even of the 26 acres you see here, most of them are already committed to a plan of development and moving forward; however, in reality, they're vacant and they technically are available, I'm sure, at some price.

Staff's analysis goes further to point as available commercial to the Orange Blossom mixed use and Airport Crossroads subdistricts you see here. This may be difficult on your visualizer to see, but the Orange Blossom mixed use are the two blue rectangles on the right-hand side that are on both the north and south side of Orange Blossom Road. The two red boxes to the west or the left side of Airport Road constitute the -- I believe that's the Airport Crossroads.

The Orange Blossom mixed-use subdistrict, which is also zoned as the Long View Center PUD, totals 14.75 acres with 143,000 square feet of commercial development allowed. Unfortunately, this subdistrict has achieved the same fate as the Buckley subdistrict because it includes many of the same

regulations and restrictions that are contained in the GMP language for Buckley. It's another unfortunate example of the failed mixed-use concept on smaller parcels.

This project will, in all likelihood, need to be retooled at some point if it were to move forward in the current marketplace. The current PUD zoning for the project has sunset. So, at a minimum, a rezone will be required.

And the last example staff cites in their analysis is the Orange Blossom/Airport Roads commercial subdistrict. Those are the two five-acre parcels you see on the left side of Airport Road. Both parcels are limit to fraternal and institutional uses and professional or general offices. Neither parcel has the ability under the current GMP language to develop as a C2 or C3 intensity project, so their inclusion in staff's analysis is questionable at best.

Out of 3.7 million square feet that staff identifies in their analysis, when you look closely at the land within the areas they've identified, less than 6 percent of this total is actually zoned for retail development and available. The vast majority of that lies within the Pine Air Lakes development, a project geared toward the larger retailers in a regional market.

To summarize from this information that the market is, quote, saturated, end quote, with readily available retail commercial land that is comparable to the Buckley parcel is a conclusion without merit.

The analysis presented as a part of our application -- and I'll take you through the three steps of that analysis -- are shown here. What you see before you is the Buckley parcel, which is the blue rectangle hatched in the center of that radius, and that is a one-mile radius. Within the one-mile radius, what we looked at are lands that are, number one, vacant, number two, zoned for retail commercial development and, number three, fronting a collector or arterial roadway.

You have in your packet a three-mile radius map. I'm just walking you through each radius one at a time here.

Our primary focus, however, was the Airport Road corridor, which has an established commercial pattern of development. This is supported by planning staff's testimony in 2001 where they cite the presence of commercial zoning in the area of the Buckley parcel, as well as Activity Centers 11 and 13, as commercial anchors formed as the basis for their support for commercial development in this location.

The Airport Road corridor is a key corridor for commercial business. By way of personal example, I live off of Livingston Road. When I leave my house to buy groceries, go to the pharmacy, or go to a home improvement store, I'm on Airport Road almost every single time.

This site, the Buckley site, has the potential to capture a significant number of trips that are already on Airport Road accessing existing businesses for residents in the area.

The exhibit before you shows that basically properties that meet the stated criteria that lie within one mile of the subject property includes only two pieces; they're the two we discussed earlier, the 2.27 acres at the northwest corner of Vanderbilt and Airport.

These two parcels were not included in the map that you have in your packet, and we wanted to identify them at this time.

As we go out to the two-mile radius, you see adding in the properties before you that are in red. The bulk of them -- and I think they total 51 acres; 26 of them lie within the Pine Air Lakes DRI. The others are small isolated PUDs, two of them being 10-acre parcels at the northeast corner of, in one case, Livingston and Pine Ridge, and another case, Livingston and Vanderbilt Beach Road. One of them is currently under development. One of them is not. They both have limited access opportunities and are fairly small in nature.

Going out to the three-mile radius, we begin to pick up properties on the fringe that are approximately four miles or greater in travel distance from the subject property.

We begin to see land in the lower right corner of this exhibit that is in the I-75 interchange activity center on Pine Ridge Road. Many of these PUDs have sunset. Several have no current viable access due to interconnection requirements, and a couple are not adjacent to or visible from the roadway. They would not compete with the Buckley parcel, but they lie within the three-mile radius, so we've chosen to show them.

Looking to the northeast, you can see primarily the Creekside Commerce Park, more than three miles driving distance from the subject property.

While there exists almost 27 vacant acres in that location, you may have read in the Naples Daily

News this week a new hospital is planned for a portion of this land scheduled to open in 2015. This could spark additional medical-related development in Creekside with a co-location of NCH North and the new hospital.

Again, looking at the Creekside Commerce Park and looking at commercial opportunities at an interchange activity center do not appear to be favorable comparisons to the type of development we're looking at on the Buckley piece.

If we peel back to that two-mile radius as a market area for convenience commercial, within that two-mile radius, the total land mass is over 2,000 acres; 52 acres of which, less than 3 percent, are available for commercial development. Of those 52 acres, half of it is the acreage in Pine Air Lakes. Within one mile of the project, only one-tenth of 1 percent of that area is ready for commercial development.

I believe the information presented here stands in stark contrast to the analysis provided by staff, which failed to distinguish between actual buildable land and phantom remainders in built-out commercial PUDs.

Despite the differences in the position regarding market demand taken by the petitioner and staff with regard to this petition, interestingly, no one is saying that commercial uses are not appropriate in this location. In fact, much of the testimony and concern in the past focused over concerns about the residential densities associated with the project, not the commercial intensity.

In reviewing the minutes of prior hearings on this project, the evolution of the project from the initial hearing in 2001 until the final approval in 2005, there were changes to the project over time that resulted in one commissioner saying he felt duped by the agent for the petitioner.

There were legal challenges filed by the residents of Emerald Lakes, and a general atmosphere of concern and distrust was evident.

In order to avoid asking those most affected, for example, the Emerald Lakes community, to simply trust us when we say we're going to do something, we have filed a concurrent application to rezone the property consistent with the proposed Growth Management Plan language you have before you today.

It's our intent to have the rezone heard at the same time as the final adoption hearings for the Growth Management Plan so that this body can see not only the broader development parameters established by the GMP language, but also the more detailed land use controls that will be present in the proposed zoning.

In short, we want the residents to have confidence that we're going to walk the talk, so to speak.

This is the master site plan for the current approved project. This plan maximized the commercial square footage with retail and office uses on the lower floors with residential units on the upper floors for the most part. I would like to stress that the plan before you right here is current and could be built today if it could be physically accommodated on the site. This is what is currently allowed.

You may notice a distinct lack of water management on this plan. As stated by the petitioner at the time, it was the intent of the developer to place stormwater in underground vaults in order to maximize the developable area. As a result, this plan has a high level of impervious acreage. As a matter of fact, the total lake area you see on this plan is .8 acres; less than one acre.

This was necessary in order to accommodate 170,000 square feet of commercial opportunity and 250-plus residential units. You had to do a lot to squeeze all of that intensity into this parcel.

Since it is our position that the primary market for this property lies in retail commercial end users such as banks, restaurants, general retail, and the like, we have designed the layout of a PUD master plan with that in mind. By sharing the proposed PUD master plan with you today, I hope to address some of the concerns about the type and style of commercial that can be accommodated on this location.

One of the first questions we had to tackle was, in looking at this site, where to place the water management. Underground vaulting, as previously proposed, is no longer permitted on sites such as this one, and is cost prohibitive, even if you can get it permitted.

As you can see from what's proposed here -- and this is consistent with the PUD master plan that staff is currently reviewing -- the lake alone is over five acres of the project; therefore, we have a more traditional setup that uses a system of conveyance swales to collect stormwater and discharge it into a lake. But, more importantly, we're able to use the lake as a buffer. It becomes, in essence, a form of development restriction by locating it where we have.

What this means is that the parcels that front on Airport Road would have the lake to their rear, a more than 250 feet from the western property line. This relationship in the previous plan you viewed was approximately 100 feet.

This plan really breaks the piece into two primary components, and I'll call them the outparcel components and the end cap components.

The water management facility, or approximately five acres, is the dominant feature on the site. The main entry comes in off of Airport Road and is unchanged from the current approved project. There may also be right-in, right-outs at two other locations.

As you come into the site, a reverse frontage road will take you along the rear of what will be Tracts B and C, primarily outparcel-style development, sit-down restaurants, banks, dry cleaners, those types of end users. These parcels would be anywhere from one to four acres in size. So, as you can imagine, you can't put a grocery store or something along those lines in a parcel of that configuration.

So what we see is we see four or so outparcels fronting the roadway with the reverse access frontage back here. That leaves Tracts A and D with a little more depth to accommodate a slightly larger retail component.

When I talk about a slightly larger retail component or, candidly, a significantly larger retail component, these users would be typically in the size range of 20,000 square feet or more.

One such example would be something like the Sports Authority at Pine Ridge and Airport Road. The attractiveness of that type of use is that it has limited truck traffic when you compare it to a Wal-Mart or a Target or even a grocery store. It also has a much lower noise ratio and is more compatible with residential than would be, in the opinions of what I've heard from the residents of Emerald Lakes, three-story condominiums looking down on them.

The plan you see here basically is a colored version of the PUD master plan that staff currently has, and it does reflect the intent, which is, in essence, to anchor the site on each end with a larger commercial retail opportunity and to have outparcel-style development with a lake buffering it from the rear.

When you compare this plan with what is currently existing and what is currently permitted, I think you'll see why we have some degree of favorable reception from the Emerald Lakes community, and we look to continue and to grow that.

The last thing I want to mention before wrapping up is this: This project, and was stated in 2001 and 2002, is really not a good location for a residential-only development. Being only 500 feet deep, you lack the depth to adequately buffer residential from the roadway.

It really does lend itself to a commercial application, and we've seen this in other subdistricts. After the advent of activity centers with the adoption of the Growth Management Plan, there have been 14 subdistricts added to the Growth Management Plan for the purpose of increasing commercial opportunities.

Activity centers are not the be-all, end-all. We recognize that. This project was adopted at a time when an effort to try something new was on the horizon. We now have to respond to what's actually out there and what can and cannot be done. And to imply that just because there's a high amount of existing built commercial within a two-mile radius and use that as a justification for why this project is not needed is like saying that because there are 250 million passenger cars in America, we should stop building cars.

The issue is whether there's a current or future demand that needs to be met. If you have a question with respect to that, I'll offer up David Stevens to answer any questions about whether there is, in fact, a demand for what's being proposed here.

Our goal in preparing this amendment was simply to allow for an existing demand to be met in a manner that is compatible, if not more so with neighbors than what is allowed today.

While many of the details will be fully addressed in the rezone, we wanted to share with you this development plan to give, if you will, a picture to the concept since growth management plans sometime, by just verbiage alone, can be rather vague and difficult to follow.

With that, I'm going to stop my prepared remarks and be able to address any questions you may have at this time.

CHAIRMAN STRAIN: Well, I didn't quite expect a 50-minute presentation from you. But now that you've taken that much time, it brings us to another threshold we need to talk about before we continue, and

that is whether we want to break for lunch.

In the past we've tried a couple times to see these through the lunch hour and hopefully keep them within an hour or so and then not take lunch, but each time we did that we found out that it takes one or two hours, and we've always had -- wished -- you know, looking back and thinking we should have taken lunch.

It doesn't really matter to me each way, but I really want to turn to the board for that decision first. I was hoping we could have been done with this around 12:30 or 1:00, but I don't know, depending on the length of the presentation, the staff's probably going to have a lengthy presentation. At least I assume they're going to want to rebut some of the comments made, and we have people in the audience, too, and our questions, and I know I've got quite a few.

So I'm open to thoughts from the board. Do you guys want to take a lunch, or do you want to try to plow through it and take just a 15- or 20-minute break instead of a lunch?

COMMISSIONER BROUGHAM: Could we get any kind of an estimate of --

COMMISSIONER EBERT: This one's going to be difficult.

CHAIRMAN STRAIN: Well, I mean, the only thing I could suggest is no matter how much time staff takes, they're probably going to want to rebut some of the statements made. Whether they do or not, I'll be asking for some of that, so go ahead.

MR. BOSI: We have no -- we have received no public comment slips.

CHAIRMAN STRAIN: Yes, you received one yesterday. I sent it to Michele and asked her to distribute it. It was from a lady in Emerald Lakes who was in favor of the project.

MR. BOSI: Slips, speaker slips.

CHAIRMAN STRAIN: Oh, speaker slips. Okay. You did have a --

MR. BOSI: Sorry.

CHAIRMAN STRAIN: Okay. But, regardless, what does this board like to do?

COMMISSIONER HOMIAK: I'd like to finish.

CHAIRMAN STRAIN: I don't mind finishing.

COMMISSIONER MIDNEY: Finish.

CHAIRMAN STRAIN: Okay. What we'll do then is have --

COMMISSIONER BROUGHAM: The longer we go, the more agitated we're going to be without lunch.

COMMISSIONER HOMIAK: Eat a brownie.

CHAIRMAN STRAIN: Well, no. I was going to say, we've got -- both ladies provided all kinds of lunch over there, so we'll take a break at 12 o'clock for 20 minutes, and then we'll come back and finish this up.

So with that, Tim, we don't -- we didn't say we didn't have questions for you. I wanted to make sure we didn't start on questions and be interrupted by lunch. I know Michele is anxious. But we'll have to give her some time to sit for a little while longer.

Now let's start -- Phil, we want to start with your questions then.

COMMISSIONER BROUGHAM: Yeah. Just one general question and something that I should have researched further. Is it the same owner now as made application back in 2001?

MR. HANCOCK: Not in 2001; however, at the time it came through for rezoning, McGuire Development was the financial backer on the project. The developer was a gentleman by the name DeJamus (phonetic).

So unlike a lot of properties that have gone through a cycle of foreclosure and sale and relief, these gentlemen have had their lives invested in the project since around 2005, I believe.

COMMISSIONER BROUGHAM: Okay. Because what -- what sort of jumps out at me is the application and the Growth Management Plan in 2001, 2002, granted you phrase it as an experiment, you know, mixed use and so forth and so on, but suffice it to say that you had a developer willing to do that, and then it was like, well, we haven't done anything since 2002. And nothing went forward, and obviously, then, the market crashed in 2005/6 and so forth.

But it's disturbing that -- to me to have you back in 2013 saying, well, that was all a mistake back then, and now we have a better idea. I'm simple -- over simplifying, I know, but --

COMMISSIONER EBERT: No, you weren't.

MR. HANCOCK: It's unfortunate, but we find -- and I think the petitions you saw this morning were another example of that was the market then, this is the market now. And if we don't do something different, we're stuck with something that literally this project has no market out there.

COMMISSIONER BROUGHAM: No market today, but wasn't there -- you must have planned, or you must have observed a market back in 2002 and 2003 --

MR. HANCOCK: I think there was --

COMMISSIONER BROUGHAM: -- that you never capitalized on.

MR. HANCOCK: Well, you can't capitalize on something that doesn't exist. There was a belief in 2001 and 2002 that this market was arriving, and it was also being promoted by a study that the county paid for, a community character plan done by Dover-Kohl & Partners that encouraged this type of development.

But then I'll use a line from Dave Stevens, despite the fact that we all would love to envision everyone driving a Segway to work from their apartment above the shop to -- you know, to their accounting office, it isn't happening.

And it hasn't materialized. Part of it has to do with the downturn in the market, and part of it has to do with, quite candidly, I don't believe -- and it's not been my experience in over 20 years of doing this -- that people move to Naples, Florida, to live in an 800-foot flat over a butcher shop. That's not what Naples is.

We're a lot of things, but that's not what we are. That's a distinctly high-density urban environment. And while I think we are trying to give the opportunity for the mixed-use concept, this is not the only one that tried to take advantage and failed.

The one at Orange Blossom and Airport, 14 acres, its PUD has sunset. They didn't even revive the PUD because there isn't a market for it. So that's the part we can't change, so --

COMMISSIONER BROUGHAM: I understand. I'm just trying to get a then and now perspective. And, additionally, as I understand it, currently, you're not -- you're not planning, if this is approved, to have any residential there?

MR. HANCOCK: It is -- we don't believe the residential market is there for this piece.

COMMISSIONER BROUGHAM: Okay.

MR. HANCOCK: We did not want to pull that out entirely. We want to leave that door open. And, candidly, it was almost a nod to staff in that the mixed-use concept was such a key part of their review of it that we didn't want to pull it out altogether and say it will never happen.

But our indication is that the residential market is not looking for this type of property right now.

COMMISSIONER BROUGHAM: That's all, Mark.

CHAIRMAN STRAIN: Okay. Anybody else have a short question before we break for lunch?

COMMISSIONER EBERT: Yes, I do. I don't like strip malls. What I feel sorry for at this point is you have -- right at the corner 600 feet away you have an activity center. Does the county have to change their activity centers and get rid of them? Because all of a sudden, when you have a main artery road, everybody wants to put commercial.

I can, if -- just traffic alone, which I will address afterwards, I understand the main entry into there, I'd like to just -- I'll have to go through traffic to find out. But all these curb cuts on Airport-Pulling, to me, is not a great thing. You've got one, two, three -- three of them, and then you have one, like, going towards the library. And the people that live in Emerald Lakes and across the street, they have commercial all around them now. When they moved there, they did not. I'm sure they weren't expecting all of this either.

MR. HANCOCK: The commercial traffic from this project is already a part of the county's plan for Airport Road, because it exists today. So this is background traffic that already exists by virtue of the PUD zoning in place today. This is not new commercial or new trips from that standpoint. It's a part of the county's checkbook system, if you will.

COMMISSIONER EBERT: Concurrency?

MR. HANCOCK: Concurrency. When you talk about this versus activity centers, as we mentioned, the activity center to the north, while there are some inlying vacant retail spaces in there, there's very limited opportunity for new development from that location.

And so when we look at this piece, again, it's not new commercial. The existing commercial's part of

the background traffic. Our TIS shows clearly that what's being proposed is equal to or less intensive from a traffic standpoint, because you don't have to have 250 residential units on top of your 170,000 square feet of commercial as is currently zoned. You can do one or the other on each acre of land. We're not making you do both. So it's actually less intensive.

So if you compare what's there today with what's proposed, there's only a small window where the traffic impacts would actually be greater.

COMMISSIONER EBERT: Okay. I'll wait till after for the other.

CHAIRMAN STRAIN: Okay. With that, we'll take a 20-minute break and come back at 12:20 and finish up.

(A brief recess was had.)

MR. BOSI: Chair, you have a mike.

CHAIRMAN STRAIN: I can't believe it was late.

COMMISSIONER EBERT: It just flashed.

CHAIRMAN STRAIN: Well, it was about two or three seconds past, so.

Okay. Let's move on to where we left off. And, Diane, I think you were asking questions. I don't know if you still had any more.

COMMISSIONER EBERT: No. I finished for right now.

CHAIRMAN STRAIN: Okay. Does anybody else have any questions of the applicant at this time?

(No response.)

CHAIRMAN STRAIN: If not, I will get into mine.

Okay. Tim, one of the things you had said in the presentation was the people across the street had hoped that there be a traffic signal at their entrance, but because of the separation requirements from the transportation department, it wasn't something that was on the horizon.

In your PUD, not necessarily in this document -- and I'm only mentioning it because you brought it up -- would you mind a paragraph that says if a traffic light is ever deemed or allowed to be at that intersection with the place across the street, that you'll provide the -- your proportionate share of the cost?

MR. HANCOCK: No, sir, be happy to add that.

CHAIRMAN STRAIN: And I'm sure John can throw that in. Even though he may not like it and it may not be available now, I have known them in the past to be flexible. So who knows where it could work out.

Maximum building size. When I talked with you, I was concerned that you could build 162,000 -- or a 171,000-square-foot building, whatever the size is, and you assured me that wasn't going to happen, and that's when we discovered that you had a PUD kind of in the process, and the PUD didn't reflect that.

I asked you then to consider some way of limiting your building size, and you said you'd look at that. What did you come back with?

MR. HANCOCK: Well, I want to have -- offer something meaningful, but let me explain something that just occurred in the last couple months that I didn't anticipate, and I did share it with Commissioner Strain, is on this building, really, you don't expect any building to be larger than -- you know, maybe approximately 50- or 60,000 square feet would be a very big building for this site, but a particular use approached us, and it was a national fitness facility, and -- which, oh, great, you know, whether it's an LA Fitness or whatever the case may be.

I found out it's 86,000 square feet because it's a three-story building with an atrium in the middle and kind of horseshoe shapes on the second and third floor. And so there was a use that I never would have imagined would be precluded by putting a 50,000-square-foot cap in the PUD, for example.

So to ensure there are multiple buildings on the site -- and this goes to something you asked about, Ms. Ebert, is we already have that no more than 50 percent of the square footage would be in multi-tenant space, what that means is you can't have a strip center across the front which, ironically, is what the last plan actually looks like. It's a strip across the entire length of the property.

What we're saying is no more than 50 percent can be in multi-tenant space; therefore, you can't have a big full strip center there.

With respect to square footage, Commissioner Strain, I can assure you there would be no building



over 100,000 square feet on this site. I don't see that being a limitation that would keep us out of the marketplace.

The further limitation may actually occur at the PUD stage. Where we show Tracts B and C as being between the lake and Airport Road, those tracts, if you put in a slightly larger setback there to reflect that, that, then, would actually have a physical limitation on larger buildings being located on the site.

So those are the two things I thought, Commissioner, that would address that concern beyond the market factors.

CHAIRMAN STRAIN: Well, right now you have a maximum size stated in your overlay that's in the GMP, and my suggestion is that we put something in the GMP to reflect the maximum size even though it may be considerably different than what was there before, and that was the goal I was trying to meet today. And right now you're indicating 100,000 square feet is where you think it needs to be?

MR. HANCOCK: Yes, sir. That's the only number I can arrive at that doesn't preclude a reasonable interest that we've heard from to date.

CHAIRMAN STRAIN: Okay. Well, I'm sure we'll have more discussion on that.

Number of drive-throughs. We went from one to four. And the previous ones were, I think, a bank or institutional. I don't know if they were limited, for that matter, but they were set back from the rear property line, things like that.

And I don't see the limitations on the four you're asking for, and I'm concerned that I'm not sure that this site was ever thought to be a plethora of fast-food drive-throughs, both from the noise factor that could be created by any external audio that's there, as well as the traffic and stacking issues that would occur.

So I would like to hear any suggestions you have on a limitation of what you'd use the drive-throughs for. For example, the maximum number that would be potential for a fast food. I was hoping it would be something like one, but -- does that work for you?

MR. HANCOCK: I think we could make that work, but I do think that there would have to be some degree of clarification, because while I think, when we say "fast food" in this room, our minds automatically trigger burger joints; Checkers, Burger King, Taco Bell, those types of facilities come to mind. However, in some jurisdictions something such as a Starbucks with a drive-through would be considered fast food, not by me. But when you look at the definition of fast food -- and fast food, as I understand, is not specifically defined in our LDC.

So in limiting a fast-food drive-through and making sure that it does not apply to, you know, sit-down restaurants, coffee houses, and the like whose primary menu is not a convenience meal, then, yes, I'm comfortable with that, but I'm concerned about how we define that so we don't end up back here trying to amend the Growth Management Plan because someone decides to call a Starbucks fast food.

CHAIRMAN STRAIN: Well, we'll work on that then. And, by the way, Starbucks is an interesting example.

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: There's a Starbucks in --

COMMISSIONER HOMIAK: Dunkin Donuts.

CHAIRMAN STRAIN: -- a couple of locations locally that's pretty popular, but there is one in particular off of I-72 in Ohio that I have to frequently visit when I'm up that way, and they have a drive-through. But there's people -- somehow they don't plan as well as Collier County. And their stacking is unbelievable, because that line builds up, and it actually goes out in the road, and the cars are stacked up in the road trying to get in this thing off the -- off the main -- I think it was I-72 or I-70, whatever the main road is up there.

I just -- so I'm concerned that too many drive-throughs are going to create potential problems that we may not have thought out if they're not restricted somehow.

COMMISSIONER BROUGHAM: Just a comment on that. I mean, drive-throughs are not, obviously, restricted to just restaurants. I mean, you have pharmacies, you have banks --

CHAIRMAN STRAIN: Right.

COMMISSIONER BROUGHAM: -- and so forth, but --

MR. HANCOCK: And, Commissioner, one that didn't occur to me until just a couple years ago

when we did the first one here in Collier County, it was a Tide Dry Cleaner. They have -- their business is based on your ability to drive up and -- you know, it's high-end. They hand you a bottle of water, ask you how you're doing. You know, I mean -- and it's a drive-through facility, but certainly not one that I think would be objectionable like a McDonald's.

CHAIRMAN STRAIN: Well, I think we can work on the wording, but I think we need to look at some kind of limitation on what those four are to be used for.

Then other -- and I'm -- I've got quite a few questions, so this is going to take a while. In your discussion you said that staff presented numbers in the square footages on areas that were not actually zoned for commercial. I thought your presentation was more in alignment with what was not -- which was already used but couldn't be built, like phantom square footage and things like that. Did you find properties that were used in their tally that were not actually zoned for commercial?

MR. HANCOCK: The only one that I found that was not zoned for a comparable list of uses was the 10 acres at Orange Blossom and Airport, which is limited to C1, institutional, and so forth.

CHAIRMAN STRAIN: But it's still commercial.

MR. HANCOCK: It is commercial, but it's professional office, institutional, which is not comparable.

CHAIRMAN STRAIN: Well, the reason -- I mean, that statement's a little harsh because zoning -- I mean, staff does a really careful job of looking at the zoning. I know not everybody agrees necessarily with the way the zoning comes out sometimes, but that -- to find it consistent is -- it's pretty thoroughly vetted, so I was surprised when you made that statement.

And I understand now why you made it, although I don't agree that you phrased it appropriately, but that's -- you know, that's neither here nor there at this point.

MR. HANCOCK: I appreciate the clarification. It was not intended to say that they ignored the zoning.

CHAIRMAN STRAIN: I met with Michele to find out why she had written her staff report in the nature she had written it in in this regards to your project. I wanted to hear it firsthand from her, because I'd heard it from you. And you had explained it in a manner that didn't seem consistent with what I saw in the write-up.

And when I talked with Michele, I found out something very interesting, which I need to know why. You had told me there was a PUD application in the process over at the county. She was not made aware of that. She wasn't aware of the information that I knew in regards to the layout that you sketched out on a piece of paper for me.

Do you know when -- wouldn't you have wanted to have given that to her at an early stage so she would have had the same benefit that I had in my discussion with you?

MR. HANCOCK: Commissioner, we've received our first set of staff review comments, and I'm a little confused as to why one planner wouldn't speak with another in the same department.

CHAIRMAN STRAIN: Well, no. Michele's in comprehensive planning, and the planning is in -- I mean, that's the planning and zoning department. It's a little different. And I just wanted to suggest to you and Bruce in the future, if you provide those kind of documents to staff at an early stage, it helps everybody, because it certainly helped me understand the project you were talking about.

MR. HANCOCK: Commissioner, I'm looking at the response letter received, the comment letter from planning staff dated August 23 on our rezone petition. The first item is the comprehensive planning review, the review performed by Michele Mosca.

CHAIRMAN STRAIN: Oh. Was that the PUD? Well, I'm sure Michele -- maybe I missed -- I probably misheard -- misunderstood what we were -- what the issue was. Then I'll find out some clarification.

MR. HANCOCK: It was my understanding she was aware of the PUD submittal.

CHAIRMAN STRAIN: Okay. That process to go concurrently does help this board as well as everybody understand what you're trying to put together and say.

On the one previous to you, for example, they were asking to be a receiving area. There is a whole multitude of uses that go in the receiving area. They weren't interested in all those uses, some of which may

have been more offensive. And that's why it's important for that information to be provided at the time of a GMP amendment -- GMPA if it's available. In your case it is.

With that, let me go into some of the other issues I have. The original residential density on this project was 15 units per acre. And I believe the PUD ended up being less, and I think the residential density was one of the objections from the neighbors behind.

Are you intending -- if you use residential, and I understand from you that you really may not use residential. It's just something you're leaving there in case -- of dropping that density down to a lower number?

MR. HANCOCK: Actually, Commissioner, to be honest, if the residential component went away, my client would not shed a tear.

CHAIRMAN STRAIN: But what density does the current PUD have for a mixed-use in there?

MR. HANCOCK: Eleven units per acre.

CHAIRMAN STRAIN: Would you have any objection to dropping that to 11 units per acre?

MR. HANCOCK: No, sir.

CHAIRMAN STRAIN: Okay. That still leaves the door open to mixed use and if it ever has to -- needs to go that way for whatever reason.

Mike, from the staff's perspective, since we're not going to have a consent on this, is staff -- someone making note of these things?

MR. WEEKS: Mr. Chairman, I'm making notes, and I suspect Michele will as best as she can while she's presenting.

I know you made the comment earlier that there would not be a consent agenda, and that's up to you-all. We have no objection to a consent-agenda item, particularly if it starts getting complex. We've built that into the schedule.

CHAIRMAN STRAIN: I know, but we can't have because this board will not be the board that would hear the consent.

MR. WEEKS: Okay.

COMMISSIONER BROUGHAM: You could always extend our terms.

CHAIRMAN STRAIN: I wish I could -- that's out of my control, so I'm kind of lost on that one.

MR. HANCOCK: Petitioner has no objection to extending the terms of this body.

CHAIRMAN STRAIN: In your questions, you had a question-and-answer section. Let me see if I can find it. I'll get to it in a minute. And it's on Page 13. Question, was the public speakers -- this is at your neighborhood information meeting. The public speakers' questions are noted in italicized text followed by the agent, Tim Hancock's, responses in bold.

Question No. 1, how many stories will the building be?

Answer: Two stories are being proposed from the currently approved three stories; however, the change is not part of the Growth Management Plan amendment and will occur during the zoning process.

Now, the reason that's important is that was the response you provided at the NIM, and the NIMs are something that we take pretty seriously. In fact, they didn't start for GMPAs until this board initiated them back in 2004 or '5 or something like that.

And now you're telling us that you have a potential 86,000-square-foot tenant wanting to go three stories. How do you contrast that to the statements you made during your NIM?

MR. HANCOCK: At the time of that neighborhood information meeting, it was our intent not to have anything over two stories, and that's why I stated it, and also stated that it would be determined at the time of zoning.

I think that's a discussion we need to have with the neighbors; if we wanted to request three stories for certain limited uses, that we would need to have that discussion and certainly clarify that at the NIM that is associated with a rezone at that time.

CHAIRMAN STRAIN: Okay. And would you also clarify it at the -- by the time you come back, which I think will be the same time, for your adoption hearing?

MR. HANCOCK: Yes, sir.

CHAIRMAN STRAIN: Okay. Because I understand that there's a discrepancy there, and you need

to correct it, and I think that if you get back with the people involved, that will certainly provide any comments we need at that time.

MR. HANCOCK: And this actually is an item that I have just broached with some of the residents today and one we will follow up on, yes, sir.

CHAIRMAN STRAIN: Okay. And you're also changing the -- and I'll need some input from staff on this when we get to it. You're deleting the Type D buffer along Airport Road, replacing it with a Type C, and all other -- and all perimeter property lines adjacent to residential use. And, basically, everything else was previously a D and you're going to C. I think that's -- one of the differences between the two, I think it goes to from 20 down to 15 feet?

MR. HANCOCK: Twenty to 15 feet, and if I'm not mistaken, the C's is inclusive of a wall, which a 6-foot wall along the frontage doesn't make a lot of sense.

CHAIRMAN STRAIN: It's an option, I believe.

MR. HANCOCK: Yeah. But if -- in lieu of a wall, you have a hedge that has the same visual obscurity as a wall.

So what we're saying is that the Land Development Code today requires an adequate buffer along Airport Road. Our primary focus is the buffer between us and the Emerald Lakes community and how that buffer is to be treated and handled, and the details of that is something that we will address more completely at time of zoning.

CHAIRMAN STRAIN: Okay. I'm making sure I got everything asked. Getting pretty close. Oh, did you at any point -- does this property qualify as -- I mean, I didn't think it did, but is infill -- because I found the reference to an infill property a couple times in the staff report. This wasn't an infill property, was it?

MR. HANCOCK: No. To qualify for commercial infill, it has to be under 12 acres.

CHAIRMAN STRAIN: That's what I thought.

MR. HANCOCK: But there are infill districts that exceed 12 acres, but those are site-specific Growth Management Plan amendments. I think the one at Goodlette and Pine Village is in excess of 12 acres but was deemed/called infill when it was created, and maybe even Pine Ridge and Livingston on the southeast corner, it exceeded 12 acres.

CHAIRMAN STRAIN: And the 12 acres is actual developed land, so the project could be bigger in acreage, but only 12 acres of it's developable, if I'm not mistaken, because we've got a couple that are up to 20 acres, but eight acres are preserves, and that leaves you 12 acres developable.

MR. HANCOCK: Yeah. If you come in with an infill provision -- if I had a 20-acre parcel and eight of it were wetlands we weren't going to touch anyway, you could take advantage of the infill provision, but you're limited to just 12 acres.

CHAIRMAN STRAIN: Okay.

MR. HANCOCK: Did I say that right, David?

MR. WEEKS: Mr. Chairman, let me respond just to make sure the record's clear.

There's the commercial infill subdistrict that I think you were asking about and Tim responded to, and that's with the maximum of 12 acres. And what Tim was saying, there are other site-specific subdistricts that have been created that have the word "infill" in their name. You know, the XYZ commercial infill subdistrict. It's independent from that commercial infill provision, and it may be well over 12 acres and be -- all of that acreage be allowed to be developed. I mean, it's completely separate from that commercial infill text-based provision.

CHAIRMAN STRAIN: Okay. And this, though, wouldn't be considered an infill project?

MR. WEEKS: Not under the terms of that commercial infill subdistrict.

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

MR. WEEKS: Yes; correct, it would not.

CHAIRMAN STRAIN: Okay. You had 100-foot setback rear property line previously. What is -- you're going to -- what are you -- what do you think your PUD -- what is your current PUD showing?

MR. HANCOCK: We will maintain that 100-foot setback in the PUD.

CHAIRMAN STRAIN: Okay. I have some questions concerning the alternative mixed-use

applications proposed by staff and some of the language. I want to know, let's -- they have Alternative 1 and Alternative 2. Alternative 2 is the residential community facility, which I know that you're not really going to go there. So let's focus on Alternative 1.

And they offer a series of things that might be considered as an alternative but still retain the mixed use. Now, okay, let's assume that the mixed use isn't on the table right now and we're looking at the rest of it.

I don't believe any of these are new to you. Rezoning is encouraged in the form of a PUD. That's No. 1. Number 2, residential uses are allowed at a density of 10 units per acre calculated based upon the entire subdistrict acreage. We're looking at 11 because you've got an approved PUD.

Number C, commercial uses are limited to those permitted and conditional uses allowed in C1 through C3, and I believe you're in concurrence with that.

MR. HANCOCK: Yes.

CHAIRMAN STRAIN: D, commercial uses shall be capped at a maximum 162,750 square feet of gross area. You are in concurrence with that.

MR. HANCOCK: Yes, sir.

CHAIRMAN STRAIN: Individual commercial users shall not exceed a maximum gross foot area of 15,000 square feet. That's the one that would be changed to a higher number based on the previous discussion. And the number you put on the table is 100,000 square feet.

MR. HANCOCK: Yes.

CHAIRMAN STRAIN: F, drive-through establishment shall be limited to a maximum of two, and no such establishment shall have more than three drive-through lanes. All drive-through lanes shall be architecturally integrated into the main building.

The drive-through, we're going to figure out some language to limit those to a -- the food service types to -- in some manner, to limit those to just one and the rest, like Starbucks and the others that you've referred to, will come under a different category, and you've -- that, conceptually, works for you.

MR. HANCOCK: Yes, sir.

CHAIRMAN STRAIN: And the last one, gasoline -- the gasoline service situations, convenience stores -- well, it's not the last one. It's the last one on that page. And fast-food restaurants are prohibited. I think you took an exception to part of that when I spoke with you.

MR. HANCOCK: Yes, sir. We have no problem with gas service stations, convenience stores being prohibited; however, fast-food restaurants, one of -- the discussion we had was that even a Boston Market, for example, because it has a drive-through, could be considered a fast food with a drive-through.

So we're not always talking about the typical ones. Sometimes those creep in. So I would not want to see fast-food restraints prohibited, but we would certainly be favorably looking at some degree of limitation.

CHAIRMAN STRAIN: Okay. Residential component equal to 25 percent. We know that's not something that we're entertaining right now.

Residential uses may be in stand-alone buildings or may be integrated into mixed use with commercial uses. Integration of residential office, retail, or personal services uses, in the same building is encouraged. There's nothing wrong with that.

MR. HANCOCK: No, sir.

CHAIRMAN STRAIN: J, the subdistrict shall be developed with a common theme for architectural signage, lighting, and landscaping. I don't see why you'd oppose that one.

K, all buildings shall be connected with pedestrian pathways.

And then the last one, pedestrian connections are encouraged on all perimeter properties. I think that might be problematic. I just -- I think they -- "encouraged" means it's not mandatory. So where the residences to the back or north or south want them and they're -- it can work out, so I think --

MR. HANCOCK: We're in agreement with that. We even would like to see a vehicular connection to the south where the library is. I know that was a sticking point for the county in the past, but we obviously are -- you know, we'll go the direction we're told, but we think that would be an advantage from a traffic circulation standpoint.

CHAIRMAN STRAIN: Okay.

COMMISSIONER EBERT: I don't know if the people in the library would like it.

COMMISSIONER ROSEN: Mr. Chairman, I have some comments.

CHAIRMAN STRAIN: Yes, sir. Go ahead, Mike.

COMMISSIONER ROSEN: Just as a clarification for staff. When I read the report -- and we had discussed this prior to our break -- three projects were quoted as similar, that was Village Walk, Island Walk, and Verona Walk. And staff might not know, but I was the developer of those three. And they're very dissimilar, actually.

In fact, just for future knowledge, Village Walk was the first project that we developed, and we started in 1993. And we had residential above the stores at Village Walk of the town center, and they didn't work.

We turned them into meeting rooms and card rooms, and I think one is a storage room because we couldn't find residents who wanted to live there.

The other thing I wanted to bring to your attention is that those town centers, you know, they were promoted back in the days of Dover-Kohl and the ULI reports on town centers. They're touted as being the best thing, and they were the best things, because we had 850 units, residential units at Village Walk, and 1,857 at Island Walk, and around 2,000 at Verona Walk. So we had a lot of residents -- residential units that would support those.

The issue there also with the Walk projects is that those were gated communities where they were not trip attractors. They were gated, so you couldn't come in and say I want to go shopping, you know, in your town center if you weren't a resident there. And that was the purpose. They were to inhibit traffic going out onto the roads. And I think that was fairly successful.

In fact, at Island Walk, we had, I think, 176 parking spaces that would serve 1,857 homes, you know, and there was a wagon-wheel-type situation where we had those 12-foot sidewalks where you could walk to the town center or bicycle very easily.

So the comparisons are really not correct, and I wanted to make sure that staff understood that for any future applications.

You know, again, the ULI and Dover-Kohl tried to, you know, emphasize this type of new development, but what they were really doing, especially ULI, urban land institute -- I'm sorry if anybody didn't know that acronym. Really what was happening in the more northern or more metropolitan towns -- that's what ULI's focus was on back in those days -- New York, Philadelphia, Atlanta, you know, and Miami, but Naples' characteristics, you know, didn't lend for that, unfortunately.

And, again, the town centers at those three projects as voted were stand-alone town centers with residential single-family and multifamily surrounding them, not part of them. So I wanted to make that clarification for the record.

Thank you, sir.

CHAIRMAN STRAIN: Anybody else have any comments of Tim at this time? Go ahead, Phil.

COMMISSIONER BROUGHAM: Just a question. There was some conversation a few minutes ago regarding the PUD application and going forward.

COMMISSIONER EBERT: Yeah.

COMMISSIONER BROUGHAM: Excuse me?

COMMISSIONER EBERT: No.

COMMISSIONER BROUGHAM: Oh. There is a PUD application that's in process or that has been approved?

MR. HANCOCK: No, no. It's been filed, and the first set of staff review comments were made available just recently.

COMMISSIONER BROUGHAM: It would have been helpful to me if I had some access to that or knowledge of that. I could have asked about it or something. I didn't know that from reading this petition or staff report.

MR. HANCOCK: Understood. And it was our intent -- and we specifically filed it during the review of the Growth Management Plan so that if it needed to be discussed, it could.

COMMISSIONER BROUGHAM: Yeah. I mean, what it would have done for me -- and we -- I

had a conversation in the hallway along these same lines -- is it would have brought more specificity to what your plans are rather than, well, optional this, optional that, you know, and so forth and so on.

Hey, we're ready to go. As evidence of that, we've submitted a PUD. Here's what this is intended to be. I mean, that would have brought a lot more clarify and focus to me, personally.

MR. HANCOCK: And carrying that one step forward, it is our intent to have the plat filed before this comes back for adoption hearings also. So you wouldn't be just looking at one piece of the puzzle or even two, but the plat itself would be further clarification of what the development intent for the property is.

CHAIRMAN STRAIN: Thank you. Anybody else have --

COMMISSIONER BROUGHAM: Too late now.

CHAIRMAN STRAIN: -- questions for the applicant? Go ahead.

COMMISSIONER EBERT: Yeah, Mark. I was going to -- this is a GMP amendment, right?

CHAIRMAN STRAIN: Correct.

COMMISSIONER EBERT: And it seems like all three GMP things that we are talking about today all have plans already; Naples Reserve, Olde Florida. So we're not --

CHAIRMAN STRAIN: Well, now back up for a minute, though. Naples Reserve and Olde Florida are already PUDs. They're already zoned. So if you wanted to see those plans, they're already part of the record.

So what they're doing is they're modifying, like Olde Florida, and they're coming in with a new plan, and they're going to show us that during the adoption phase. That's not required. That just happens to be a nice convenience that they're doing at the same time to expedite their process. Rarely in the past do we get site plans with GMP amendments.

Unfortunately, when we do get those, we then tie too much detail to them and try to make the Growth Management Plan much more complex than it needs to be, which it already is.

So by having a site plan early, sometimes that becomes more problematic. The fact we have it early and it is a concept helps us tremendously. If they're going to provide it with a PUD application, which is the case in not only this one but the one previous, that's great.

But if you want to get a concept of what they're doing now, there are these -- two of these -- not this -- Buckley is an existing PUD. You can see that. So is the -- and that was in our packet, but the new one is -- wasn't as clearly in our packet as what it tends to be.

The Olde Florida is an existing PUD. You can see where the limitations are on that. So, you know, it's not something I think we should be demanding at a GMPA stage, but it's nice to have. And if you want to get a concept of where they are now, they are on record. So that's part of what we don't have.

Go ahead.

MR. WEEKS: Just a minor clarification. Olde Florida is not a PUD, but they did have some -- some kind of site plan, I think, was tied to their zoning to golf course.

CHAIRMAN STRAIN: Absolutely right. Thank you.

They're in for application. Does that give you the site plan -- comparable to a PUD. That's what you're looking for.

Okay. Does anybody have any other questions of Tim at this time? If not, we'll see -- hear the staff presentation. If it's not any more complicated than Corby's, that's okay, too, but I have a feeling it's not going to be.

MS. MOSCA: No, it won't be.

CHAIRMAN STRAIN: Okay.

MS. MOSCA: Good afternoon, Mr. Chairman, Commissioners. For the record, my name is Michele Mosca with your comprehensive planning staff.

Before I actually get into my formal presentation, what I'd like to do is just address some of the comments that Bruce had addressed in his opening presentation as well as Tim.

I think it's important that we all have a clear picture of the process moving forward with sufficiency of the Growth Management Plan amendment and so forth.

What I'd like to address first, in regard to Tim's comment about the activity center, acreages, square feet, et cetera, if you-all look at your tab "correspondence," I purposely put that in there so that the Planning

Commission and board would know that we had asked the applicant for that.

Information. There was a period of time that had gone by, and we really were pressed against the wall with roughly two weeks to formulate square feet, acreages, and so forth for these activity centers. What we did is we used best-available data, and that's the information that is, in fact, provided in your staff report.

It is -- it is the requirement of the applicant to provide that data, so I want to address that first.

The second item, Mr. Anderson stated something to the effect that there's a lot of inaccuracies. We were comparing -- staff was comparing this project to the other mixed-use -- the other mixed-use projects, as well as the main street town centers and so forth. That was never the intent.

If you look on Pages 4 and 5 of the staff report, the intent really was to dispel the notion that mixed use doesn't work in Collier County. There are varying types. So I want to make sure that that's clear.

In fact, Bruce and Tim both mentioned that they have an approved mixed-use development with this PUD. So to say there are creative ways to have mixed-use development on a site like this, look at their adoption, their adoption of their PUD; they do have a mixed-use product on their site. So I just want to clarify that.

So I don't really see those as inaccuracies in the staff report. Would love to get the information from the applicant for that activity center acreage. Be happy to look that over again; haven't had that opportunity. It was news to me today; received the acreages and square feet, and I would appreciate a copy of that. We can work through that together.

I'll address the specific subdistrict changes within my prepared presentation, and any of the additional corrections that need to be made, I'll be happy to do that as well, if there are some errors.

So let me start with my formal presentation. Now, you-all received -- obviously, you received the staff report, and you know the proposed plan changes. In that report the subject site approval's history as well as staff's analysis of the applicant request is included therein.

As a reminder, the subject site was originally designated urban residential and zoned agricultural. The site was limited to agricultural uses, and the density of up to three dwelling units per acre without the use of density bonuses; also allowed, the property could develop community facility uses, institutional uses, such as daycare and ALF, and also essential services.

I really need to emphasize this to this board that under the original plan designation, when the property was zoned agricultural, the site did not qualify for commercial, nor was the change to the Buckley mixed-use subdistrict and Buckley PUD granted based on the need or demand for commercial -- for additional commercial square feet in the area.

The existing approval of high-density residential and commercial uses on the subject site was granted to the property owner for the purpose of developing a traditional mixed-use residential over commercial project at a pedestrian scale.

The specific limitations, both in the office and retail, as well as the stringent development standards provided the board with assurance that the project was going to be developed as a mixed-use development.

Can you maybe zoom in? I don't know if that's clear.

As shown on this table -- it's also within your staff report, the -- proposed amendment abandons the approved traditional mixed-use development concept. The proposal eliminates the requirement for integrated commercial and residential development. It makes residential development optional.

It allows for the intensification of commercial uses on the site by combining the office and retail commercial square feet to allow, perhaps, retail uses only.

So when you look at those two caps, both -- the office is upward around 92,000 and the retail somewhere around 70,000. Office uses are generally more compatible with residential development. When you combine the two, you can have upwards of 162-. It's not a change in the total square feet, but it's a change in intensity. It's a change in scale.

The approval was for mixed-use pedestrian scale. So that means you'd have your office, perhaps, or retail, office over retail, office over residential. Totally different feel of the project versus what's being proposed today.

Essentially, the applicant's proposal allows strip commercial centers, big or mini-box development, convenience commercial, fast-food restaurants, within an area not contemplated or appropriate for these types



of commercial uses.

The map that I just placed on the visualizer identifies the subject site in commercial areas proximate to the subject site. The darker orange areas on the map represent commercial PUDs, the red areas represent conventional zoning districts, and the properties outlined in the bold black lines are those commercial properties located within activity centers.

The uses proposed by this plan amendment, such as the commercial shopping center, fast-food restaurants, convenience commercial, auto related, perhaps, big-box, mini-box development are primarily intended to be located within the activity centers, as specified in the Future Land Use Element.

The plan specifically states that all new development should be located in activity centers, for the most part. We do have specific subdistricts that allow for commercial uses.

Now, I'm not going to go into a lot of detail on the activity centers. I had planned to, but because new information has come to light, I'll work with the applicant to get that data that we previously requested for the acreages as well as the square feet. We can determine actually how much is available for future development.

What I did -- what I did notice within the applicant's presentation is they identified certain supply. Certain supply meaning vacant parcels. But what I think they failed to do is identify vacancies within those commercial properties. They failed to provide demand data.

Now, as we all know, I mean, there's only so much commercial that can be supported by various populations. And these activity centers are placed in such a manner that you do have the demographics there, the population, the incomes to support those activity centers.

Commissioners, the subject site really should be viewed as a transitional or low-intensity infill site. I know David gave the definition of infill in terms of the infill subdistrict.

But if you look at this site, yes, it is 21, 22 acres in size. To the west you have residential; across the road on Airport Road you have residential and a church; to the south of the subject property you have essential service, government services, library, Tax Collector's Office; to the north you have an assisted living facility.

Also the property is proximate to the activity centers; to the north roughly a quarter mile, to the south less than a mile. There's tremendous opportunity there for commercial development. I've gone just recently to those activity centers, have seen the vacant storefronts and have seen undeveloped acreage, so I know that it does exist.

This site is not an appropriate location for fast-food restaurants, big-box or mini-box development, strip center commercial. These types of land uses proposed by this Growth Management Plan amendment should be limited to the activity centers.

And, again, as noted in the staff report, staff does not support the proposed amendment as submitted, but staff did, however, support two alternative development options that are, in fact, intended to address the applicant's request to develop the site consistent with changing market conditions.

We've -- I think it was Commissioner Strain, you had discussed the two alternatives, so I won't go into detail. But these are options that are available to the applicant. Again, we have to remember that the project or the subject site never qualified for commercial development. It was only because they had proposed a mixed-use project that they got commercial development in there.

Thank you.

CHAIRMAN STRAIN: Anybody have any questions of Michele?

Michele, I have a couple. And I'm going to have one of John, too.

The -- well, first of all, I guess I'll ask Tim if he'll make sure he supplies Michele with a copy of your activity center analysis, and he's nodding his head yes, so that's good.

The Activity Center 11, even by the diagram you have here, it looks like there's a potential reduction in what could have been built out, I guess, Activity Center 11. Do we have a statistic on what we expected as a maximum for that activity center to be built out at?

MS. MOSCA: I'll defer to David. He may know.

CHAIRMAN STRAIN: Say each quadrant was maximized for whatever acreage it could be allowed to and the FAR was maximized, where would we be?

MR. WEEKS: I don't know, because the acreage is changed. The original concept when the activity centers -- no, I want to say as they were adopted, not proposed. As they were adopted in 1989 -- consisted of half-mile squares for most of the activity centers, and that would mean 40 acres per quadrant.

CHAIRMAN STRAIN: And so when we did that back in '89, what did we expect? How many millions or hundreds of thousands of square feet for each activity center were we anticipating? Does anybody know? Because what I'm perceiving, David, is that based on just the way it appears, it doesn't appear as that activity center met the maximum amount of square footage that we would have -- one time, just by the Growth Management Plan in 1989 -- anticipated.

So that means there's a floating number of excess square footage between what has been approved to be built and what was anticipated in '89 that that center could take as a maximum, and the difference can then be considered equitable if it went somewhere else nearby, which the parcel we're talking about is about as near as you get, okay.

MR. WEEKS: Your statement, though, Mr. Chairman, makes me think that you're assuming that activity centers were intended for 100 percent commercial. That was never the case.

CHAIRMAN STRAIN: No. But some of them have built -- that's been mostly predominantly the way they've been built out, though.

MR. WEEKS: That majority of them are zoned and are building out at 100 percent.

CHAIRMAN STRAIN: So when we did the estimating in 1989 to lay out our gridwork and our roads and our infrastructure and our services, we had to have some kind of maximum anticipation. Wait a minute, John wasn't here then, so we may not have had that piece of it, but we would have had some anticipated maximum intensity on those four corners, and that's kind of where I'm going is, let's say we forget the residential. What was the -- if we -- the residential was an option, not a requirement. So someone could have come in, and if we had done things then like we are supposed to do now, we look at the maximum component that each corner could have taken and use that as the basis on recommendation for traffic analysis and the rest of it. What I'm trying to find out is what that maximum number was.

MR. WEEKS: And I don't think it exists, and I'll tell you why.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: Okay. Because the proposal for the mixed-use activity centers was, number one, they were not all the same size, but they got adopted to be all the same size, with some exceptions, but almost all of them the same size. That half-mile square, 40 acres per quadrant. They were proposed that -- to vary in intensity. Some would allow the full array of C1 through C5. Others would be limited neighborhood commercial uses, C1, 2, and 3 only, but they got adopted to all allow C1 through C5, the full intensity.

Thirdly, they were proposed to have a 50 percent cap on commercial. No more than 50 percent of the activity center could be adopted -- excuse me -- could be rezoned to commercial. So the balance would have to be, of course, noncommercial, institutional and nonresidential uses.

What got adopted was no cap and, instead, some factors to be considered every time there's a rezoning request, which includes market analysis, I think population in the surrounding area, and so forth.

Now, we could debate whether those factors to be considered were more or less designed to fail. That's a harsh statement. Whether or not they were adequate to allow, ultimately, the Board of County Commissioners not to approve activity centers at 100 percent commercial, but that's in the past. The reality is, as we've already stated, almost all of the activity centers are at or near 100 percent zoned and will be developed commercially.

CHAIRMAN STRAIN: And -- but the point of the whole discussion is, though, is I don't believe that this activity center, or maybe any of them for that matter, ever built out the maximum commercial that could have been built out allowed for by the adopted plan that was put in place with our GMP.

Now, if you think about what we could have put there over the years and what it's actually built out to, there's going to be discrepancy between today and the future or the potential at the time.

It's not unreasonable to think that that same square footage could be used elsewhere in appropriate areas. Now, I understand your argument about the mixed use, but I don't recall where mixed use at the time may have been a necessity to determine that commercial could go there. But there's no reason why commercial couldn't be made up in that location that was lacking in any of the activity centers where they

could have built out to a much higher rate.

And that, to me, is part of the justification why some of these off-sites to the side, to the south, to the east, the west, could potentially be commercial if they are individually looked at like we're looking at these.

MS. MOSCA: And, Commissioner, if I may, during the process of sufficiency, we do, in fact, ask the applicant to provide us with a supply-and-demand analysis, and that right there would let us know whether or not there is the population with those incomes to support new commercial development within the area.

As you all are probably aware, there's not too many new residential developments going in within this specific corridor.

CHAIRMAN STRAIN: But, see, when you're asking for demand analysis the way we're doing it today, we asked the applicant to justify what he wants to put on the market by us saying this is what the market already has and we feel this is enough or not enough.

In contrast, what we should be asking for is what were the areas anticipated to be at their maximum capability when they were first approved back in '89 or '90 versus what's there today and how is that -- whatever that remaining is, how are you addressing that?

And they're asking for 162,000. I would suggest -- which they already got approved anyway years ago. I would suggest that the cap -- the number that is probably lacking is much more -- many times that value and what that center could have anticipated -- could have been based on the Growth Management Plan.

MS. MOSCA: Again, what you would have to do actually is back into those figures at this point. So if you looked at the activity centers, 11 and 13, looked at the total square feet, total acreage, and realistically identified what could be developed out in terms of your square feet, back into what the population demand would be for that commercial and types of commercial. You can actually break that down by use, whether it's grocery, whether it's, I don't know, department store, et cetera. That can be broken down, and that is what we, in fact, asked for in a market study.

CHAIRMAN STRAIN: But the difference is, you're referring always to what the rooftops dictate for demand. I'm -- and I've stated this before, I'm in disagreement with the government's position of dictating the market. I think if it was zoned commercial in a particular area, like these activity centers, and they didn't build out to the maximum commercial, that commercial still is on the books in some manner. It was always anticipated to be used somewhere. It just didn't happen to get used at the location we wanted it to be in the beginning of it.

I don't think we should necessarily demand from the landowners that they adhere to a market study that we interpret as whether or not they're needed or not. I think we interpreted that when we said you can have this gross amount of -- this whole area can be developed with a maximum commercial possible, we allow it, and if it's not developed to there, that means the commercial still is needed in some manner or form, or still allowed in some manner or form, and that's a difference in market study proving an allowance.

I'm not sure government needs to be putting its nose into private property development based on market studies, and that's kind of where I'm coming from as to why we may have approached it a little -- we could approach it a little differently.

MS. MOSCA: I think in terms of long-term land use planning, it is appropriate to identify commercial nodes, such as the activity centers, or if a subdistrict or if an individual coming in with a proposed subdistrict for commercial provides that additional data and analysis to support the need for more, such as we haven't developed out the activity center, so it's appropriate we develop more. I think that's appropriate. That's how we plan our public facilities, our infrastructure, and so forth.

CHAIRMAN STRAIN: But, see, the fallacy is, we're basing it on the emptiness of some buildings, and the demand's not there because a building that is too high in price where the square foot costs are too much, that's built inefficiently, has too much gross area, that the common area elements are too costly for someone to rent out to the net space, that's not a basis in which we should be looking at whether something is needed. We open the market up for competitiveness, and the only way you're going to do that is let property owners build it based on the applications like we have today where they show that they can build a product, they can make it compatible, concurrent, and consistent with all of our codes.

And that's -- if it's a different philosophy between you and I, we could probably talk about this all

day, and I'm not going to waste any more --

MS. MOSCA: And I understand that, and I do appreciate that, Mr. Strain. But look around the community. There are several commercial buildings that people came in, said my business is going to work. They're gone.

CHAIRMAN STRAIN: And they're --

MS. MOSCA: And what happens? We end up with blight. And I know we can discuss this for a long time.

CHAIRMAN STRAIN: Well, we certainly can.

MS. MOSCA: And I respect you tremendously, and we have differing philosophies.

CHAIRMAN STRAIN: No. And I enjoy the conversation. We'll just have to take the rest of it off record.

MS. MOSCA: That's fine.

CHAIRMAN STRAIN: Go ahead, Phil.

COMMISSIONER BROUGHAM: A question for Michele. Can you explain -- what I don't understand is -- I do understand the mixed-use that you're advocating. It was in the Growth Management Plan, et cetera, et cetera; however, then I drop down to Alternative No. 1 where you're apparently backing away from that to a certain extent because you're not -- as I read this, you're not requiring residential. You're allowing but not requiring residential.

So why is Alternative 1 acceptable to you when the petition is not?

MS. MOSCA: Actually, we are -- in that alternative, there is a requirement for residential development.

COMMISSIONER BROUGHAM: Where do you -- where do I read that?

MS. MOSCA: Let me just get to that section.

MR. WEEKS: It's Paragraph H on Page 17.

MS. MOSCA: Thank you, David.

COMMISSIONER BROUGHAM: H on 17. H on 17.

MR. WEEKS: Right at the top of the page.

COMMISSIONER BROUGHAM: Oh, okay. I was not getting that far. I'm sorry.

MS. MOSCA: That's okay.

COMMISSIONER BROUGHAM: I was looking at B on Page 16.

MS. MOSCA: This alternative was really meant to address the applicant's concern. We actually sat down with the applicant probably, roughly, hour, hour and a half, and we had a very, very good discussion.

And we were trying to address their concern that the residential integrated with the commercial -- the residential over commercial financially was not feasible.

So what we proposed as that alternative is that you still do a mixed-use project, but okay, you separate those residential units from the commercial if that's what's needed to make this site work.

COMMISSIONER BROUGHAM: Okay. I missed it.

MS. MOSCA: Thank you.

CHAIRMAN STRAIN: Okay. Thank you, Michele. Unless anybody else have any questions. Mike?

COMMISSIONER ROSEN: I do. I have a question.

You know, in reading the report and listening to your presentation, there are quite a few things that you said that I really disagree with, and it's characterizations that are made in the presentation.

You said there's a tremendous opportunity for development of the activity centers. And I don't mean to split hairs, you know, but what do you mean by "tremendous opportunity"? Do you mean you've counted square footage yourself and you've done a market study and you know there's a shoe shop that wants to go into this store and there's a restaurant that wants to go into this empty space?

I mean, I do feel that government shouldn't dictate, you know, what private, you know, entity does. And to characterize it and say there's tremendous opportunity, you know, if you take a look at empty square footages that might be around town, it seems to me that when you're talking about an activity center, you're accumulating that square footage where it could be at the end of this wing there's two empty stores, at the end

of this wing there's an empty store, and that doesn't appear to me to be a tremendous opportunity, you know, for development.

The other thing that you had mentioned previously was the need for this. If I'm correct -- and, Tom Eastman, I don't want to put you on the spot. From the school board's perspective, are student population going up?

MR. EASTMAN: Very slightly. It's been pretty flat. And it's -- from a macro level, it's fairly unchanged.

COMMISSIONER ROSEN: Okay. All right. Good.

And then when we take a look at the PUD applications that you have in your department or the other departments, the reason why developers are putting in PUD applications now, why land sales, raw land sales are so robust is because theirs -- they foresee the tremendous opportunity for development, which would dictate the need for more commercial.

I don't want to rehash our discussion about residential, you know, over commercial, because I don't think in this particular instance it works, and I've said that before.

MS. MOSCA: Okay.

COMMISSIONER ROSEN: And the characterization of the Walk project was totally incorrect.

To keep on trying to force that, you know, to add residential into this as mixed use is just trying to force a requirement that's written down on paper but doesn't work functionally in this market. So I would not push for that at all. Just my thoughts.

MS. MOSCA: No, and I -- Commissioner Rosen, I do appreciate that.

When I did mention those types of mixed-use products, whether it was mixed-use town center main street, those are examples. It wasn't intended, again, to compare the two, the Buckley mixed-use project to this one. No intention at all. If I missed the point, my apologies.

This could be a very good location for residential. The project -- the actual owner came in and requested the mixed-use development. That's why you have the residential and commercial component in the existing subdistrict and also within the approved PUD.

COMMISSIONER ROSEN: Was that 2002?

MS. MOSCA: I'm sorry.

COMMISSIONER ROSEN: Was that in 2002?

MS. MOSCA: It was.

COMMISSIONER ROSEN: Well, you know, 12 years ago. The market has changed tremendously, and that's the good part about, you know, our system of economics is that the market changes, and then we have to change with the market.

MS. MOSCA: And I agree 100 percent, but I also think it's necessary to identify, if you are changing the product, is that product needed? Is that product appropriate for that location? Is it compatible with that location? I mean, these are all different factors that we do look at.

COMMISSIONER ROSEN: Thank you.

MS. MOSCA: You're welcome.

CHAIRMAN STRAIN: Okay. Anybody else?

COMMISSIONER EBERT: Yes, I have a couple things.

I looked at their market study -- and I really don't care what they have in Daytona Beach, Lakeland, Tampa. That really isn't, per se, to our area.

What I'm seeing happen is they take every main road, and they put so much commercial on it that 41, Airport, Goodlette, all the way through 951, I mean, is just all commercial. And the in-and-out traffic -- and John will probably disagree with me. When everybody has to slow down for all this in-and-out traffic -- and that's our main thoroughfares for getting -- because of all the gated communities, to me this is spot zoning. And, apparently, that's what Collier County is going to do now.

We're just going to kind of spot zone. Whoever comes in is just more or less spot zoning, and I just am really not in favor of all that spot zoning. There was some planning going on ahead of time.

CHAIRMAN STRAIN: Anything else?

(No response.)

CHAIRMAN STRAIN: John, could you step up for a moment?

MR. PODCZERWINSKY: Good afternoon, Commissioners. John Podczerwinsky, transportation planning.

CHAIRMAN STRAIN: On Page 12 you have your traffic capacity, traffic circulation analysis and impact.

MR. PODCZERWINSKY: I don't have it with me.

CHAIRMAN STRAIN: Maybe someone will loan it to you.

MR. PODCZERWINSKY: Okay. Bear with me one moment.

CHAIRMAN STRAIN: Okay.

COMMISSIONER BROUGHAM: Didn't know that was going to come up, did you?

CHAIRMAN STRAIN: I just want to verify the number you have in the middle of the main photograph, and it starts with a sentence, based on the analysis, staff determined that there's a possibility for an increase in total new trips of 58.

You heard today the style of project that they're talking about. It will include some generators, like potentially big boxes up to 100,000 square feet. It doesn't necessarily mean it's going to be a fitness center. It could be anything. It's going to potentially have fast food and a few other things. Does that impact your number in any way?

MR. PODCZERWINSKY: No. This number is based on the analysis of those big box. If you wouldn't mind, I'm going to throw it up here real fast.

CHAIRMAN STRAIN: No. I just want to make sure we're all on the same analysis.

MR. PODCZERWINSKY: And I'm going to need to zoom into that pretty good, so bear with me just a moment.

Okay. Forgive the eye chart that I've given you here. This was a report that I requested that Davidson Engineering put together for us showing roughly what their existing approved square footages and uses would be in terms of ITE. And this is going to be your top three or four lines here. I'll point to those in just a moment. In this area here. Sorry. I'm not on the microphone.

Yeah. It's those tops lines there. That's roughly what they're looking at today as their maximum trip generator under the existing land uses.

The first set of lines that you see under this bold black line would be the two largest single impacts that they could have, at least in our opinion, that would add up to the existing square footage that they're approved for. We're looking at a discount supermarket and an electronic superstore up to the -- up to half of the existing square footage they're approved for.

So if you could imagine two, roughly, 82,000 -- 81,000-square-foot structures right next door to each other. Okay.

We're not imagining as if that's a likely buildout scenario, but we did have to analyze it for the maximum number of trips they could fit on this site for the highest trip generating uses, and that's where we came up with the additional 58. If I recall correctly, it was over on the other side of the page. I'll show that to you in a moment.

And there we go. The totals between those trips, those are after pass-by reductions are taken into account. You'll see that they go from a grand total of 726 up to maximum of 784 for p.m. peak-hour numbers.

CHAIRMAN STRAIN: What's used for pass-by? Oh, 25 percent.

MR. PODCZERWINSKY: Correct. And we discussed that at length with the TIS -- with the data preparer for this, Andrew Rath over at Davidson. I want to give him some credit for that. He did work with us really closely on this, and we got this worked through so -- and, Crystal, I believe, also helped out.

CHAIRMAN STRAIN: Okay. That's what I wanted to check. So you used a maximum intensity, and it's --

MR. PODCZERWINSKY: We did.

CHAIRMAN STRAIN: -- what we're supposed to do.

MR. PODCZERWINSKY: Yep.

CHAIRMAN STRAIN: Okay. Thank you very much, John.

MR. PODCZERWINSKY: Absolutely.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. Let's go to public speakers. Anybody wishing to speak, when you're called, just come up to the microphone.

MR. BOSI: Thank you, Chair. There are two. Clair Goff, as well as Phyllis Russo.

CHAIRMAN STRAIN: Were both of you sworn in by the court reporter?

MS. GOFF: I was. Yes. Okay.

CHAIRMAN STRAIN: Thank you.

MS. GOFF: Good afternoon, ladies and gentlemen. My name is Clair Goff, and I am the president of the homeowners' association at Emerald Lakes. Our community is adjacent to this proposed site.

And I was also involved 12 years ago when this Buckley property came first on the market, so I am extremely familiar to -- with these proposals.

And I will tell you, the thing that struck me first when Mr. Conway came to us was the fact that there was not going to be a high-density residential component to his project. We, from the very beginning, because of our proximity to this site, had felt that three-story condominiums with balconies overlooking our front yards were going to be a very big problem; however, as it developed on, we kind of had to accept what we could get. We went for the 100-foot setback and the various proposals that went along with the original plan.

So when we saw a lake that was going to replace what water management had said would be piped under the condo proposal to a ditch that eventually would end up on already flooded -- this year -- Orange Blossom Drive, the lake made a lot more sense to us than the condo concept did.

We also were concerned about the density problem as far as traffic and everything else was concerned, as were the people across the way at Lakeside.

I really think the only thing that I can contribute to this is to say that the mixed-use of this particular site on Airport Road never made much sense to me. When we bought our home back in 1994, I knew perfectly well that Airport Road was a main drag. It was going to be developed, and it was going to be commercial.

And, frankly, I did not ever have a real problem with that, that it will -- it will be commercial. But I certainly, if I was going to buy a home in Collier County or in Naples, I sure as heck would not want to live on Airport Road as you would if you were in a condominium on this site. So I have really great relief that there's not going to be a mixed-use here.

The other point -- and I have to -- you have to excuse me. I'm really not very good at this.

CHAIRMAN STRAIN: I think you're doing fine.

MS. GOFF: Oh, thank you. Pardon me.

The other consideration is the water. The fact that there was going to be a lake also helped the fact that at the time that this all went on, we had a topographer do a study for us concerning the water that was at the Buckley property and the drainage on into our lake, which as I'm sure many of you know, this is -- the lake at Emerald Lakes is Bridgette Lake, which is the headwaters for Gordon River.

And I was really interested at the time to find out that all of the water from the west side of Airport Road flows west into that -- the various lakes that are along Orange Blossom going from us onto Heron Point down to Village of Monterey and on out to -- eventually to Goodlette-Frank Road and down to the Gordon River.

So I really feel that this proposal is going to be a lot more environmentally friendly to the community and is a much better deal than a mixed use.

Thank you.

CHAIRMAN STRAIN: Thank you, ma'am.

Next speaker, please.

MR. BOSI: Next speaker, and the last speaker, is Phyllis Russo.

MS. RUSSO: Hi. My name is Phyllis Russo, and I am president of Emerald Lakes. And I have to tell you, I am under the doctor's care. Should not be here today, but he doesn't know it, so we don't have to

tell him.

CHAIRMAN STRAIN: You know you're on TV?

MS. RUSSO: I know, great. Thank you. Oh, well. Who cares. I'm older than him. I can tell him what to do.

And I can't add anything to the details that everybody has laid out here. And I want to say thank you to all of you, and to Michele, for making sure this project is going to turn out the way it's supposed to turn out. And all the information and details brings us to that point.

But I'm going to put a different spin on this, and that is I am a senior citizen, and I don't mean 55 where I can go get a discount at the movies. I mean way up there. And being in the house for the past month knowing I could take a walk and go to Calistoga and have a cup of soup or mail a package to my grandkids because there's UPS store there or go have a slice of pizza, made it very nice to almost be sick in the house.

And I cannot imagine that that piece of property would not add value to the residents of Emerald Lakes and anybody else that can get up and say, let's go get a Dunkin Donuts. Isn't that nice? And grab your partner's hand and just go take a walk.

So I don't feel that mixed use should be there. I feel it should be this myriad of nice, little stores where it brings back a homey feeling for the people that live at Emerald Lakes.

I'm president. I've talked to a lot of the residents. They don't want condominiums or any other people living there.

And as far as traffic, I agree with you. I agree. Every time you turn around, you're waiting for somebody because you need to get into someplace, but that's not going to be any different if there's condominiums there. I mean, all along, I mean, how many car dealerships and banks and CVSs and Walgreens do we have on Airport? So this wouldn't make too much of a difference, but it does make a difference in the value of my home.

I know realistic trends, they follow what they have, but people come to me and they say, Phyllis, when are you going to sell your condo because my mother can't drive anymore, and she would love to just be able to feel like a person. So I'm saying, based upon those facts, I believe we should go with the proposal.

And let me add one more thing. Living in Collier County for the past 25 years and, being professional in the arena, I kind of get to know if somebody's trustworthy or if they're doing things for their reasons or my reasons or however it's going. I completely trust Bruce Anderson, Tim Hancock, and McGuire Developers because they have been forthright, they have taken us through beginning to end, gone over every detail, explained everything, and given us alternatives.

So based upon that, my trust goes with them. I appreciate your help, and I really need to get home. Thank you very much.

CHAIRMAN STRAIN: Can I make two comments to your statements? I'm sorry.

MS. RUSSO: Oh, sure.

CHAIRMAN STRAIN: Your idea that these are going to be a series of small shops and things, that may not pan out, because they're asking for a much higher limitation. I don't want you to be misled by that.

MS. RUSSO: I appreciate that, and I didn't mean to say "small," but something similar to that fact that it could be used for the best interest of the Emerald Lakes people.

CHAIRMAN STRAIN: Well, it could. You'd have access to anything there. And the second thing is, you've startled me. You said 55 is senior. I don't feel that way, so --

MS. RUSSO: I'm going to be 70 in a year and a half. So the fact that I can get up and just walk someplace sometimes kind of makes it nice not to have to get in the car.

CHAIRMAN STRAIN: It sure does. Thank you, Miss. Appreciate your time.

MS. RUSSO: Thank you very much.

CHAIRMAN STRAIN: Okay. Does anybody else have any -- anybody else in the public have any comments they'd like to make?

(No response.)

CHAIRMAN STRAIN: Okay. Bruce or Tim, you want to make any closing statements?

MR. ANDERSON: I would like to call up to testify someone who really knows what they're talking about when it comes to market demand, and that's Mr. David Stevens.



CHAIRMAN STRAIN: Well, you certainly can do that if you feel you need to do that for the record. This is a transmittal, so --

MR. ANDERSON: Yes, yes. We feel that we do.

CHAIRMAN STRAIN: Try to -- since Tim used up too much your time, can you try to make sure we don't get into a half-hour discussion here?

MR. ANDERSON: We will certainly try to do that.

CHAIRMAN STRAIN: Thank you.

MR. ANDERSON: Dear Mr. Hancock had a lot of corrections that needed to be made.

CHAIRMAN STRAIN: Well, he likes to talk, too. But when we cut him back in speed, it took longer to get the words out. That was probably the reason.

MR. STEVENS: Good afternoon, I guess. I was going to say good morning earlier, but I think we missed that.

CHAIRMAN STRAIN: You're on lunchtime now, so --

MR. STEVENS: That's right. And I will be very brief, for my own benefit and for yours.

My name is David Stevens. I'm owner of Investment Properties Corporation. Resident here since '68, and just celebrated my 30th anniversary at the firm.

I probably shouldn't go on the record thanking the brownie baker, but I do very much appreciate the brownies. So in order of priority, thank you for the brownies.

I think it's probably unnecessary; I do happen to echo several points, most particularly Mr. Rosen's as it relates to some of the mixed-use applicabilities, Mr. Strain's recommendations about the role of government.

But I think I'll limit my comments in the interest of time to demand and probably just be anecdotal. Our firm represents -- now we work with McGuire Development at their request to assist them in this project. We also have marketing assignments at Pine Ridge and Airport Road. And suffice it to say, we have a good bit of market knowledge. We also market all the property on Naples Boulevard. So we have a very good gauge of what's happening in the absorption world in Collier County.

Anecdotally, what's kind of interesting is that now with the Culver's purchase, which I think is scheduled to open maybe today -- so if you're craving ice cream, I think Culver's will be open today.

With that Culver's purchase of land, I do not believe that there is one parcel available for purchase -- by "parcel," I do mean outparcel or one acre for a single development or small pad -- between Golden Gate Parkway and Immokalee Road. I don't believe there's one. Culver's, I believe, bought the last one.

I believe there's one parcel available at the -- what is now called the Collection of Vanderbilt or the Shoppes at Vanderbilt that the property owner would ground lease. There are none others that I can think of; perhaps a parcel at Bailey Lane that's zoned C1 that would accommodate a small office building.

The point there being that there is demand from a number of nationals -- from a number of national retailers and local and regional that we are already in dialogue with that are looking for opportunities along Airport Road for banks, for coffee shops, for family restaurants, for retail, for fitness, and we're, frankly, trying to keep them at bay a little bit while we try to see how this project unfolds.

One of the curiosities might be, well, what's happening on Naples Boulevard. There seems to be a fair bit of undeveloped land there. I can assure you that all of that has been either under contract and just working through some various legal matters -- there are some big box, which I think is appropriate for that area to match up with the other big boxes in the area. And as Tim mentioned, it's dimensionally accommodating, whereas this site is not.

My final comment will be sort of, you know, out of sequence as far as my introduction to the site. When McGuire Development asked us to provide some sort of analysis as to what to do with the site, our first comments were, well, you need to step away from the mixed-use. This is not a process or a project that has any support locally, any finance-ability. The very small exceptions might be the charm of, perhaps, living above retail on Fifth Avenue. The balance of the marketplace has not accepted that product well, and certainly the lenders will attest to that with their unwillingness to support it. Even keeping a residential component there, in our view, was not appropriate.

We also suggested that there was good demand because of the traffic along Airport Road and then,

given the other residential activity, most notably the recent sale of the Pulling Groves to a large residential developer which, as we all know, will increase demand for goods and services nearby, that we should focus on convenience, some service retail.

They might have stores that have a little bit of size to them, but certainly do it responsibly, build less than you currently are permitted to build, stay within that same framework, and it should be fine.

It's a mid-block site. I don't think that there will be a traffic light. I'm sure the developer would love to see one. If the neighborhood across the street could get the warrants, that would certainly help.

But just a responsible development of the site absent residential will not only be well absorbed, but it is in demand at this time.

And that's my final comments. Thank you.

CHAIRMAN STRAIN: Great. Thank you.

MR. STEVENS: Any questions? I'm happy to answer them.

CHAIRMAN STRAIN: Okay. Thank you very much.

Okay, Bruce.

MR. ANDERSON: We have nothing else to add. We're here to answer your questions.

CHAIRMAN STRAIN: Anybody else have any questions of -- uh-oh, Michele's come up.

MR. ANDERSON: I take that back.

CHAIRMAN STRAIN: I knew you'd say that. I was just going to offer, you may want to reserve the right to speak again.

Go ahead, Michele.

MS. MOSCA: I just, actually, would like to thank David Stevens for providing that information, that presentation, and I would ask that the applicant maybe put that in text format so that staff can review that information in viewing the project as it moves forward.

CHAIRMAN STRAIN: Bruce, do you have any objection to that?

MR. ANDERSON: None at all.

CHAIRMAN STRAIN: Okay. So that will be provided. And I think that wraps it up unless --

MS. MOSCA: Thank you.

CHAIRMAN STRAIN: -- anybody else has any questions.

And we'll close the public hearing.

And before we entertain a motion, I've got to ask, Mike, we have an opportunity next Friday to consider the reviewing the language that's written up from the result of this meeting, not as a consent, because that would require a vote, and I'm not sure we need to go that far, but I'd like to get an acknowledgment from those present next Friday -- and I know Paul's not going to be here, but the rest of us are expected to -- that we've caught everything that we feel as a result of the discussion and we can provide any comments to you. Is that something you think we can do by next Friday at least in draft form?

MR. WEEKS: Oh, yeah.

MR. BOSI: Based upon David's agreement, I would see no problem with that, and I would make the agenda for the AUIR hearing the first thing we could do is --

CHAIRMAN STRAIN: Just discuss it.

MR. BOSI: -- just discuss the modifications that we heard -- that you will be putting down today related to the GMP amendment, and then we can proceed with the AUIR.

CHAIRMAN STRAIN: Okay. And I think what we'll do -- today we will accomplish the moving forward of this in some manner through a motion and be done with it, but in order so that the staff report's written as accurately reflecting what we've tried to get across today and the different things we've said during discussion and they're all there, and I know you guys will have input, so it would be nice if we just got a quick look at it before it got finalized into whatever you could have it -- whatever framework you could have it in by next Friday. That would be very helpful.

MR. BOSI: Understood.

CHAIRMAN STRAIN: Okay. So with that in mind, I'm going to bring up a few issues, before we vote, for discussion in case anybody wants to discuss them.

We talked about a traffic signal at the entrance in alignment with the project across the street; that's

more of a PUD issue, so it's not really a GMP, but I want to make sure that gets on the record as something that was acknowledged.

The maximum building size, the applicant has requested 100,000 square feet maximum. Does anybody have any concerns over that?

(No response.)

CHAIRMAN STRAIN: Okay. Then number of drive-throughs. There's a total of four requested. We ask that only one be allowed for what we have termed as fast food, and it's up to the applicant and staff to work out how to define that between now and next Friday.

Go ahead, Bruce.

MR. ANDERSON: Mr. Chairman, there are definitions in Land Development Code for fast-food and sit-down restaurant, and we would go with those definitions.

CHAIRMAN STRAIN: That works great then. So that's where we're at with that. Anybody have any concerns?

COMMISSIONER BROUGHAM: Just a clarification. How many drive-through lanes -- or how many drive-through facilities are we talking about here?

CHAIRMAN STRAIN: Up to four; only one, though, can be fast food. The other three can be institutional or whatever -- pharmacy, whatever other uses there are, but no fast food.

COMMISSIONER BROUGHAM: And no restrictions on the number of drive-through lanes?

CHAIRMAN STRAIN: I don't think it matters. They're going to have a 100-foot setback. They're going to be on the outside of the -- I mean, yeah.

COMMISSIONER BROUGHAM: I'm just looking at -- Mark, I'm just looking at Item F, Alternative 1.

CHAIRMAN STRAIN: You guys want to volunteer, no more than 20 lanes or something like that?

MR. HANCOCK: I think no more than three, and it would only really apply to banks. They're the only one I can think of that have multiple drive-through lanes.

CHAIRMAN STRAIN: Okay. Then, Phil, we'll just throw that in no more than three drive-through lanes.

David?

MR. WEEKS: Mr. Chairman, are you -- so far we've just been discussing individual items, but I'm thinking it would be easiest if we look at the language that the applicant has submitted or staff's alternative -- you know, pick a set of language that we're going to use that we're going to adjust based upon this discussion right now, your motion.

I say that in particular because on Page 3 of the staff report we have the applicant's proposed language, their strike-through/underline language, and Paragraph Q states drive-through establishments will be limited to a maximum of four. Banks will have -- shall have no more than three drive-through lanes, et cetera, et cetera.

So, I mean, that language is already there. We have nothing to add as far as the three lanes, but we would just simply need to add that no more than one fast-food restaurant, you know, of the four allowed.

CHAIRMAN STRAIN: Yeah. What I was doing was trying to point the highlights out that you need to supplement in regards to things we've already read. I wasn't going to take it item by item. I mean, we --

MR. WEEKS: Okay, okay.

CHAIRMAN STRAIN: I mean, the rest of the stuff that we're not discussing is standing as it's struck.

MR. WEEKS: Okay.

CHAIRMAN STRAIN: So I was just trying to shorten it, David.

MR. WEEKS: Thank you. All right.

CHAIRMAN STRAIN: Because I only had five items, and we're on No. 3. The next one was limit the maximum residential to 11. Currently one of the points says 15, and they've agreed to 11. Even though they may not even want it; at 11 is a better number than 15 in regards to density.

And the last one, one of the recommendations was to prohibit certain things, and they've agreed to

prohibit gas stations and convenience stores, so we need to make sure that that's in there.

And those are the highlighted items I had in addition to the standard cross-throughs and everything that we've already basically discussed and are working with.

Does anybody see anything missing in that?

(No response.)

CHAIRMAN STRAIN: Okay. David, are you fine with that, and Michele? I know you're not fine with it, but you understand where we're going?

MS. MOSCA: I'm fine.

CHAIRMAN STRAIN: Make that -- Bruce, she didn't acknowledge for the record she's fine with that.

So with that in mind --

COMMISSIONER HOMIAK: You're going with the alternatives in the staff report?

CHAIRMAN STRAIN: Not all of them, just the ones we -- I'll move down to that. Let's go down to that one. If there's need for clarification, we'll get down to it right now. And --

COMMISSIONER HOMIAK: This has common theme.

CHAIRMAN STRAIN: Alternative 1, mixed use, A, the rezoning will be encouraged (sic) in the form of the PUD. That's acceptable.

B is the residential use allotted density of 10. We've said 11.

C, the commercial uses are limited to those in the C1 to C3. That's accepted.

D, commercial uses will be capped at 162,750. That's accepted.

E, individual commercial uses, the maximum gross area will be 100,000 square feet instead of 15-.

F has been already modified, so we're not really using F like it's written here.

G has been modified to drop the prohibition of fast-food restaurants.

H, I, J -- H has been the -- let's see. No. H will be dropped because it references residential component, I would be dropped, J would be retained. K would be retained, and L would be retained.

Does that work for the applicant? I believe that's what we discussed in the meeting. That's just a reiteration of what we previously said.

MR. ANDERSON: Yes, sir.

CHAIRMAN STRAIN: Okay. We all on the same -- we're all on a similar page, right? David?

COMMISSIONER EBERT: Similar page.

COMMISSIONER HOMIAK: Kind of.

MR. WEEKS: Based on what you were just saying at the end, you're using staff's alternative language as modified by the motion.

CHAIRMAN STRAIN: That's correct.

MR. WEEKS: Thank you.

CHAIRMAN STRAIN: It's going to be integrated into the list of things that they provided as well, so -- you know the strikethroughs in the list that was provided?

MR. WEEKS: Their language, the applicant's language.

CHAIRMAN STRAIN: No.

MR. WEEKS: No.

CHAIRMAN STRAIN: The applicant's strikethrough. Some of the -- those strikethroughs that aren't covered by the staff's alternative language are still valid is all I'm trying to say. Are you -- let's go back then.

MS. ASHTON-CICKO: So we're working off of Page 3, and then we're integrating text from Page 16 that we just went through?

CHAIRMAN STRAIN: Correct, and the discussion we had, yeah.

But if you want to walk through -- David, if you feel more -- we can go to Page 3 and walk through those one by one if you'd like. We're not going to have a chance to --

MR. WEEKS: Michele says she's clear.

CHAIRMAN STRAIN: Okay. And you guys know how to reach me in case you're not. I've got my notes. I'll be glad to walk through them with you.

So with all those suggestions in mind, all those corrections to what we want to do, is there a motion on this project?

COMMISSIONER ROSEN: Yeah, Mr. Chairman, I would.

CHAIRMAN STRAIN: Go ahead, Mike.

COMMISSIONER ROSEN: I'd propose a motion to approve Petition No.

PL-20120002909/CP-2013-3, Buckley mixed-use subdistrict, per the discussions that we just had that are on the record.

CHAIRMAN STRAIN: Okay. Is there a second?

COMMISSIONER HOMIAK: I'll second it.

CHAIRMAN STRAIN: Seconded by Ms. Homiak.

Is there any discussion?

COMMISSIONER BROUGHAM: Yes, just a comment. I'm going to support the motion, but I really have mixed feelings about doing so. And I'll go back to the concept of planning and the efforts that I wasn't a part of to prepare a Growth Management Plan years and years ago that supposedly had a lot of professional input into it as to where we wanted development to occur in the county and what type of development that should be.

And to some extent I have angst over modifying what was set forth in that plan years ago. And I understand plans are made to change. That's why I'm going to support this motion.

But I hate to see what Diane referred to as spot zoning or spot development coming in and gradually eroding away a Growth Management Plan that was prepared years ago. I'd rather see more effort put in to revising the Growth Management Plan than having to deal with all these iterations.

Enough said.

CHAIRMAN STRAIN: Okay. Anybody else have comments?

COMMISSIONER EBERT: No. I agree with Phil.

CHAIRMAN STRAIN: Okay. We'll call for the vote. All those in favor of the motion to recommend approval subject to the stipulations, indicate by saying aye.

COMMISSIONER ROSEN: Aye.

COMMISSIONER MIDNEY: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Thank you all for a long day.

COMMISSIONER HOMIAK: I just have one.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER HOMIAK: On all the first pages of all these resolutions, the date needs to be changed to the 19th. It says 9th.

CHAIRMAN STRAIN: Okay. I'm sure Heidi's picked that up. We're all set.

MR. ANDERSON: Thank you very much.

CHAIRMAN STRAIN: Thank you, sir.

And that takes us to old business, new business, and there is one thing of new business that I've got to bring up.

There are six of us here today. We've been dropping people off kind of like flies over the last few months, and unfortunately Mr. Midney is not going to be with us on our final meeting of this board, which is next Friday.

So, Paul, I have -- this is the only opportunity to say thank you. And it has been an honor and a pleasure to sit next to you on this Planning Commission. You have been a tremendous asset to us. And I remember the times you bring up issues about the rural area of Collier County nobody but you would have

known, so I sure do -- have appreciated your time and your companionship next to us on this board all these many years. You've been here as long as I have, I believe.

COMMISSIONER MIDNEY: Almost, yeah.

Well, I've really appreciated being here, and it's been a really good run. I've had a chance to express my opinions on a lot of things that I thought were really important and that I feel really satisfied with having had input into what's been going on.

CHAIRMAN STRAIN: Well, we'll miss you --

COMMISSIONER EBERT: Yes.

COMMISSIONER HOMIAK: Yes.

CHAIRMAN STRAIN: -- but I hope that you -- when Immokalee's issues come up, especially because you're very knowledgeable out there, to come in and tell us what you think. We would look forward to your participation.

COMMISSIONER MIDNEY: That will be fun.

CHAIRMAN STRAIN: Thank you, Paul. Appreciate it.

And then with that, is there any other issues we need to bring up today?

(No response.)

CHAIRMAN STRAIN: Is there a motion to adjourn?

COMMISSIONER EBERT: Make a motion to adjourn.

CHAIRMAN STRAIN: Made by Diane, seconded.

We're all out of here.

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There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 1:50 p.m.

COLLIER COUNTY PLANNING COMMISSION

MARK STRAIN, CHAIRMAN

ATTEST

DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 10-17-13, as presented \_\_\_\_\_ or as corrected .

TRANSCRIPT PREPARED ON BEHALF OF  
GREGORY COURT REPORTING SERVICES, INC.,  
BY TERRI LEWIS, COURT REPORTER AND NOTARY PUBLIC.