

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

Mark Strain, Chairman  
Stan Chrzanowski  
Brian Doyle  
Diane Ebert (Absent)  
Karen Homiak  
Charlette Roman  
Mike Rosen

ALSO PRESENT:

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

CHAIRMAN STRAIN: Thank you, Ray.

Good morning, everyone, welcome to the Thursday, December 19th of the Collier County Planning Commission.

If everybody will please rise for Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Okay, Diane's not here. Karen, would you mind doing the roll call?

COMMISSIONER HOMIAK: Okay, Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER HOMIAK: Mr. Stan --

COMMISSIONER CHRZANOWSKI: Chrzanowski. Here.

COMMISSIONER HOMIAK: Mr. Rosen?

COMMISSIONER ROSEN: Here.

COMMISSIONER HOMIAK: Mr. Strain?

CHAIRMAN STRAIN: Here.

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

Mr. Doyle?

COMMISSIONER DOYLE: Here.

COMMISSIONER HOMIAK: And Ms. Roman.

COMMISSIONER ROMAN: Here.

CHAIRMAN STRAIN: How did you like that for a surprise? I'll promise no more this morning.

Addenda to the agenda, we have one consent and two regular items up. Anybody have any changes to that?

(No response.)

CHAIRMAN STRAIN: Ray, are we good?

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: Planning Commission absences. Our next meeting is January 2nd, 2014.

Does any -- I'm going to ask this again, I know we did it last time but let's just do it again. Does anybody know if they're not going to be there on that day?

Mike, Brian and Karen. So that would leave Stan, I, Charlette and Diane said she'd be here, so we'll have a quorum that day. Okay, thank you.

Approval of minutes, there were none in our packet.

Ray, do we have a BCC report?

MR. BELLOWS: Yes. On December 10th, Board of County Commissioners heard the PUD amendment for Bradford Square and the Bay House PUD amendment. And those were approved on the summary agenda.

CHAIRMAN STRAIN: Good. Did the Bear's Paw project, the one south of that, was that Landings, did that come up in that meeting?

MR. BELLOWS: I think that's Nancy's.

MS. GUNDLACH: January 28th.

MR. BELLOWS: It's scheduled for February 28th -- or January.

CHAIRMAN STRAIN: Okay, thank you.

Chairman's report. I do have some issues this time.

First one, I think I'm the only one on this board that was here when we -- when this board did something years ago called the consent agenda. And we did it because at the time there was a disconnect between what that board used to utilize as stipulations and how they were written and transmitted to the Board of County Commissioners. So in order to make sure that we didn't have a disconnect again, that our intentions were accurately transmitted, we created a consent agenda so we could see how staff interpreted the stipulations that we said. And part of the reason for that was that we didn't have as quick video replay as we do now. Now our videos are up the next day and staff can go back and clearly see everything.

And the reason I'm bringing this up is because the consent agenda does add two or more weeks to everybody's process. And we've been trying to figure out the county as a whole through direction from the

Board of County Commissioners in how to reduce the time frames of our processing. And I thought this board could help if we just modified that resolution that the previous Planning Commission had done. And we would modify it, if it's okay with this board, based on the fact that we now have almost instant replay and other avenues to verify that our stipulations are accurately transmitted.

As well, we find that many of the cases here don't warrant that level of concern because our stipulations in some cases are very minor.

Now we can't vote on this today because we didn't put it on the agenda in advance notice, but what I'd like to ask this board, if you don't mind, is to think about it and between now and our next agenda I'd like to add it as a consideration to amend it so that as we go through a process, like we will today and any other meeting, if we find a project that is very complicated and we're concerned about the complexity of our decision and the stipulations that we have, then a board member could request that item to come back and upon consent. I think it ought to be done by majority vote, if someone suggests it.

But if we don't suggest it and we're comfortable with the clarity of our stipulations, then we final it that day. And that would pull two weeks or more off some of the applications and would help the process a little bit.

So I'm just telling you I'd like, if no one objects, to add that kind of discussion on for our next meeting so we could officially vote on it from our agenda.

Anybody have any comments?

Stan?

COMMISSIONER CHRZANOWSKI: And since there's only going to be four people at the next meeting, I suggest that maybe the ones that aren't going to be here can forward their vote to -- since they know what it's about, they can forward their vote by email to Ray?

CHAIRMAN STRAIN: Is that okay? I don't know, let me check with the County Attorney for the Sunshine.

MS. ASHTON-CICKO: No, we can't consider the votes by email.

CHAIRMAN STRAIN: Could they write to Ray any concerns they have so that Ray could relay them to the rest of the group so that the four of us that are here, when we vote on it we have the input from them but not directly from them, through a staff member --

MS. ASHTON-CICKO: Yes.

CHAIRMAN STRAIN: -- at the meeting?

MS. ASHTON-CICKO: They could send it directly to Ray but not to anybody else.

CHAIRMAN STRAIN: Does that work, Stan?

COMMISSIONER CHRZANOWSKI: Yeah, I'm worried more about somebody objecting to it, you know, than voting on it actually.

CHAIRMAN STRAIN: Because there is -- there's been a lot of changes from those prior days. And if we could amend that, it would help a lot of projects in the process expedite it a little bit. I think it would be a good thing to do, so --

COMMISSIONER ROMAN: Are you saying, Mr. Chair, just to have the option to do that, to approve it that day --

CHAIRMAN STRAIN: Yes.

COMMISSIONER ROMAN: -- and if move it forward, just as an option?

CHAIRMAN STRAIN: Well, actually, what I would more suggest to be a little more proactive, unless somebody suggests it go to consent and the majority then agrees, it would automatically be done that day. That way it's a little more proactive approach and we can -- hopefully the applicants will realize too that if they want to come in with a lot of still questions in the air we have to debate and go back and forth, they risk the opportunity of getting that done in one day and have to go to consent. So it might help in numbers of ways.

COMMISSIONER CHRZANOWSKI: Right, so we always have the option to bring it back.

CHAIRMAN STRAIN: Absolutely. Yeah, bring it back for consent.

COMMISSIONER CHRZANOWSKI: Right.

CHAIRMAN STRAIN: Yeah, that's what I'm suggesting. And I'll add it to the next agenda for

further discussion.

If any of you have strong feelings on this and you write to -- you send an email to Ray and he relays that at the meeting and it looks like it's something we can't resolve in a -- without you here, then we can always postpone it to another date in January. It's just something I'd like to get done with, if we can, if it's possible.

The next thing on the chairman's report, Mike, did you have something you wanted to add today?

MR. BOSI: Thank you, Chair.

Mike Bosi, Planning Zoning Director.

Yesterday at Growth Management we had our Christmas luncheon and as part of the Christmas luncheon we like to recognize employees for various merit and exceptional commitment to the job.

And one of the recipients was absent yesterday and I thought today would be a good opportunity, and with the Chair's consent he allowed me to go forward.

Yesterday at the meeting it was recognized that Mr. Ray Bellows, our Zoning Manager, won the award for -- above and beyond award. And it's really related to Ray's assistance with internal/external customers, the commitment he shows to exhausting all remedies for whatever issues come up, and in going beyond what is normally the traditional course was duty.

And we all appreciate Ray and we look forward to recognizing him for his ability and his commitment for making the process a little bit more smooth. So we wanted to congratulate him.

(Applause.)

CHAIRMAN STRAIN: Ray, congratulations.

And I've had a few months experience internally working with Ray now, and you could not have picked a finer choice.

MR. BOSI: I agree, I agree.

CHAIRMAN STRAIN: That is fantastic.

Ray, congratulations. Well deserved.

On that positive note, and I could wait 'til the end of the meeting but then I notice when we are about to adjourn everybody disappears and it's just seven of us up here, maybe a couple of other staff members. So I want to make sure we say this ahead of time, I'm sure it's from the entire board, Merry Christmas and happy holidays to everyone out there, and we hope that it's the absolute best season for everybody. So it's going to be a good year coming up and we had a great year in the past. Look forward to another one.

Today we have three items on the agenda. One is consent, and we'll -- that's the first item up. It's Item 8.A. PUDA-PL2013000476. It's involving the Pelican Lake Planned Unit Development located on 951, south of 41.

Everybody received the consent agenda -- consent item in our packet. Anybody have any comments, changes, corrections?

(No response.)

CHAIRMAN STRAIN: Do I hear a motion to approve?

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

CHAIRMAN STRAIN: Made by Ms. Homiak.

Is there a second?

COMMISSIONER CHRZANOWSKI: I second.

CHAIRMAN STRAIN: Seconded by Stan.

Discussion?

(No response.)

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

COMMISSIONER DOYLE: Aye.

COMMISSIONER ROSEN: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

COMMISSIONER ROSEN: Aye.

CHAIRMAN STRAIN: Before you oppose, Mike, there's one thing. The consent agenda isn't opposing the project, it's just acknowledging that what was transmitted was accurate in regards to what we voted on.

COMMISSIONER ROSEN: Okay.

CHAIRMAN STRAIN: So does that change your vote?

COMMISSIONER ROSEN: It does.

CHAIRMAN STRAIN: Okay. That's why I was making that clarification.

COMMISSIONER ROSEN: Thank you.

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

You'll notice in the draft ordinance that it still has the 350 in there. And that will be advertised for the Board's meeting, and the caption will continue to read 350, because the applicant is going to continue with the request for 350.

CHAIRMAN STRAIN: Right. And it's not going to be on summary, so it's going to have -- they're going to have a regular meeting on it.

MS. ASHTON-CICKO: Correct, correct. So that's what you'll see. It won't say 308, it will say 350.

CHAIRMAN STRAIN: Thank you. And there is one other housekeeping matter that I wanted to mention, not necessarily related definitely to that project but to any, and it's -- I forgot since we have so many new members, the -- when you vote no on something, the Board of County Commissioners has requested that we state why we're voting no.

The best way to vote no is to say I'm voting no and here's the reasons based on the code or the Growth Management Plan why I'm voting no.

But generically if you want to vote no because of a -- you know, you don't believe it's compatible, it's simple enough, just say you don't believe it's compatible, it would be nice to say why.

So those are things in the future as we have any no votes, we might want to make sure we clarify our reasoning so that the Board then says well, why did this person vote yes or no, they know why. So that's the only other point I wanted to make. Especially in today's hearing, if we have any -- either going either way, we need to make sure we're clear.

Okay, thank you, that's the only item on consent.

We'll move to advertised public hearings. The first item up -- well, actually, this one is a two-item process for one project. It has a GMP amendment and it has a PUD modification or amendment to a prior ordinance.

So what we normally do is hear them simultaneously and vote on them separately. So I'll read them both off as the hearing starts.

9.A is PL20120002382/CPSS-2013-1. That is the Growth Management Plan Amendment for what is currently called Cirrus Pointe, to be called, I believe, Solstice on the corner of Bayshore and Thomasson Drive.

That will be heard concurrently with the rezoning application or the rezoning amendment called PUDZA-PL20120002357. Same location, Cirrus Pointe Residential Planned Unit Development, to modify it and restate it as Solstice RPUD.

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

Jim Banks is here, barely.

(Speakers were duly sworn.)

CHAIRMAN STRAIN: That was good timing, Jim.

Disclosures from the Planning Commission, we'll start with Stan.

COMMISSIONER CHRZANOWSKI: I haven't talked to anybody about this at all.

CHAIRMAN STRAIN: Mike?

COMMISSIONER ROSEN: I had a conversation with the applicant's attorney.

CHAIRMAN STRAIN: And I have had conversations with the applicant's attorney, the applicant's planner and Crystal Kenzel from the Clerk's Office, and a series of regular internal staff members. That's it.

COMMISSIONER HOMIAK: I spoke to Mr. Yovanovich.

COMMISSIONER DOYLE: I've not spoken with anyone.

COMMISSIONER ROMAN: I have not spoken with anyone.

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

MS. MOSCA: Mr. Chairman?

CHAIRMAN STRAIN: Yes, ma'am?

MS. MOSCA: Before we start -- Michele Mosca for the record. I just want to mention that this is an adoption hearing, so this petition won't be coming back to this body.

CHAIRMAN STRAIN: Won't be coming back?

MS. MOSCA: Will not be. It's a small scale.

CHAIRMAN STRAIN: Yeah, so it's combined into one.

MS. MOSCA: Yes.

CHAIRMAN STRAIN: Okay, thank you.

MS. MOSCA: You're welcome.

MR. YOVANOVICH: Good morning. For the record, Rich Yovanovich, on behalf of the petitioner.

With me today I have Jim Banks, who has been involved with this project for quite a while and represents the property owner; Wayne Arnold, who's our professional planner on this matter; Jim Banks, our transportation consultant on this; and Mike Timmerman who has done the economic analysis related to this project, if you have any questions of them.

I've put on the visualizer upside down the aerial for the location of the property. As you can see, it's outlined in the yellow hash mark or dots. It's about 9.92 acres at the corner of Bayshore Drive and Thomasson Drive.

To the north you can see an existing apartment complex that's I believe developed at a density of 16 units per acre. To the east it's a single-family subdivision that's been developed but is zoned I think RMF-6. To the south is Del's, along with some RMF-6 zoning. And to the west it's vacant. Immediately to the west is C.3 zoning, and further to the west is an old apartment complex that existed on that property.

The property is currently zoned PUD. It's the Cirrus Pointe PUD, and it's zoned for 108 units currently.

The base density for this property would be three units per acre, so it would be roughly 29 units under today's comprehensive plan as what could be developed on the property, but for the fact that we already have 108 units already zoned for this piece of property.

The property was originally zoned for the 108 units in November of 2005. The original intent was to develop an owner-occupied affordable housing complex on this piece of property.

At that time, if we all remember, the housing market was starting to really heat up and affordable housing was a major issue in Collier County in general, and this particular piece of property was going to help meet some of the needs regarding affordable housing at the time. And we were -- over time the project changed to allow for I believe ultimately 44 affordable housing units on the property.

At that time the only way to increase density above the base density, which also was three units per acre at the time, was to go through the affordable housing density bonus program, and that is what we originally did in 2005.

The project's within the Bayshore/Gateway triangle and is overseen by the CRA for this particular area.

Over time the CRA's plans for Bayshore have changed and the desire of not only the CRA and the community in general, the residents in that area, their desires have changed as well. And I think it's fair to say, based upon the meetings that we've attended, that the community would prefer a different type of development on that property other than an affordable housing type of project. I think the community's sense is there is more than enough affordable housing in this area, there's not a need to put more affordable housing in this particular area, and that doing a market rate project would actually help get the CRA moving in the right direction.

We initially had proposed to do a 144-unit apartment complex on this property. And that 144-unit

apartment complex was going to include gap housing as an affordable component.

The CRA Advisory Board initially supported that. We went to our neighborhood information meeting regarding doing a 144-unit apartment complex on that site. We got feedback from the community that I just briefly told you about, which was the preference would be that we not have an affordable housing project on this site and that we not go to the 144 units that we had proposed to do for an apartment complex.

So we scaled back the project to the 108 units that's currently on the property, we eliminated the affordable housing component of the project, and we went back to the CRA Advisory Board to discuss those changes, and we received overwhelming support from the CRA Advisory Board, they voted 6-1 to support both the Growth Management Plan Amendment and the changes to the PUD.

The current Growth Management Plan caps this project at three units per acre, other than going through an affordable housing. The Board of County Commissioners recently, and I say recently, within the last year or so, approved changes to the Bayshore/Gateway Triangle Growth Management Plan provisions to allow for a residential project to -- a residential only project in this area -- to go to eight units per acre. But it had to be a redevelopment project. We are obviously asking for more than eight units per acre, we already have more than eight units per acre, we have almost 11 units per acre approved on this piece of property. And we don't meet the technical definition of a redevelopment project, so we are left with two options on this property, if what we're asking for are not approved: Come in and rezone our property down to three units per acre or stay with the current PUD that exists at 100 units per acre, along with the commitment to provide affordable housing.

We have submitted a small-scale Comp. Plan Amendment to allow for this piece of property to be developed at the 108 units that currently exist. We would have a base density of 29 and we would get 79 units from the density pool that already exists for this area. And it was intended that the 79 units be developed in this area. So we believe that what we're requesting for is a better project than can currently be developed on the property, is consistent with the wishes of the community, as well as the CRA Advisory Board.

Basically the --

CHAIRMAN STRAIN: Rich, could I ask for one clarification, so -- because there's been a lot of different paperwork submitted to us on this project.

The current PUD allows for 108 units?

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: With affordable housing?

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: You came in originally and asked for 144 units --

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: -- some of which would be affordable housing.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: Okay. And now the revision to that request is you're back to 108 but this time with no affordable housing.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: Okay, thank you. I just wanted to make sure that was clear, because it --

MR. YOVANOVICH: Yeah, and --

CHAIRMAN STRAIN: -- gets a little mixed up because the amount of submittals we've had, so --

MR. YOVANOVICH: Right. And some of that information from the older, the 144 submittal is in your backup and I wanted to make sure you weren't looking at that material for today's consideration.

CHAIRMAN STRAIN: That's why I wanted to be clear. Because some of that -- even your NIM was based on the discussion of 144.

MR. YOVANOVICH: Right, right.

CHAIRMAN STRAIN: Okay, thank you.

MR. YOVANOVICH: So what you have in front of you is basically the exact same PUD that currently exists on the property today with a clarification to the height that was in the previous PUD and the elimination of the basically affordable housing concept that was in the original PUD.

One of the unique aspects of our proposal, and this is really covered in the PUD portion of the submittals in front of you today, is when this project was originally proposed to be an affordable housing project there was -- the county received a grant of \$320,000. The count-- from the federal government. The county then gave that grant to a different agency to -- which ultimately went to the acquisition of this particular piece of property. Because it was going to be an affordable housing project.

As we all know, the world changed fairly dramatically in the 2005 to 2008 time period. The economy didn't do very well, condominiums, multi-family projects frankly were not swelling. This project didn't get off the ground as everybody had expected it to get off the ground.

So I don't know all of the details. I can only tell you the practical effect was that the federal government basically made the county pay them back the \$320,000 for the grant money that was given to Collier County.

What we're proposing to do through this project -- and let me take a step back. When that project was coming off the ground, affordable housing projects had a couple of different incentives to make someone want to do affordable housing at the time. One was you got increased density; and two, you got your impact fees deferred for a period of time to allow the project to get moving and get off the ground so you could in fact bring income qualified people to the site. So there were multiple incentives to have a developer commit to an affordable housing project.

And I don't want to underplay or underestimate the impact of those impact fee deferrals in the cost analysis or the cash flow analysis for a particular project.

Since that time the county -- it's my understanding the County Commission is no longer funding the deferral or allowing the deferral of impact fees for affordable housing projects.

So that's a big issue for the financial feasibility of an affordable housing project in today's economy. It can still be done, but it is a financial hindrance to making that occur.

What we have proposed, and I don't want to get into the legal responsibilities or the legal obligations to pay this \$320,000 back. What we have proposed is to in fact pay that \$320,000 back through the sale of units as they occur. So the county will in fact get its \$320,000 back when this project gets off the ground and the units start selling. So we believe that that is a win/win for the community, a win/win for the county, and hopefully a win/win for the property owner.

The community will get what it wants, which is a for sale project; the county will get its money back which it paid to the federal government; and the developer will have an opportunity to develop a project and hopefully it will be a profitable project. Obviously no guarantees, but at least it will have the opportunity to do that.

As I've mentioned, we've had those multiple meetings with the different stakeholders out there regarding our proposal. We believe the two proposals in front of you are consistent with what the community wants to see happen on this property.

We did meet personally with Mr. Strain and I had some conversations over the phone with some of the Planning Commissioners. There are a couple of I think revisions that we need to make to the PUD document itself to address some concerns that were raised. And then as I go through those, I'll be done with my overview of the presentation and I can answer any questions that the Planning Commissioners may have, or if I've missed anything I'm sure someone will point that out to me as we go through this.

On Page 11 of the PUD document it deals with a -- if you all are there with me; I don't know if you're there yet. There's a footnote number two that I'll read. It says: The multi-family minimum front yard setbacks shall be increased to 23 feet with both perpendicular parking and a five-foot sidewalk -- where a five footprint wide sidewalk exists.

It's a little confusing because actually the sidewalk is in front of the building. This is the sidewalk. It could be interpreted that we have to be 23 feet away from that sidewalk in order to provide the parking. I don't think that was the intent. I think what we want -- we probably should revise that footnote to just make sure that it -- I think we can even eliminate it. But if we can't eliminate it I think we need to say that the parking will not interfere with any sidewalks.

Because typically what happens is the parking for the sidewalk would be on this side of the parking. And the intent was to make sure that the car is not over or blocking the sidewalk. So we need to address that



specific provision in the PUD document.

On Page 19 there was a transportation commitment. It was the prior commitment number N -- or letter N that we had suggested language that the developer has provided Collier County with a right-of-way easement along a portion of Thomasson Drive, and then we referenced where that easement is.

As was pointed out to us, the county does want what is currently encumbered by an easement in fee simple. So we have spoken to Mr. Podczewinsky, and instead of saying prior to the approval of the Site Development Plan the owner will deed the property over, we would say: Prior to the approval of the first building permit for a residential structure the owner shall deed over that property. So we would modify that commitment that way. We would no longer reference that we've already taken care of it by providing an easement.

CHAIRMAN STRAIN: And Rich, does that impact your setbacks, especially for that trash dumpster enclosure and things like that?

MR. YOVANOVICH: We'll have to address -- we may have to address that as we go through the site plan process. But we'll -- we'll have to look at that, Mr. Strain.

I just want to point out on Page 20, there's not a change to this, but the commitment to pay back the 320,000 is found on Page 20 of the PUD in letter D.

So with that, I believe those were the changes we needed to make to the PUD document that we've discussed. There may be additional questions that may come up.

I do know, Mr. Strain, that we did talk about increasing the setback from the north property boundary to I think about 30 feet. That would be -- that would work from the current -- and we also talked about increasing the landscape buffer on the east side, if I have that right.

CHAIRMAN STRAIN: Yes, consistent with the original plan, which was 15 feet instead of 10.

MR. YOVANOVICH: Ten, right.

CHAIRMAN STRAIN: We can walk through those details as the Board -- I mean, I'm going to have to go through it page by page.

MR. YOVANOVICH: Okay. So with those two, I didn't want to leave those out, but those two are also --

CHAIRMAN STRAIN: We can word them when we get to those points.

MR. YOVANOVICH: I do want to put up a rendering of what the conceptual plan is today of how these units would look.

That's the old once, set of apartments, sorry.

The intent is that we would have three habitable floors over one level of parking. That one level of parking would be secured parking. So people who are staying in who own units in those individual buildings would be the ones who have access to the parking below the building. So this would be a very nice multi-family project, it would be a very secure multi-family project.

And I know when we were going through this -- even when we were describing an apartment complex with these same features at the 144 units, the community was pleased with it. And I know they were pleased with going to 108 units with the same level of security related to the parking and the conceptual plans that we have for how the building would look and how the site would lay out.

With that, I think I've hit all the highlights of what I wanted to address in my opening comments, and available to answer any questions you may have regarding our proposal.

CHAIRMAN STRAIN: Okay, does anybody from the Planning Commission want to start out?

(No response.)

CHAIRMAN STRAIN: Well, okay, I'll start out and you guys jump in when you want to comment. Does that work?

During your presentation, Rich, you indicated that a grant was given -- was provided by a federal agency and given to a different agency from the feds. What did you mean by that statement?

MR. YOVANOVICH: Well, the county got a grant, and then the sub-recipient was another entity. The county gave the grant to a sub-recipient. The recipient was not the property owner.

CHAIRMAN STRAIN: Okay. I didn't understand that piece of the monetary part of it.

How does the sub-recipient then -- how was that sub-recipient connected to the property in order to

make sure the grant was applied to the use in which it was supposed to be for?

MR. YOVANOVICH: What ended up happening, the -- ultimately a second mortgage was placed on the property to secure the repayment or to secure the \$320,000 to make sure it was used for affordable housing. So there's a second mortgage on the property, behind the first mortgage obviously, securing the \$320,000 and the use of that \$320,000 for an affordable housing project.

CHAIRMAN STRAIN: So the county's in second position, basically, with the second mortgage.

Was this property foreclosed on?

MR. YOVANOVICH: It has not been foreclosed on yet. If the foreclosure goes through, the county will have a couple of options. They can buy the property at the courthouse steps, if you will, or the foreclosure will -- the person who holds the mortgage that goes through the foreclosure process would take the property back free and clear of the county's second mortgage on the property.

CHAIRMAN STRAIN: Okay. You went to great lengths to explain the situation of the impact fee deferrals and how they had affected the affordable component. I'm trying to understand why you bothered with that since you don't have an affordable component. What point were you trying to make?

MR. YOVANOVICH: Well, the point I was trying to make, Mr. Strain, is when -- it's been -- I think the developer has been painted in a negative light because he hasn't followed through with providing affordable housing on this particular piece of property. And I think the old wounds related to that are resurfacing through some of the comments I'm hearing regarding our new proposed project, specifically related to the repayment provisions.

What I want everybody to understand is when the developer agreed to do affordable housing on this project at the beginning there were other commitments that the county was making to that developer as well. It was not only the density, it was the commitment to defer impact fees. And some of those things have changed over time to where it will be much more expensive for the developer to meet the commitment to provide affordable housing, which we'll have to do if we don't get what we're asking for. And we won't get those impact fee deferrals that were out there originally when kind of the deal to provide affordable housing was made.

I wanted to bring that out there that the developer has had to deal with different changes: The economics of the world, as well as the changing in financing of impact fee deferrals from the county's perspective. And I only brought it up for that reason because at this point we are -- we don't want to do an affordable housing project, the community doesn't want us to do an affordable housing project, and we have agreed to repay that \$320,000, even though technically we don't have to, but we think it's the right thing to do. And we had offered that up. It wasn't extracted from us. We offered it up originally when we were doing the 144 units. So this has been a responsible developer in offering to repay that money.

CHAIRMAN STRAIN: You said technically you don't have to pay back the 320. If you haven't been through bankruptcy and wiped out the second position, how do you justify that statement?

MR. YOVANOVICH: Because what will happen if this doesn't get approved, the property will get foreclosed.

CHAIRMAN STRAIN: Yeah, but right now technically you have to pay back the 320.

MR. YOVANOVICH: Actually, I don't -- I'd have to go look at the loan documents.

CHAIRMAN STRAIN: I just want to make sure your statements are accurate. Because technically you've not gone through bankruptcy. Technically you have a first and second and the second is still viable.

MR. YOVANOVICH: Well, let's not throw bankruptcy in, because bankruptcy's not what we're talking about.

CHAIRMAN STRAIN: Foreclosure. I'm sorry, wrong statement.

MR. YOVANOVICH: I had jumped a second step that -- and you're right, Mr. Strain, I played out the foreclosure in my head when I made that statement that if a foreclosure occurs the county will not get its money back.

CHAIRMAN STRAIN: Okay. I'm probably going to have some questions of staff on some other matters, so I'll start working through this with you.

One question, though. The impact fees that would have been deferred were much higher than they are today. So even though you're not getting an impact fee deferral, you're getting a benefit from the delay in

the project to a much greater reduction in impact fee value, cost to you than were incurred before. Normally you'd have to pay -- Ray, did we drop them by two-thirds or one-third?

MR. BELLOWS: I'm not sure.

CHAIRMAN STRAIN: Some number like that. You'd have to pay a large amount. Is there a reason why you can't pay this loan back up-front, since normally you would have had to pay higher impact fees?

MR. YOVANOVICH: It's purely a cash flow, a cash flow for the project. There's a lot of infrastructure costs that have to occur to go into the ground, there's construction costs related to building the buildings that all have to occur. And frankly, the developer doesn't have an extra \$320,000 sitting around that he can just give to the county today.

CHAIRMAN STRAIN: And your construction loan, your construction funding or development funding as a whole, is the impact fee value listed as a line item as part of the loan or is it -- how is it --

MR. YOVANOVICH: I haven't even looked at the -- what costs are getting funded with the construction, how much is coming out of the developer's pocket up-front for construction related costs. From a cash flow analysis, all of these costs that they will incur to build these units, they don't have the ability to give the county \$320,000 up front.

CHAIRMAN STRAIN: The reason I was asking is you brought up the word cash flow. Cash flow then is based on however you would have applied for your development loans and if you had put this money in there in the first place or not. Because if that's coming out of your development loan, that's a different story than coming out of up-front money that the developer's having to put up.

MR. YOVANOVICH: It's still their money, it's still a cash flow issue for developers.

CHAIRMAN STRAIN: The developer on this particular project is different than the developer on the previous project that received the grant?

MR. YOVANOVICH: The people who will be actually funding the improvements are different than the previous developer.

CHAIRMAN STRAIN: Okay. In the staff report for the rezone there's a referral to a project to the north called Pinebrook Lakes. That's a 160-unit project on 10 acres, and it's an all two-story project with open parking. Now, this -- and that was done before the FEMA and other regulations were probably into the effect that they are today, so it's understandable why they may be at ground level.

Well, I understand the need to put the parking under your facility. But that does benefit your space compared to theirs. You're requesting 108 units on a 10-acre project, or close enough, with three stories over parking to get your 108. They did two stories with open parking on the same acreage and got 160 units.

Why do you need the additional height for less units on the same basic size parcel?

MR. YOVANOVICH: Couple of things. One, it's -- the existing PUD already provides for three residential floors over one of parking at 108 units. So we're basically going with the existing approval.

We're also providing for -- with the secured parking under the building we think that that is an amenity that is beneficial not only to this project but also to the surrounding community, because it allows it to be a better quality project.

So we are asking for that additional height because of both, we want to put the parking under the site to make it work, to make it fit. I don't say even know -- I don't know the unit sizes, Mr. Strain, for the complex to the north. It's been probably 24 years since I've been in one. I had a college roommate who lived in one of those units way back when. So I don't know unit sizes. But we're talking 1,200 to 2,000 square foot units here. I don't think they're that big.

CHAIRMAN STRAIN: How big did you say your units are going to be?

MR. YOVANOVICH: 1,200 to 2,000 is the conceptual --

CHAIRMAN STRAIN: Okay, so when we get the development standard table we can address the square footage then, correct?

MR. YOVANOVICH: Yes, sir.

CHAIRMAN STRAIN: Okay. That will bring you more in line what you told the CRA or what the CRA apparently believes they were told.

The reason I was asking though, not so much to -- I was concerned for the understory parking. I think that's a good thing. But you're asking for three stories instead of two. Like I said, they put 160 units in

two floors and you want three floors to put in 108 units. I was just trying to understand the differences between why that would be such a discrepancy.

MR. YOVANOVICH: And it's probably unit size, if I'm a betting man.

COMMISSIONER CHRZANOWSKI: Mark?

CHAIRMAN STRAIN: Yes.

COMMISSIONER CHRZANOWSKI: One thing to remember is that if you build a taller unit, it takes less -- it covers less of a ground footprint, less of a water management impact. Just --

CHAIRMAN STRAIN: Yeah, that might -- well, that's what I was trying to find out. Thank you, Stan.

MR. YOVANOVICH: Mr. Strain, I wanted to say that, that I believe we have more open space than the neighbor, but I don't know that factually. I haven't done the calculation. I think what Mr. Chrzanowski is pointing out is factually correct, but I haven't done the calculation to see if we've got less impervious area.

COMMISSIONER CHRZANOWSKI: If you build a building that's twice as tall, it's going to have half the footprint for the same number of units and square footage.

MR. YOVANOVICH: Right.

COMMISSIONER CHRZANOWSKI: It's geometry.

MR. YOVANOVICH: Didn't do well in geometry.

COMMISSIONER CHRZANOWSKI: That's why you're a lawyer.

MR. YOVANOVICH: That's right.

CHAIRMAN STRAIN: Good comeback, Stan.

MR. YOVANOVICH: Sad but true.

CHAIRMAN STRAIN: Okay, let's move on to the PUD then, probably would be the best place to go.

And my first questions will be on Page 9, Item 3.3.B.4. You state gatehouses twice.

MR. YOVANOVICH: Oh, yeah.

CHAIRMAN STRAIN: You don't mind stating that just once, do you?

MR. YOVANOVICH: I don't. Sorry.

CHAIRMAN STRAIN: That's a typographical more than anything else, so --

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: Under number six on the following page, top of the following page, top of Page 10, you have the word signage. I don't know why you need that. It doesn't connote anything in this context. So do you have any problem striking that?

MR. YOVANOVICH: No, sir.

CHAIRMAN STRAIN: That's another grammatical issue.

I assume staff is making notes? Because I'm not going to pick up the grammaticals in the stipulations, I'll just stick to the meat of it.

In your residential development standards table you're asking for three stories over parking and then at 25 feet with a caveat, number three, that the building will be set back at a minimum of 50 feet from the eastern boundary.

Now, the northern boundary, and I know, I saw the layout of your particular units, your buildings aren't 25 feet from the property. And I'm trying to seek some little more compatibility with a project to the north that even though -- and I'll have this discussion with staff in a bit. Even though you believe it's an allowed three-story project, it's really a two-story project. And based on that, and they're 30 feet back, I don't know why you couldn't go to 30 feet on yours from the development's preliminary layouts that I've seen.

MR. YOVANOVICH: And Mr. Strain, I agree, we can go from the northern property line to 30 feet. So we may have to just either add another footnote or put it in that same footnote or add another line to the table to reference that.

CHAIRMAN STRAIN: And we'll get it in as a stipulation and we'll come back on consent for discussion.

Your parking issue in which you already discussed, I don't know how you need to reword it, but I would suggest that maybe it somehow reference that it be 23 feet clear from the entry side of the parking stall.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: And maybe that will clarify it. Then those parking -- I mean, those sidewalks to the top of those stalls won't be problematic.

Under your section four, preserve area plans -- well, never mind, we cleared that one on discussion. It was just an understanding what passive recreation you intend to put there, because it's rather small.

The deed that we're talking about on Page 19, you touched on that. And the plan that you and I had reviewed and saw how this would be affecting your property if it went to deed, it doesn't seem it's going to affect the building, if I'm not mistaken, but it will affect that dumpster enclosure that had shown up on one of the plans. So did you verify that? Because at the time of the meeting you were going to check that after we -- before we got here today.

MR. YOVANOVICH: It will affect us. And I guess what we need for that particular dumpster will be a five-foot setback for that dumpster.

CHAIRMAN STRAIN: And I'll have to ask staff if they have any objection to that.

MR. YOVANOVICH: Right. And my thought is with the county's current easement it would be the five-foot anyway, so I don't think it really changes. And you'll have your landscaping buffer and everything else on our side of the --

CHAIRMAN STRAIN: And that was the deed you're going to provide prior to the first building permit?

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: The buffer in the rear. Now, based on the statements made during the NIM, you're going to have a fence around the entire site, and it's going to be on the rear. Looks like it's on the -- or pretty close to the property line or on the property line. I believe that's what you're committing to; is that correct?

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: Well, I mean, we're going to go over your NIM --

MR. YOVANOVICH: No, I --

CHAIRMAN STRAIN: -- statements one by one, so --

MR. YOVANOVICH: Fence I remember, yes.

CHAIRMAN STRAIN: Okay, okay.

How about the opacity of the natural vegetation that's left? Because you're getting down to a 20-foot wide preserve area on the westernmost apron for the parking area. We normally have buffers with opacity requirement and/or a wall. You're putting in a fence, which means it could be something that doesn't have much opacity involved in it.

And I guess I'll ask staff for their recommendations on an opacity requirement. But I'd be concerned, especially if you go in and clear out the exotics and it's just one tree standing there in the preserve and that's it between the two properties. So I think we need to establish some kind of opacity requirement that a buffer would normally have between -- well, not between residential but between projects.

MR. YOVANOVICH: Can I talk to my client during the break to talk about -- while you're talking to staff about an opacity requirement? I mean, right now we would meet obviously whatever the Land Development Code would require us to meet for a Type A buffer. You have residential adjacent to residential. I think they're inherently compatible. I don't think there's an incompatibility issue that arises because you have two residential projects next to each other, so --

CHAIRMAN STRAIN: Well, maybe during the staff report we'll have Kay touch on the opacity requirements if any of Type A buffer or how dense they are, and that may be sufficient to get past this point.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: During the discussion on the NIM that you had with the community, you're now -- I guess Wayne or Rich, as I read these things off, if you believe you've addressed them in the PUD, just tell us where.

MR. YOVANOVICH: Can you tell me what page you're reading from, Mr. Strain, so I can follow --

CHAIRMAN STRAIN: I'm reading from your NIM report.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: And I don't have -- I'm not -- actually what I did is I took the items off of that data sheet that would normally be -- could be included into the kind of discussion we're having here today, some of them weren't relevant, and suggesting we put those as stipulations, since you committed them during the neighborhood information meeting.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: At that meeting you said your units will be 830 square foot to 1,300 square feet. And I think you're at 950 to -- 950 and up.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: And the statement I just heard earlier today, you've agreed to go to 1,200 as a minimum; is that correct?

MR. YOVANOVICH: Yes.

Now, Mr. Strain -- my client has said 1,150 to 2,000.

CHAIRMAN STRAIN: Well, we'll go you better than that. We typically look at these, and 1,000 has been something we've routinely -- so let's provide that flexibility. I just wanted to make sure that we're up a little higher closer to what you told the CRA. And then I'll ask the CRA director, since she's here, after we get done with you, is if she confirms that the intention of the approval from the CRA is consistent with the square footage that you're now seeking or -- because basically on the CRA report it said 1,400 to 2,000. And I know I spoke to you about that and you weren't -- that's hopefully why Jean's here, to address that.

You're going to have one parking space below each -- below the building for each unit. If that's not in the PUD already I'm going to suggest it be -- all these will be stipulations. If they're already in the PUD, just tell me where and we'll confirm they are.

MR. YOVANOVICH: I don't think it's specifically in the PUD.

Mr. Strain, one of the things that -- the NIM again was for a 144-unit apartment complex, not the 108-unit.

CHAIRMAN STRAIN: So it's easier then. So instead of having 144 under the building enclosed parking spaces --

MR. YOVANOVICH: No, I understand.

CHAIRMAN STRAIN: -- you got 108.

MR. YOVANOVICH: No, I just want to make sure that when -- people understand when you're talking about comments we made at the NIM it was for -- I'm not saying we're not going to agree to it, I'm just saying it was for a different project. I want to --

CHAIRMAN STRAIN: Okay. But you could very had anymore NIM to clarify it though too, right?

MR. YOVANOVICH: Well, we made the project smaller, we didn't think we needed to do another NIM.

CHAIRMAN STRAIN: Right. Well, then that means the commitments are minimal too. So if you made some commitments --

MR. YOVANOVICH: I'm not arguing with you, I just want the community to understand why the unit size went up from 830, because we're going smaller number of units.

CHAIRMAN STRAIN: You're bringing it up for a reason and I don't know what that is, so I'm just going to provide my clarifications for reasons, just in case I need them.

You're going to provide a gated entry. It's not an option, it's a requirement?

MR. YOVANOVICH: A gated entry to the parking? Yes.

CHAIRMAN STRAIN: No, gated entry to the project.

MR. YOVANOVICH: That's fine, we'll have a gated entry.

CHAIRMAN STRAIN: Okay. There'll be no sec-- there will be security cameras. You didn't say how many, so that's kind of open. But you committed to having security cameras.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: There will be no vehicles behind the buildings.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: All rentals will be 12-month minimum? I know it's not a rental project, but typically condominiums allow rentals for a period of time. During the meeting the commitment was made

that all rentals will be for a 12-month minimum.

MR. YOYANOVICH: I don't know that we've even thought about that, so I have to talk to my client on --

CHAIRMAN STRAIN: On a break?

MR. YOYANOVICH: -- on a break on that.

CHAIRMAN STRAIN: Okay.

Construction to be concrete block and precast concrete.

MR. YOYANOVICH: Yes.

CHAIRMAN STRAIN: The project will be completely fenced, we already discussed that.

There will be a community pool?

MR. YOYANOVICH: Yes.

CHAIRMAN STRAIN: No blasting will be allowed on-site. I mean, for those size lakes I can't imagine it, but you made the commitment.

Any fence fronting on either street shall be of an architectural design. So that means the fence that you got going along Bayshore and Thomasson will be of an architectural design.

MR. YOYANOVICH: Okay.

CHAIRMAN STRAIN: Okay, revise footnote -- I already mentioned that.

Right-of-way deed will be provided, we talked about that, so that's where we are.

Those are the commitments that I found from the NIM that seemed relevant to the matters here today.

So with that, let's move on through the document and see if there's anything else.

No, I think the rest of my questions are going to be for staff.

Does anybody else on the Planning Commission have any comments they'd like to jump in?

COMMISSIONER ROMAN: Yes, I --

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: Yes, I have a couple.

I'd like to see -- getting back to the grant money, the repayment of the grant money. What's being proposed right now is so much per unit after the unit sells, if I'm understanding correctly.

MR. YOYANOVICH: Correct.

COMMISSIONER ROMAN: I would like to see maybe if there's some way other than paying it all up-front or waiting 'til all the units sell to pay so much per unit, if there couldn't be some other way to repay that money.

MR. YOYANOVICH: It's actually being paid as each unit sells --

COMMISSIONER ROMAN: Correct.

MR. YOYANOVICH: -- not when we sell all of the units. So when the first unit sells you'll get --

CHAIRMAN STRAIN: About \$3,000.

MR. YOYANOVICH: Yeah, roughly \$3,000.

COMMISSIONER ROMAN: But the entire grant amount will not be repaid to the county taxpayers until every single unit of the development is sold.

MR. YOYANOVICH: Correct.

COMMISSIONER ROMAN: And that's why I would like to see if -- maybe not pay it all at once. I understand what you had shared about the developers cost going into the project and how paying it all at once up-front might be a stretch. But maybe there's some balance in between on repaying the grant money.

CHAIRMAN STRAIN: During the break you might want to consider a topside for time. I mean, if you're looking at sales and say you don't have a sale on some of the units, it doesn't happen -- well, first of all, your proforma for performance in regards to sales, what did you project for sell-out?

MR. YOYANOVICH: You know, a proforma is a proforma. I can project but the real world is what really matters.

CHAIRMAN STRAIN: Well, you gave this to the bank in case you're financing, undoubtedly. So what did you tell the bank you're going to sell out?

MR. YOYANOVICH: Mr. Strain, this is not a bank financed deal. This is going to be privately

financed at this point.

CHAIRMAN STRAIN: Okay. So the investors didn't care how long it took you to sell out?

MR. YOVANOVICH: Well, they have a plan, they have a hope. But, you know, I'm not going to commit -- I'll talk to my client about, you know, committing to a proposed proforma, and if it goes slower, why -- you know, it's worse for the developer. If it goes faster, great for the county. So we have to look at, you know, a proforma is a picture, a projection. It's not a guarantee.

CHAIRMAN STRAIN: What you might want to consider is looking at your time frames. And if you projected X amount for your proforma, X plus something may be a wide enough margin to provide you a level of comfort. I think the suggestion is taking a look at an option to come back with after break to discuss with us in regards to that issue.

COMMISSIONER ROMAN: And then the other area, and I think you touched on it, Mr. Chair, is the fact that the landscape buffers, I want to make sure that I'm clear on them, particularly the landscape buffer on the east side of the property, where it adjoins the single-family homes.

CHAIRMAN STRAIN: Right. And we're going -- I'm going to get some input from staff on the type of buffers that they see going in there and making sure they're described and consistent with what I hope you're looking at, Charlette.

COMMISSIONER ROMAN: Thank you.

CHAIRMAN STRAIN: Thank you.

COMMISSIONER CHRZANOWSKI: Mark, if I may?

CHAIRMAN STRAIN: Stan?

COMMISSIONER CHRZANOWSKI: As far as payback, we had a lot of problems with 100 percent build-out, the concept of it over the years. Maybe at a certain point 80 percent you've got enough money to pay the whole thing off. Because that 100 percent might be tough to hit, but 80 percent might not be. Just something to throw out there.

CHAIRMAN STRAIN: That might be a stronger sentiment on the board. So you need to think about it.

Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay, Rich, thank you. And we will go to staff report on both the GMP and on the rezone, and then we'll go to public after that. Actually -- yeah, public after that.

MS. MOSCA: Good morning, Mr. Chairman, Commissioners.

For the record, Michele Mosca with the county's Comprehensive Planning Staff.

Rich covered most of the background information regarding this particular project. I just want to point out, just generally speaking, staff -- Comprehensive Planning Staff is not able to support this request for the 79 density bonus pools needed to achieve the density of 10.9 dwelling units per acre on this undeveloped site. And this is primarily because it's con-- the request is contrary to the Board's adoption last May of the specific criteria regulating the use of these density bonus pool units for residential only projects. So I do want to put that on the record.

Additionally, staff is not necessarily in agreement with the data and analysis provided that the submittal justifies the proposed request. Basically what the applicant has provided is that they could develop both at the existing designation and zoning; both are viable on the site.

So with that, that completes my presentation.

CHAIRMAN STRAIN: Any questions from the Growth Management Plan perspective?

(No response.)

CHAIRMAN STRAIN: And no, no, don't go away because I have a few -- or a couple, at least.

On Page 6 of your staff report you get into justification and compatibility. I'm assuming this was written by your department. Several lines up in the middle of the compatibility paragraph you say the following: To the north is a two-story, multi-family development zoned PUD Pinebrook Lakes with an allowed height of three stories.

I don't think I need to get into the reasoning behind why I don't believe it's allowed at three stories, it's restricted to two, because it had a GMP amendment as well that went with a staff report, and the GMP



amendment seemed to indicate it was two stories, based on my historic reading of that project, which was back in the Eighties.

But regardless, would it matter to you in your compatibility analysis on this submittal to whether it was two or three stories allowed on that project?

MS. MOSCA: For this particular project, because it is three adjacent to the two-story building to the north, it's appropriate when addressing compatibility that you would either set the buildings back on the subject site or soften the effects of a larger profile building with enhanced buffering.

So when we look at the project in its entirety, and typically Comprehensive Planning Staff defers to Zoning Staff to review the setbacks, the buffering, et cetera.

CHAIRMAN STRAIN: I know you do, but since I saw a compatibility analysis in this GMP report, I felt that you must have looked at it as well, so I was going to get your thoughts on it before I got Zoning Staff's as well.

So whether the project to the north allowed three and only went two or whether it allowed two and it went to two, you would still find it compatible based on whether zoning thought it met the mitigation needed to make it compatible?

MS. MOSCA: That's correct, yes.

CHAIRMAN STRAIN: Okay. And then your request is not to approve for adoption and transmittal, but that's based on the policy decision of the board on how to allow those bonus densities to be utilized in the area. Which means if they changed their policy through acceptance of this comprehensive plan amendment, then that would change your position on it?

MS. MOSCA: Yes, that's correct.

If I may just go a little further, Comprehensive Planning Staff is not necessarily concerned with how the CRA or the CRA Advisory Board or the community decides to reallocate those existing density pooled units. Those units are dedicated for that particular area, so it's not an issue with Comprehensive Planning Staff.

The main issue, as you stated, is the Board policy decision to regulate those density pooled units specifically again to redevelopment projects and capping those projects at eight DU's per acre.

CHAIRMAN STRAIN: Okay, now, what's important about those density pulled bonus units is that this is in a coastal high hazard area, if I'm not mistaken.

MS. MOSCA: That's correct.

CHAIRMAN STRAIN: And because of that it has a very restrictive application on any increases in density in the overall coastal high hazard area. And those density bonuses came from the Botanical Gardens project that already had the allocation of that density when it went from residential to what it is today.

And so those -- instead of giving up that density, they've been created into a floating bonus pool within the CRA that can be used on projects where the CRA and others feel it's appropriate. Is --

MS. MOSCA: That's correct.

CHAIRMAN STRAIN: -- that a fair statement?

MS. MOSCA: That's correct.

CHAIRMAN STRAIN: Okay, that's all I got. Anybody else?

(No response.)

CHAIRMAN STRAIN: Thank you.

Kay, can we get your rezoning comments?

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

We also have other staff members here that may assist, if us wish. We have Ellen McEwen from Housing who unfortunately is suffering from a bad case of laryngitis, but she'll do --

CHAIRMAN STRAIN: Well, we have to get her up to talk to us today.

MS. DESELEM: And as you mentioned, Jean Jourdan is here, and we do have John Podczerwinsky, if you have transportation issues.

You do have the staff report. It is last revised 12/2/13, and it explains staff's position. We have -- our analysis starts on Page 5 and provides the analysis of staff on zoning issues.

There is a discussion on the one deviation that's being sought with staff recommending approval.

The findings of fact begin on Page 8, and those do support staff's position of approval, of course with the caveat that the Growth Management Plan Amendment must also be approved prior to that. And there is, on Page 13, the actual recommendation that notices that the termination agreement must also be executed prior to or concurrent with any approvals.

With that, I'm available for any questions you might have.

CHAIRMAN STRAIN: Anybody have any questions of staff at this time?

(No response.)

CHAIRMAN STRAIN: I have a few, so we'll see where that goes.

I'd like to -- unfortunately I'm going to start in order, so I have a couple of John -- one of John to start with and maybe I'll bounce back to you, Kay.

MS. DESELEM: Okay.

MR. PODCZERWINSKY: Good morning, Commissioner. John Podczerwinsky, Transportation Planning, for the record.

What can I do for you?

CHAIRMAN STRAIN: In the staff report on Page 5 it says -- there's a paragraph that's titled Bayshore Road and Thomasson Road impacts. And the last sentence says: The applicant has demonstrated that the project will have a net decrease in peak hour two-way trips.

And my comment is explain a decrease from what? And let me explain why I'm asking it. It started out to be a 144-unit project and it was an apartment project. It's now converted to a condo project that is not apartments. The TIS that is attached is using the ITE code for apartments. So when there's a net decrease in two-way trips, what application is it based on?

MR. PODCZERWINSKY: If I recall correctly, the statement was made on the 144 units down to the 108. Because on the PUD, if I recall my notes correctly, we approved the -- transportation approved it on our first review of it. And then --

CHAIRMAN STRAIN: Compared to the current PUD of 108. That's what we need to compare it to. Because the 144 never saw the light of day in regards to a public hearing here.

MR. PODCZERWINSKY: Correct.

CHAIRMAN STRAIN: So compared to the original project of 108, how is -- is that statement, the project will have a net decrease in peak hour two-way trips, still accurate?

MR. PODCZERWINSKY: I'd have to doublecheck and see if the trip generation rate for apartments versus multi-family is different. But they're very, very similar. Ultimately it's -- and Jim will probably confirm this for me as well. It's about a wash.

CHAIRMAN STRAIN: Well, I'm not looking for a wash, I'm looking to support this statement or have it struck. It says: The applicant --

MR. PODCZERWINSKY: I would like to actually strike the statement, because I'm not positive if that's exactly accurate. The statement was made based on some other numbers that I had from a previous report.

CHAIRMAN STRAIN: Okay.

MR. PODCZERWINSKY: Okay?

CHAIRMAN STRAIN: Yeah. And during the break, John, if you have a chance to verify it, maybe get with Jim. And if it needs to be struck, I'd like to suggest to staff that that be cleaned up before it goes on to the Board.

MR. PODCZERWINSKY: Absolutely.

CHAIRMAN STRAIN: Okay. That's -- I'll have another one in a minute but that's all I got right now of you.

Kay, in the analysis that you did for compatibility, again in your report it lists the PUD to the north as allowing three-story structures. If the PUD only allowed two-story structures to the north, would that change your compatibility analysis?

MS. DESELEM: For the record, Kay Deselem.

We would look at it more seriously because of the increased size -- or height, that is.

But in any case, now they've offered a 30-foot setback in addition. And I think if you get the

clarification on the buffering along that property line as well, knowing that they have to augment whatever is not there with plantings to provide the required minimum buffer.

But it's multi-family to multi-family, so it's by its course deemed to be, you know, compatible uses. So we really wouldn't change our position. We still believe that it is compatible project to project.

CHAIRMAN STRAIN: Okay. And that's what I wanted to hear for the record, so we don't have a discrepancy there.

During the NIM the applicant made the statement that the only on Thomasson Drive because of the sidewalk that was built on the property are they going to decrease buffers. As a result, that 10-foot buffer to the east and that corner to the north is going to be changed to 15 feet to put it consistent with the current PUD.

But along Thomasson Drive they show a sidewalk that weaves in and out of the right-of-way over the landscaping buffer, halfway in the landscaping buffer, going through the landscaping buffer. And they're required to have a 10-foot wide Type D landscape buffer along that right-of-way.

How is that going to work with that sidewalk? I know I brought this up to I believe Wayne in a previous discussion, and he was going to look at it. I don't know, Wayne, if you did. So if you have an answer to that, maybe you could tell me.

MR. ARNOLD: For the record, I'm Wayne Arnold with Grady Minor and Associates.

Mr. Strain, I did look at that. This site was originally designed, engineered and permitted by another firm for the affordable housing project at the time. And the landscape plans that I have seen from that do continue to show a meandering sidewalk on them. And some of the sidewalk -- they could allow sidewalks within landscape buffers. You have to offset your landscape buffer by the encroachment of the sidewalk where you have that. You also have to now put landscaping in front of a fence.

So I think our project will have a combination. The 10 feet wide will probably be on both sides of the sidewalk up to the fence.

Anyway, we have to provide that. I just don't know the details of the sidewalk, Mr. Strain.

CHAIRMAN STRAIN: Will that be something, Kay, that's verified during SDP to make sure that the coverage of landscaping required for that buffer is still retained, even though the sidewalk is in and out of the buffer?

MS. DESELEM: That is my understanding, sir, yes.

CHAIRMAN STRAIN: Okay.

MR. ARNOLD: That is typically how it works, yes.

CHAIRMAN STRAIN: Thank you.

Go ahead.

COMMISSIONER HOMIAK: The sidewalks that is there already on Thomasson is going to remain?

CHAIRMAN STRAIN: Is there a sidewalk already there?

COMMISSIONER HOMIAK: Yes. And a bus stop.

CHAIRMAN STRAIN: On that location?

COMMISSIONER HOMIAK: Yes.

CHAIRMAN STRAIN: Okay, I don't know if it's going to remain or not because I don't know if it's going to be consistent with the layout that we've got here. But there will be a sidewalk there regardless.

MS. DESELEM: That's correct, sir.

CHAIRMAN STRAIN: Does that answer your --

COMMISSIONER HOMIAK: Yeah.

CHAIRMAN STRAIN: Can I ask Jean a question, Jean Jourdan, if she won't mind coming up?

Were you sworn in, Jean, before we --

MS. JOURDAN: No, I wasn't.

CHAIRMAN STRAIN: Okay, maybe you can get sworn in by the court reporter.

(Speaker was duly sworn.)

MS. JOURDAN: For the record, Jean Jourdan, Bayshore/Gateway Redevelopment Agency.

CHAIRMAN STRAIN: Thanks for coming today, Jean, appreciate it.

The only thing I'd like to understand for the record is we have a summation in our minutes -- or in our package that was the CRA's meeting of June 4th where you were presented this revised project. And Mr. Fields provided some answers to you and he said: These units arrange -- or at least the report says he said: These units arrange from 1,400 to 2,000 square feet and sell for mid 200,000 to mid 300,000.

Now, they're asking for a reduced size in the units from what your minutes reflect. We've gone from 950 to about 1,000 to make it easy to tract.

Does that have any impact, do you believe, on what your CRA was looking at or considering?

MS. JOURDAN: No, actually I do recall during the meeting that Mr. Fields did say that there may be a few smaller units there, but the majority of them, it's my understanding, were to be from 1,400 to 2,000. But I do recall the mention of 1,200 square foot units also.

But then going back initially, they were going to be 900 when it was going to be the 144, so that's where the concern came up that they didn't want these smaller units with 144 units. But I do recall him saying that the majority of the units would be 1,400 to 2,000 square feet.

CHAIRMAN STRAIN: Okay. Now, from the CRA's perspective, if we leave this Development Standards Table with 1,000 square feet as the minimum size unit, there is no language in here that would provide the commitment that there's going to be any majority of range that's different than the minimum of 1,000. They could all be built at 1,000 square feet.

Does that -- would that change the -- are you concerned with that to a point where we need to suggest some language or have the applicant suggest some language to make sure that the commitment made to you guys is still retained in the PUD zoning?

MS. JOURDAN: I would like that. That whereas, that there would be some sort of indication of what percentage of the units were going to be under 1,400 square feet.

CHAIRMAN STRAIN: Okay. That's what I needed to know. Thank you very much.

MS. JOURDAN: If you don't mind, I'd like to put one more thing on the record --

CHAIRMAN STRAIN: Sure.

MS. JOURDAN: -- regarding the Growth Management Plan Amendment recently that was done, which actually provided for the cap of eight units per acre.

I just wanted to put on the record that originally the language only allowed for 12 units through the mixed use provision. And what we did when we did this Growth Management Plan Amendment was actually to put something else in there which would allow an additional way to allocate the units allowing non mixed use projects to get up to eight units per acre. So it wasn't really, you know, regulating it more strictly, we were actually allowing more incentives in order to use the density bonus pool.

CHAIRMAN STRAIN: Right. And the only difference here is you did reallocate them to redevelopment projects --

MS. JOURDAN: We did.

CHAIRMAN STRAIN: -- and this is not.

MS. JOURDAN: Correct.

CHAIRMAN STRAIN: Okay. And you guys don't have any problem with that, based on the minutes that I saw, is that --

MS. JOURDAN: No, we do not.

CHAIRMAN STRAIN: Okay.

MS. JOURDAN: Thank you.

CHAIRMAN STRAIN: Thank you.

Anybody else?

(No response.)

CHAIRMAN STRAIN: And I will try to zoom through these as best I can. And I think I hit everything.

That's it. Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: There are some lingering questions that we need from the applicant, and it's about break time. We could take a break. We still need public comment.

Maybe -- how many people from the public would like to comment on this particular application?  
One.

Then why don't we hear public comments. That will give you some more to think about during break. I know you need a lot to think about.

Crystal, you're welcome to come up, use either speaker.

John, I think I got all my questions answered, so I think we're in good shape. And after break we'll address that issue. Thank you.

THE COURT REPORTER: Were you sworn in?

MS. KENZEL: No, I was not sworn in.

(Speaker was duly sworn.)

MS. KENZEL: I missed that first round.

For the record, Crystal Kenzel, Finance Director with the Clerk of Courts Office.

What we wanted to put on the record, obviously you've discussed quite a bit today, is the repayment provision for the loan amount.

We're very concerned that there's \$320,000 that has been provided for this development about seven years ago. Nothing has moved forward with this.

The county was required to pay back HUD through a reduction in subsequent awards. So the county is out both the affordable housing that was to be provided and committed to previously as well as the funds for any additional affordable housing that might have come to Collier County.

As Finance Director and as the Clerk, as custodian of funds, obviously we're very concerned that the funds would come back to the taxpayers to be used for whatever purposes would be appropriate.

And I know that's under discussion. And we just wanted to be on the record that it is of a great concern.

We found out about the application or the reapplication with Cirrus Pointe when it was presented to the Affordable Housing Committee. We've been working on some additional information on the historical perspective of the Cirrus Pointe project, and we will be looking at it on an ongoing basis prior to it going to the Board of County Commissioners. But we felt it was important to bring down to this body that you were aware of the length of time that that has been outstanding. And I appreciate some of the comments of the members that up-front it has been seven years that these funds have been outstanding and the project has not come to fruition, and the taxpayers have been out the use of those funds.

So we appreciate your comments and we just wanted you to know that the Clerk would be looking at it on an ongoing basis.

CHAIRMAN STRAIN: Crystal, one question. Do you -- has any other project ever attempted to pay back a loan under this manner? Just out of curiosity.

MS. KENZEL: Not that I'm aware of. You know, there are some constitutional issues with the county government making loans, so to speak. This is a unique situation, and we are looking at those types of nuances to the proposal that's before you. And so I wouldn't want to comment one way or another whether it is legal or not or --

CHAIRMAN STRAIN: No, I wasn't asking that. I'm trying to look for a precedent that may have been set before --

MS. KENZEL: I'm not aware of any. I've been with the Clerk for nine years, I'm not aware of any payback along these parameters at all.

CHAIRMAN STRAIN: It would help --

MS. KENZEL: And we have in fact had other grant projects with grant awardees who have not met their commitments and the funds have been repaid in toto immediately upon not meeting their commitment, so that would be a concern.

CHAIRMAN STRAIN: Some of those cases I think I'm familiar with, and in most instances, though, they hadn't expended either all the funds or any of the funds so it was easier for them to pay it back and --

MS. KENZEL: No, that's not correct. On one of the larger ones most recently that was repaid, infrastructure was actually completed for the development and paid for, but because they did not meet their

vertical commitment for construction within a five-year parameter the funds were due to be repaid, and they were repaid in whole.

CHAIRMAN STRAIN: That was a Habitat project --

MS. KENZEL: Yes.

CHAIRMAN STRAIN: -- if I'm not mistaken. Okay, you're right. Okay.

Okay, great. Thank you very much.

MS. KENZEL: Thank you.

CHAIRMAN STRAIN: Anybody have any questions?

COMMISSIONER DOYLE: My question would be where did the money actually go? Who had that money?

MS. KENZEL: The developer at the time. And I believe Mr. Fields was involved with that original development group.

COMMISSIONER DOYLE: And the money was put to use how? Do we know?

MS. KENZEL: We'll still reviewing the history of that, but perhaps they could answer that for the record.

COMMISSIONER DOYLE: And as you had stated, seven years without interest or any reinvestment of those funds. So the taxpayers and the county lose out on a good usage or percentage of payback for some type of loan interest.

MS. KENZEL: Correct. And that's why we wanted to bring that to your attention.

CHAIRMAN STRAIN: Well, you just said though you're reviewing how those funds were expended, but don't you review that before the funds are issued?

MS. KENZEL: Yes, we did.

CHAIRMAN STRAIN: Okay.

MS. KENZEL: But remember, this was seven or eight years ago. The issues resurfaced. I'm going back over all of the records that we had researched at the time.

At the time I believe it was part of their acquisition of the property.

CHAIRMAN STRAIN: Right.

MS. KENZEL: That's my recollection. But I am reviewing the history right now and I don't want to misstate anything for the record.

CHAIRMAN STRAIN: Well, I just want to make sure we get the right connotation. You're not reviewing it because you think necessarily something was done wrong, because you --

MS. KENZEL: Oh, correct.

CHAIRMAN STRAIN: -- previously reviewed it and issued the --

MS. KENZEL: At the time --

CHAIRMAN STRAIN: -- ability to issue the money.

MS. KENZEL: Connect, at the time the money was issued it was a viable grant award. The project appeared viable, the project was approved and they received the money for, in my recollection, it was acquisition. But as I said, perhaps Mr. Fields can elaborate on that a little more closely, as he was involved in the original project. But --

CHAIRMAN STRAIN: Well, regardless, your department already checked out the issuance of those funds --

MS. KENZEL: Yes, yes.

CHAIRMAN STRAIN: -- that's what I want to make sure.

MS. KENZEL: Yes. And then -- but they were for the intent of the eventual affordable housing construction. They would not be left in the project if it did not meet those standards of that grant. It would be a repayment provision because the grant was based on the affordability provision in the award.

CHAIRMAN STRAIN: Do we give grants typically -- I mean, when you're giving a grant to purchase a piece of property as part of a purchase, that's at risk. You have no -- I mean --

MS. KENZEL: No, that's why the liens are placed on the property. If it doesn't meet the grant requirements or stipulations, there is usually a payback provision requirement then.

CHAIRMAN STRAIN: Okay. That's --

MS. KENZEL: Because the end result is the product of the grant. Usually the grants that are received, and, I mean, I think housing -- well, she's got laryngitis, but I'm fairly familiar.

The majority of grants, it's the end result. The money is awarded, whether it be awarded for infrastructure or other provisions of construction. The end result of providing either affordable housing or rental housing assistance or -- those grants are awarded with that end result in mind. And usually the provisions of the agreements require that end result be completed or the funds be returned.

CHAIRMAN STRAIN: But the difference between using the grant money for an early cost in the project's process, like a purchase of land versus an application to a more end result process, gives you a much higher risk of loss because the project hasn't even started yet versus it being maybe 70 percent complete when the grant money is utilized.

MS. KENZEL: Well, and that is a board policy decision, quite frankly. We just administer whatever the policy of the award was. I don't disagree with you, that's usually a higher risk element if you would do it up-front.

But that's why any time you're awarding grant funds or any other county funds there would be an expectation that you would vet the wherewithal or the capacity of the entity to actually complete the project prior to any award would be our recommendation.

CHAIRMAN STRAIN: Well, it just might be something -- looking at this one back now, it might be something to consider in how we initially decide grants should be awarded. Instead of looking at them for property acquisition, maybe it's further on into the project when the monies get used.

MS. KENZEL: And that would be a board policy decision, but we would monitor according to whatever the agreement stipulates.

MR. YOVANOVICH: Can I ask Ms. Kenzel a question?

CHAIRMAN STRAIN: Sure.

If you don't mind, Crystal.

MS. KENZEL: Sure.

MR. YOVANOVICH: I would like -- first of all, I know Crystal, and Crystal knows where I work, and I would hope that as the Clerk is doing their looking into this matter, she'll share with me ahead of time any findings, because I think it's unfair to my client to --

CHAIRMAN STRAIN: Well, I think that's a --

MR. YOVANOVICH: -- wait 'til the end.

CHAIRMAN STRAIN: It's a communication you can have with the -- let's stick to zoning matters.

MR. YOVANOVICH: I understand. I don't think any -- but anyway, I would like to know, if you know, who the sub-recipient of the grant proceeds were from the county grant.

MS. KENZEL: Yes.

MR. YOVANOVICH: And who was --

MS. KENZEL: C -- well, they changed their name. I'm not sure at the time, but it was CCHDC. Collier County Housing Development Corporation at the time.

MR. YOVANOVICH: And that is not the developer of this property; is that correct?

MS. KENZEL: I'm not sure. I will tell you, I have not looked in the specificity of your current development and your current proposal. I know Mr. Fields was --

MR. YOVANOVICH: Let me ask the question this way: At the time the grant was given to the Collier County Housing Development Authority, or whatever their name was, that's who the grant recipient from the county was, correct?

MS. KENZEL: I believe so. I --

CHAIRMAN STRAIN: I don't think this --

MS. KENZEL: I believe so.

CHAIRMAN STRAIN: I don't think this witness is necessarily here to testify to your specific questions. She's here to respond to questions from us. If you want to ask something relevant to our questions of her, that's fine.

MR. YOVANOVICH: Well, she's made statements that this developer got the money from the county to buy the property.

CHAIRMAN STRAIN: And didn't we clear that up when I asked you if --

MR. YOVANOVICH: I just want to make sure it's very clear that this developer, the original developer, the original affordable housing developer, did not get any money from Collier County to buy this property.

Factually what happened was is the county gave the \$320,000 to the Housing Authority. The Housing Authority then entered into an arrangement with the developer at that time. The developer at that time was actually the one who suggested that there be a mortgage placed on the property to secure to the Housing Authority the repayment of that money. And then the county's beef, if you will, is between it and the Housing Authority.

And I just want to the make sure that we're shooting at the right person. This current property owner and developer is trying to get the county the money back and make the county whole in exchange from not providing an affordable housing project. That's where we're trying to get to.

CHAIRMAN STRAIN: Okay. Does the current owner or any employees or people working for the current owner have any connection or part of or were they employees or part of the prior owner?

MR. YOVANOVICH: Of the Housing Authority or the prior owner?

CHAIRMAN STRAIN: The prior owner.

MR. YOVANOVICH: The current --

CHAIRMAN STRAIN: It's a simple yes or no.

MR. YOVANOVICH: The current developer does not have an ownership interest in the -- the original developer does not have an ownership interest in the current development.

CHAIRMAN STRAIN: Any of the people working for the current developer or employed or any way connected to the original developer?

MR. YOVANOVICH: They're providing consulting service.

CHAIRMAN STRAIN: That's fine, you can play all the games you want with different corporations, and I think that's where you and Crystal need to go and have your conversation. But from this board's perspective that's the answer I was looking for.

Crystal, did you have anything else you want to add?

MS. KENZEL: Just for the record, since Mr. Yovanovich did bring up the relationships, there are some other very specific nuances to the relationships that were involved in the original CCHDC configuration between their having been established as a nonprofit and the relationship then with the original property.

I believe Mr. Fields has been involved with both from the beginning, and perhaps we can clear it up with some other conversations with Rich and the client.

CHAIRMAN STRAIN: And I think that's the best way. We're wandering a little bit astray from zoning matters, so let's just end it right here. And we will --

MS. KENZEL: Thank you.

CHAIRMAN STRAIN: -- take a 17-minute break and come back at 10:45. And thank you for the information, Crystal.

(Recess.)

CHAIRMAN STRAIN: Okay, everybody, welcome back from break.

When we left we were into public speakers. And I want to make sure there's no one else from the public who may want to speak.

Ellie can't talk, but I saw her moving up this way when Crystal was speaking. But if she doesn't want to come up, that's fine okay. I understand, having laryngitis is no fun.

During the break the applicant was going to look at some issues and respond. And I notice John has provided us with a new trips generated to show that the decrease is an actual decrease.

MR. PODCZERWINSKY: Actually, there's two sheets of --

CHAIRMAN STRAIN: No, he doesn't show that.

MR. PODCZERWINSKY: I've got two sheets of paper that I'd like to show you.

The first thing I'd like to do is call your attention to the bottom line on this one where it says residential condo/townhouse. And over on the bottom right of that grid there you'll see that PM peak hour trips equals 64. That's for 108 condo/townhouse units.



And bear with me, I have another graphic to show you.

CHAIRMAN STRAIN: Okay.

MR. PODCZERWINSKY: And on this one you'll notice, right about where the curser is, this is the original calculation for 108 apartment units. And those came out to be total p.m. peak hour two-way trips, 77. So the difference is 77 for apartments at 108 units to 64 trips for 108 condo units.

CHAIRMAN STRAIN: Okay. And so there is -- so your statement is then can be left in, but only if they agree to restrict their principal uses to condo units, what was -- how did you phrase that previous one?

MR. PODCZERWINSKY: That would be --

CHAIRMAN STRAIN: Residential condo townhouse. That would have to be the principal use restrictions.

MR. PODCZERWINSKY: That's correct.

CHAIRMAN STRAIN: Okay. Well, we'll see how they feel about that.

MR. PODCZERWINSKY: Is that --

MR. YOVANOVICH: That's what we are.

MR. ARNOLD: That's our IT code.

CHAIRMAN STRAIN: No, that's not what -- that may be what you intend to be, but that's not what you're restricted to. Under multi-family you could still build apartments. So we will clarify that before this is all over.

MR. PODCZERWINSKY: And the difference between condominiums and apartments is the distinction made in the land use codes for ITE. I don't know if that's the same distinction made for SIC codes or land uses in the site.

CHAIRMAN STRAIN: Then Kay will have to jump in on that one. Or Ray, or whoever was listening.

Kay, I think the issue is basically the traffic analysis is based on it going residential, condo or townhouse versus apartment. Is there -- if we modify the principal uses to say multi-family residential, condo or townhouse, does that preclude them from going to apartments under the definitions of the Land Development Code? That's kind of what we're looking for.

MS. DESELEM: For the record, Kay Deselem.

I would limit it in such a fashion, say multi-family limited to, and then condo, townhouse, and then specifically prohibit, if it's legal, the rental apartments. And that would clarify the issue of the payback, because that's to selling a unit. And if you had apartments, there would be no selling of units, so that would hopefully ensure the payback as well. It would clear up both the TIS issues and the issues of payback.

CHAIRMAN STRAIN: Thank you, Kay, appreciate it.

Okay, John, did you have something else you wanted to toss in?

MR. PODCZERWINSKY: Very briefly, yes. I just wanted to mention that we didn't seek a trip generation restriction on this site like we typically do because it's in the TCEA. When it comes time for them to apply for concurrency at a future stage, perhaps their SDP, they would not be required to meet the requirements of concurrency. They could actually seek an exemption from that within this district, which is -- that goes to support the previous statements that I made that ultimately the difference in trips is a wash. As far as the community is concerned, we would be required to allow those trips one way or the other.

We do have concurrency in the area available to them, but they are also able to seek an exemption of it, so --

CHAIRMAN STRAIN: Thank you, John. Appreciate it.

Anybody else have any questions of anyone at this time?

(No response.)

CHAIRMAN STRAIN: Then Richard, did you and your client meet so we can resolve what the outstanding issues were that you were going to talk about on the break?

MR. YOVANOVICH: Can we -- let's go for the easy one first. Wayne has something he wants to address regarding the parking space footnote we were talking about, Mr. Strain, about --

CHAIRMAN STRAIN: Sure.

MR. YOVANOVICH: And then we'll get into the --

MR. ARNOLD: Yeah, I'm Wayne Arnold.

Mr. Strain, you read some language I think on the footnote number two regarding the multi-family building setback increasing to 23 feet.

And this is going to be developed as a Site Development Plan and there's not going to be a conventional front yard as you would for most homes. Would it not be easier to simply say that the parking must be designed in a manner so that no pedestrian pathway or access to pedestrian pathway is impeded or something to that effect?

Because I think that's what this was trying to achieve. And I think the preliminary concept plans we've seen show sidewalks that are adjacent to the buildings with the outside parking in front of it. Much like any other office building or, you know, multi-family buildings. I don't think this provision really comes into play as written. And I'm not sure, I didn't catch the language that you had --

CHAIRMAN STRAIN: I was doing that on the fly, so -- I'm glad you thought I had it written down.

What I have written down says revise footnote to provide sidewalk clearance from the entry portion of the parking space.

Now, I think that meets the gist of what we would stipulate. And then when it comes back for consent we would see how it would clean up.

MR. ARNOLD: Okay, I got you.

CHAIRMAN STRAIN: And that would be something you'd work out with staff as we go forward. Okay, Rich?

MR. YOVANOVICH: Mr. Strain, I remember two things that I needed to talk to my client about. One was minimum unit size. And we talked with Jean during the break. We would go to the minimum unit size of 1,000 square feet, and we would include a limitation that a majority of the units must be greater than 1,200 square feet.

I believe that's consistent -- Jean, is that consistent with our discussions in the hallway?

MS. JOURDAN: (Nods head affirmatively.)

CHAIRMAN STRAIN: So basically you would have 55 units that would be 1,201 square feet and all the others would be less.

MR. YOVANOVICH: It would be a minimum of 1,201 square feet.

CHAIRMAN STRAIN: Right. So you'd have 55 units that would be -- because we're not looking at averages now, you're looking at --

MR. YOVANOVICH: No, we're talk -- minimum size. We're not talking averages.

CHAIRMAN STRAIN: Right, minimum size.

MR. YOVANOVICH: I didn't say an average.

CHAIRMAN STRAIN: But see, none of that meets the intention of what was stated to the CRA board based on the minutes. Because there it was -- what Jean's testimony previously said was 1,400 to 2,000 and 1,400 being the average. Now we're going away from averages and the way you just stated it none of them would even get close to the 1,400 that was previously stated as a minimum.

MR. YOVANOVICH: I don't think we ever talked about an average size of 1,400.

CHAIRMAN STRAIN: I thought she said that the -- Jean, can you come back up and -- see, here's what --

COMMISSIONER HOMIAK: She said the majority.

CHAIRMAN STRAIN: The majority. Right. But the majority that you just -- but the way you just stated it, you wouldn't have any of them ever reaching the majority that she believes the CRA was presented at 1,400 if you say 1,200 is the minimum -- no, majority would be 1,200 or great -- it would be around 1,200 or greater.

MS. JOURDAN: Jean Jourdan for the record.

The main concern of the community and the advisory board was the minimum square footage of the units, not the maximum. So they just wanted to ensure that no more than a certain amount would be less than the 1,400 to 2,000. Not that they -- that it made a difference if they were all 2,000 or all 1,400, they just didn't want the majority of the units being less than. So they were more focusing on the minimum square footage. And I know it just didn't come out right in the minutes.

CHAIRMAN STRAIN: No, but what's being proposed here is that the majority of the units shall be greater than 1,200 square feet. So that means you can have half of the units at 12,001 (sic) square feet and the rest could be back down to 1,000. You never get to the 1,400.

That's what I'm -- is that what you agreed to with Richard? Because that doesn't sound like what you're saying.

MS. JOURDAN: Right. What --

CHAIRMAN STRAIN: If 1,400 was the number, you could have none of them at 1,400, based on what -- that statement that he just -- I believe. If I'm wrong, Richard, say so. I know it may not be your intention, but I've got to go by the strict reading of the document.

MS. JOURDAN: Yeah, we would not want to see all the units just being the minimum square footage. It was our understanding that there was going to be a mixture, but they didn't really put any percentage to us as to how many would be 1,400 or how many would be 2,000.

CHAIRMAN STRAIN: But you feel the majority were expected to be 1,400 or greater?

MS. JOURDAN: Correct.

CHAIRMAN STRAIN: So maybe what needs to be said is the majority of the units shall be greater than 1,400 square feet. And that would get you where you seem you were indicate you were told. It's different than what Richard just presented to us.

MS. JOURDAN: Okay, that sounds good, if they're okay with that. I think it's the same intent, it's just worded better the way that you're saying it --

CHAIRMAN STRAIN: It may be the --

MS. JOURDAN: -- to ensure that the majority of them are between 1,400 and 2,000.

CHAIRMAN STRAIN: Okay, that's what the CRA board apparently felt what they were getting.

Richard, you're looking puzzled, which is -- I know that happens a lot, but still, maybe you can comment on it.

MR. YOVANOVICH: I can comment on it.

I guess what -- quite honestly what I'm puzzled is not with Jean, other than we just talked about the 1,200 square foot out in the hallway and I thought I accurately reported what we agreed to. We also did talk about when we were at the CRA and we were talking conceptually what the unit sizes were going to be, that's exactly what we were doing, we were talking conceptually. We were not talking about an absolute 1,400 as the minimum. We were talking -- we were designing the project, we were looking at different floor plans and we were assigning what was it really going to cost us to build those units.

We were talking concepts when the 1,400 square foot was being discussed, not absolutes. And that's what I expressed to Jean out in the hallway, we were talking -- we had to then do can we make it work.

CHAIRMAN STRAIN: And you weren't talking absolutes in the meeting because you said a range, 1,400 to 2,000. That is an absolute.

MR. YOVANOVICH: We were talking concepts of that range being from 1,400 to 2,000 square feet, okay? We've looked at that and we still think we can make that concept work between 1,400 and 2,000. But I said Jean, it may be we may not be able to get to 51 percent of 108 units, which I guess would be 55 units, would be a minimum of 1,400 square feet.

So that's when we said okay, and I think Jean suggested why don't we say a majority of them will be greater than 1,200 square feet. That really addressed we didn't really want a lot of units less than 1,200 square feet on this site. And that's where the puzzlement and maybe the miscommunication's occurring. I thought we had resolved our concern about the concept of 1,400 square feet to 2,000 not becoming an absolute minimum.

CHAIRMAN STRAIN: Well, the CRA's involvement is an important factor in how this runs about. You guys went before the CRA. What they believe, what their director feels was the interpretation of what you guys said I think is something this board can rely upon as far as part of the record.

So Jean, it's really -- we would like your input on this. Our standards of 1,000 are typical to a lot of projects we do, so it's not from our perspective. But if the CRA has a certain need there, you need to help clarify it for us.

MS. JOURDAN: I actually feel comfortable with and all the conversations we've had with the

advisory board and the community is just ensuring that a minimum percentage of the units are not less than the 12 -- is it 1,200 -- the 1,200 square feet. I really don't think it's our intent to have them build 50 percent 2,000 square feet, 50 percent, you know, 1,400 square feet. Just as long -- they were just trying to give a concept of what size of units they intended to build. But we were mostly focusing on what we didn't want them to build and that was units less than 1,200 square feet.

CHAIRMAN STRAIN: Okay. I think we understand now.

MS. JOURDAN: Did I confuse everybody even more?

CHAIRMAN STRAIN: No, basically his statement, the majority of the units shall be greater than 1,200 square feet seems sufficient for your needs.

MS. JOURDAN: I feel that's -- I agree. I have no problem with that.

CHAIRMAN STRAIN: Okay, thank you.

Rich, you were working on some other things, possibly?

MR. YOVANOVICH: Honestly, I'm a little disappointed that Crystal left, because resolving the payment time frame for the grant I think is something that she brought up and I don't have an opportunity --

CHAIRMAN STRAIN: No, I think Charlette started it.

MR. YOVANOVICH: I know Charlette brought it up, but I think Crystal as well brought it up in her statement that it's been seven years, we need to make sure we get the money as soon as we can possibly get it.

So I almost feel like what I throw out it's like now I'm bidding against myself because the Clerk may say not good enough. I wish that the Clerk was here.

CHAIRMAN STRAIN: No, the Clerk was like any other person to testify before us today. We can take that input and we can make what recommendation we want before the Board. You may have a different level of understanding of the Board but that's what -- we'll forward the best we can to them.

MR. YOVANOVICH: What we had proposed was at the 90 percent sales point we would pay 100 percent of the 320 back.

CHAIRMAN STRAIN: At 90 percent you'll pay 100 percent --

MR. YOVANOVICH: We would be making incremental payments at each closing. What I'm just saying is when we hit whatever 90 percent of 108 is there would be -- you know, it would be like a, you know, a balloon payment would be done on that when we hit that number.

CHAIRMAN STRAIN: And I think Stan had the comment that is there a -- I don't know if he termed it this way, but I will for any better clarification -- a drop dead time in which no matter how long it takes you to sell, this can be expected to be paid back? Because what if you don't market them in a manner that sells them quickly? What if you hold some internally or have a sales unit that you want to keep there, an office space in one for retail -- for residential sales or condo sales and you just don't sell it right away?

MR. YOVANOVICH: At 90 percent, that means I would have to hold back -- I don't know, I can't do it in my head.

CHAIRMAN STRAIN: Ten or 12.

MR. YOVANOVICH: Yeah, 11, basically 11 units I would hold off the market to deliberately not make that last payment? I mean --

CHAIRMAN STRAIN: No, I'm just saying what if they don't sell? What if it just doesn't sell?

MR. YOVANOVICH: Well, again, we're going to have to -- right now -- I'd hate to go back to where we are today, but where we are today, everybody took a risk whether or not this project would ever get off the ground in the first place as an affordable housing project, right? That's what happened in 2005. We all took the risk. Nobody saw the actual economy going the way the economy went.

The developer did the best they could, and in fact the county did continue to extend out when the commitment was to build the affordable housing based upon the economy. We all took that risk.

So what we're saying is we're willing to, you know, pay it back over time and commit at 90 percent, we'll pay it all back. But we are not willing to take the risk of saying, you know, if the economy goes bad again and we've got to come up with more money to go ahead and pay whatever that balance is. I think we're being fair.

COMMISSIONER CHRZANOWSKI: I originally suggested 80 percent, because that's like 20 percent of 300,000 is a fifth, it's like 60,000. That's not even the salary for a person for a year, or maybe.

30,000, you know, you're just bidding 90 percent, I got no problem with it.

CHAIRMAN STRAIN: Okay.

COMMISSIONER HOMIAK: This was grant money, though, correct?

CHAIRMAN STRAIN: Yes.

COMMISSIONER HOMIAK: Federal dollars that passed through the county?

MR. YOYANOVICH: Correct.

COMMISSIONER HOMIAK: Just a passthrough of federal dollars.

MR. YOYANOVICH: It was.

COMMISSIONER HOMIAK: Right, okay.

MR. YOYANOVICH: And I don't really want to get into the debate of the grant.

CHAIRMAN STRAIN: We're not --

COMMISSIONER HOMIAK: No, I just --

MR. YOYANOVICH: There's a whole lot of stuff that really didn't come out during the discussion.

It was a little one-sided.

CHAIRMAN STRAIN: No, I don't believe that, Richard. It was someone expressing concern and that's what we're here to do is listen. So, I mean, if you want to suggest that, I think everything that you're doing is one-sided too. You're representing your applicant --

MR. YOYANOVICH: It was not a land use issue that came up.

CHAIRMAN STRAIN: It started with questions from this board and that's highly appropriate, so --

COMMISSIONER ROMAN: I have a question.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER ROMAN: Could you consider, though, if the project doesn't go -- I mean, I'm sure it will, it's a desirable area I think with the Botanical Garden and what's happening down there -- but at one point bringing this to a close for the county taxpayers? Meaning if you don't, you know, sell out in a certain amount of time, to just step forward now and say that you'll pay off the grant?

I mean, I could see this dragging on and on for several more years if you don't sell out and the taxpayer money still be held in abeyance. But maybe put a time certain, say that if you don't get to 90 percent in two years that you'll pay off the grant.

MR. YOYANOVICH: Two years is too short. How long --

COMMISSIONER ROMAN: What's reasonable?

MR. YOYANOVICH: I don't know, honestly. And I don't mean to be intentionally evasive, but I don't think anybody who's in this room thought in 2013 we'd still be digging out from what we saw going bad in the 2007, 2008 timeframe.

So anything I tell you, I'm going to err on as far out as I can go. Because I've just got to be conservative.

CHAIRMAN STRAIN: Charlette --

MR. YOYANOVICH: So that's why I'm -- Ms. Roman, that's why I'm saying it, I just don't know. Anything I say could be wrong.

CHAIRMAN STRAIN: Charlette, it's not without -- it's not outside your ability to suggest a stipulation at the time we vote. So you could -- since he doesn't want to pick a number, you could pick a number and float it for this board to either say yay or nay to at the time of stipulation.

Did you have anything else that you guys --

MR. YOYANOVICH: Was there anything else on the list I missed?

CHAIRMAN STRAIN: Well, I'm going to reread the list again.

There is one thing I want to understand. Basically we're in the situation with the grant because, as you say, everybody took a risk in those days, and we still take risks.

Are we taking a risk now? Do you consider today's market risky? Do you consider this project risky?

MR. YOYANOVICH: There's risks in everything we do.

CHAIRMAN STRAIN: Okay. I thought you'd say that. So far you're doing what I expected.

MR. YOYANOVICH: I'll try not to disappoint you.

CHAIRMAN STRAIN: I'm sure you won't.

So now that if we award these density bonuses to this project through a rezoning effort and they get locked into the property, and you guys go bankrupt or you guys go into foreclosure, what happens to those density bonuses?

MR. YOVANOVICH: You've got a PUD that goes with the land.

CHAIRMAN STRAIN: Right. So the CRA uses the ability to use those density bonuses somewhere else that may prove more viable than a project that didn't succeed if this one were not.

How can we assure that that's not going to happen? How can those density bonuses revert back to the density pool should this project and this particular owner not follow through with the commitments made to get this rezoned?

MR. YOVANOVICH: Are you -- Mr. Strain, my first question is going to be every project that comes through and asks for an increase in density that's using density bonus units through this pool, are you going to impose a time period on every developer?

CHAIRMAN STRAIN: We haven't had any.

MR. YOVANOVICH: I'm just saying. But what you're -- you know, there's a precedent or there's a first person that comes through every time.

CHAIRMAN STRAIN: Well, I think it's a good idea. Thank you for suggesting --

MR. YOVANOVICH: And I'm getting to be the lucky one coming through first on this one.

CHAIRMAN STRAIN: No, I mean, you've come up with a good idea. Thank you. I think it's a good idea.

MR. YOVANOVICH: I just want to know if that's what you're going to do. Because my answer, it will depend on the way you phrased that. Because if this is going to be a unique provision to just this piece of property, I'm going to tell you, I don't think my client will agree that by a certain date certain those units go back.

CHAIRMAN STRAIN: No, I'm not saying a certain date certain if this project does not survive. If it were to be foreclosed or bankrupt -- I think the preference is that if the -- especially from the CRA's perspective, because they feel comfortable allowing these density bonuses to be used on this site, that this be site be developed in some manner that's beneficial to the community. And that can be done with the density that's being supplied.

MR. YOVANOVICH: And that's what the PUD does.

CHAIRMAN STRAIN: My concern is on a foreclosure where a bank takes it over or something like that, what happens to those density bonuses if they go to property that isn't reflective of the restrictions that we're putting on it and other commitments made here?

MR. YOVANOVICH: But that's what will all be in the PUD, won't it? So whoever buys the property at a foreclosure sale will have a PUD that will require the same level of development that is being proposed to you today. That's what the zoning requires.

CHAIRMAN STRAIN: From the County Attorney's perspective -- or go ahead, Stan.

COMMISSIONER CHRZANOWSKI: I think the point you're trying to get to is if this project doesn't go ahead and other projects go ahead in the CRA and come up to that limit and need these units, can they use them.

CHAIRMAN STRAIN: These could be tied up on a foreclosed piece of property forever.

COMMISSIONER CHRZANOWSKI: Yeah.

CHAIRMAN STRAIN: Right. But I don't know if we've got an ability to do that.

Jean, you want to come up and comment?

MS. JOURDAN: Actually, there is a provision for the mixed use projects if they're not utilized where the density bonus units revert back to the CRA, which has happened on the arboretum project for 232 units. But there is no provision for the PUD. But -- so it's not that right now you're bringing up something that's not in effect, but I don't think the same time -- don't know what time line to put on it, but I do think it is a good point to specify, because it is in the mixed use for the density bonus units.

CHAIRMAN STRAIN: On the arboretum project, how much timeframe did you allow them; do you know?

MS. JOURDAN: Heidi, do you remember?

CHAIRMAN STRAIN: So we're not setting a precedent, we're following through, we're consistent with what we've done somewhere else.

MS. JOURDAN: Correct, yeah, it's not different.

CHAIRMAN STRAIN: Okay.

MS. JOURDAN: It just goes in a timeframe with the Site Development Plan and everything submitted for the mixed use project, which the timeframe is much quicker than it is for a PUD. But I don't recall what that time frame was.

MS. ASHTON-CICKO: I don't recall.

Ray, do you recall? It automatically terminated --

CHAIRMAN STRAIN: David?

MS. ASHTON-CICKO: -- actually.

MS. JOURDAN: Yeah.

MR. BELLOWS: No, I'd have to check.

MR. WEEKS: For the record, David Weeks, Comprehensive Planning Staff.

Jean touched on it. It was when the SDP expired is when the units had to revert back. And I think the standard LDC provision is either two or three years for an SDP?

MR. BELLOWS: For the record, Ray Bellows.

Yeah, it's three years now for SDPs.

CHAIRMAN STRAIN: Okay. So that's -- so we do have a precedent. We have routinely then allowed these density bonuses to be reverted back to the pool. And the only difference is that was through an SDP process, this is through a PUD rezone.

MS. JOURDAN: Correct.

CHAIRMAN STRAIN: Now, we do have a system in place that could act as the trigger, but I'm worried that the system's going to be undone, and the system in place is our Sunset provisions. We could take a look at it at the Sunset provision times and then decide then should we renew them or not renew them, and they'll be subject to the Sunset provision deadlines for consideration of renewal.

The problem is I understand the Sunset provisions -- there seems to be some thought that they may be done away with.

MS. DESELEM: For the record, Kay Deselem.

Yes, there is a Land Development Code amendment pending that would remove the Sunsetting provision.

CHAIRMAN STRAIN: Okay. Then what we ought to do is put a stipulation in this PUD, similar to what we do to conditional uses, a performance time frame like we do for mines and the other things. Why don't we just put a five-year performance timeframe for the use of the bonus pools, and if they haven't used them within five years, then it comes back to the process, whatever process we decide, probably just the Board of County Commissioners, to determine if they ought to be reallocated or left intact or sent back to the pool. That might be a simple way to have a take a look at it.

And five years for 108 units, that should be a no-brainer. Because if you haven't sold in five years, you may have some problems, especially in the market that you're trying to get into.

Michele? She always has something interesting to contribute, so -- that was a positive note, Michele.

MS. MOSCA: Thank you, I appreciate it.

We do have a similar provision in the Growth Management text. So we really need to be careful of that. Because if you do have that provision for that five-year review, we still have that same language in the Growth Management Plan.

CHAIRMAN STRAIN: Now, what does that mean? What language do you have in the --

MS. MOSCA: In the Growth Management Plan on Page 7 of the staff report, we have the 108 dwelling units, they're achieved through the utilization of 79 dwelling units from the existing density bonus pool.

CHAIRMAN STRAIN: Right, subject to -- well, you have to change both then is what you're saying.

MS. MOSCA: That's my point.

CHAIRMAN STRAIN: I would agree with you.

MS. MOSCA: Okay.

CHAIRMAN STRAIN: Okay. So basically we'd have a density bonus pool to be reviewed after five years. Okay.

MR. YOVANOVICH: I feel like I have to say something that maybe is obvious to everybody, but part of what we do is we analyze risk when we advise our clients and our clients analyze what they want to do on their property.

On this particular piece of property what we know we can do with the property today is 108-unit project that includes certain obligations regarding affordable housing versus a PUD that we originally proposed we would be going to 108 units market rate, which is what the community said they really wanted us to do, with the obligation to repay a \$320,000 grant over a period of time.

Now you're throwing into the equation a discussion, I don't know how it's ultimately going to turn out, about giving up your existing zoning to get a new type of zoning where if the economy changes or something happens that's beyond your control, you risk giving back 79 units that you currently have today because they're associated with this density pool. Becomes -- you know, you do a risk analysis and you analyze, you've got to balance it. At some point the balance tips to keep what you got because you know what your worst case scenario is with what you got.

So I just ask you to consider that as it sounds like there's going to be some stipulations that are going to be coming my way that I'm probably not going to agree to. And just factor that into your discussion amongst yourselves as to how you want to or not impose additional restrictions on this piece of property.

CHAIRMAN STRAIN: And Richard, most of which we're talking about is in response to the application that you guys provided and the statements you've made to the CRA and others and the comments at this meeting.

The fact that you're going to produce a payback on that -- on the grant is a good thing. No one's trying to say it's a bad thing.

But when we tried to ask you for a reasonable timeframe, you won't give us one. Well, that's an interest free loan for seven plus. Because you already had it interest free for seven years and you're going to have it interest free until it's paid back. So if it's going to be 20 more years, I think that's reasonable to consider for this board.

And you're saying, well, we could lose it all or you could go put what you're originally going to put in, okay, that's your choice too, but you're walking into a really choice market right now. This county is doing as good as it did back in 2005.

You can't get people to work anymore because they're all too busy working on all the major projects going on in this county right now. So I'm not sure you're going to have a big problem, which is -- I'm wondering why you're reluctant to make some of these what seem to be innocuous commitments, especially if it's five years down the road on a 108-unit project.

MR. YOVANOVICH: Because, Mark, I -- you know -- sorry, Mr. Strain.

CHAIRMAN STRAIN: That's fine, I'm not that formal, you know that.

MR. YOVANOVICH: I know.

But because -- you know, my memory is still long enough to remember what happened a couple years after 2005 when condos couldn't sell, when projects and commercial projects were actually built thinking you know what, the bubble's never going to burst.

And the person who is financing or funding this project has as memory and isn't willing to take the risk that -- it can all go away because there's a change in the economy. And I think we can't forget the lessons of the last five, six, seven years. We can't forget those lessons. The world changes. And we're not -- I'm just telling you --

CHAIRMAN STRAIN: I understand.

MR. YOVANOVICH: -- you're right, you know what, everything's looking great today. I don't know what tomorrow brings. We have to analyze what tomorrow may be.

CHAIRMAN STRAIN: You get out of here with an approval of some kind, and you go through the



Board with an approval, I would suggest you get your documents in and build this will quickly, because you're in a great market right now.

Jean --

MR. YOVANOVICH: The market's only as good as people who want to buy the units.

CHAIRMAN STRAIN: As a followup, would you mind answering one more question?

How many units did the Arboretum want to use of the density bonus?

MS. JOURDAN: 232.

CHAIRMAN STRAIN: And how many are total?

MS. JOURDAN: 388.

CHAIRMAN STRAIN: So if they had used the 232, have any of the other bonus pools been used?

MS. JOURDAN: I believe it's five.

CHAIRMAN STRAIN: So you're only 300 -- so had they used it on anybody else can be used a little bit (sic), there wouldn't have been enough for this project to use what it's asking for today.

MS. JOURDAN: That's correct.

CHAIRMAN STRAIN: So thankfully we had a reverter clause in those density bonus pools to go back into the pool so that these guys can go forward what they want to go forward with.

MS. JOURDAN: Right. It would have just been tied up.

Additionally, I don't think what they're asking for -- or what we're asking for is very stringent, because we're not saying that it's automatically going to revert back. We're going to say okay, we're going to look at the project, who owns it and if it's going to go forward and if they can go ahead and keep it. So it's not like --

CHAIRMAN STRAIN: And I would think that the analysis would be -- and I don't -- you know, I'm going to say reasonable. I know things can be unreasonable at times. But if they're going along, and instead of six buildings or five and they've got two or three built, there would be no reason to take that density pool away. And I can't imagine anybody in the future thinking it should be. It's just a fact they go in and they make their statement, we've made as best progress as we could on the times and we still need to continue like we are. And I don't know why anybody would be against that. We do that with the mines all the time when they're out there mining past the timeframes we set on CUs.

MS. JOURDAN: And once they start construction, then they don't revert back.

CHAIRMAN STRAIN: That's another --

MS. JOURDAN: Yeah, once they get their approvals and they start construction and break ground, it doesn't revert back. It's as -- if the property's just sitting there fallow and not doing anything and tied up in a foreclosure for years and years, that would be when they revert back.

CHAIRMAN STRAIN: I think that's a good point to add to it.

So if you get your vertical construction started within five years --

MS. JOURDAN: They're yours.

CHAIRMAN STRAIN: -- you're locked.

MS. JOURDAN: Correct.

CHAIRMAN STRAIN: If it doesn't start within five years, I think we need to revisit everything, because you're getting a continued free interest loan for now 12 years at that point.

So anyway, thank you, Jean, very much. Appreciate it.

COMMISSIONER CHRZANOWSKI: And Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER CHRZANOWSKI: Remember that the rising tide floats all boats. If these guys are hurt by the economy, nobody around them is probably going to be building anything either, taking those additional bonus points.

CHAIRMAN STRAIN: No reason to then.

COMMISSIONER CHRZANOWSKI: Right.

CHAIRMAN STRAIN: Okay. Well, I think we've gone quite a ways in resolving a lot of these issues.

Anybody else have any questions of anyone?

COMMISSIONER ROSEN: Mark, I have a little --

CHAIRMAN STRAIN: Go ahead, sir.

COMMISSIONER ROSEN: I'm a little confused. Is there or isn't there a rule on the books with regard to the CRA about this reverter that you're talking about? It sounds to me like there isn't. Is that correct?

MS. JOURDAN: Originally the density bonus units could only be used in a mixed use project, and there is a reverter clause for a mixed use project. Before properties like this could not get density bonus units. And basically right now they still can't, that's why they're doing this Growth Management Plan Amendment.

So that's why there's no reverter clause for properties that are vacant, it was only for mixed use developments where originally the density bonus pool could only be utilized.

COMMISSIONER ROSEN: Okay. In your previous statement that you mentioned just a couple minutes ago, once the project starts -- and when you say start does that mean infrastructure?

MS. JOURDAN: Once they get their Site Development Plan approved, PUD approved and they actually go in and start construction, then the provision, they don't revert back.

COMMISSIONER ROSEN: It's locked in no matter what --

MS. JOURDAN: Right.

COMMISSIONER ROSEN: -- at that particular point.

Okay, thank you very much.

CHAIRMAN STRAIN: Okay, so I'm -- and that's a good point, Mike.

So I think what she's saying is the density bonus pool has had a reverter clause in it for what it was allowed to be applied for. Because this project's coming in and applying for a use that was never anticipated, they obviously can't have a reverter clause on something they didn't anticipate. So that's why it might be a good idea to build one in. So I think that kind of is where we're going.

MR. YOVANOVICH: I think Jean said the Arboretum was tied to the approval of the site plan; is that correct?

CHAIRMAN STRAIN: Right. So instead of vertical construction.

COMMISSIONER ROSEN: So once the site plan's approved then they're locked in; is that what you're saying?

MR. YOVANOVICH: That's my understanding of the rules that were applied to the Arboretum.

COMMISSIONER ROSEN: Okay.

MR. YOVANOVICH: At that time. I'm not representing that as fact, it's just --

MS. ASHTON-CICKO: Actually --

CHAIRMAN STRAIN: Go ahead, Heidi.

MS. ASHTON-CICKO: I think they had a number of years after the SDP was approved to actually commence construction, which they didn't do, so it automatically reverted. Isn't that correct, Ray?

MS. DESELEM: For the record, Kay Deselem.

If I understood correctly, that one expired when the SDP expired. So the SDP only granted them the extras units if they started construction based on that SDP. If they let the SDP expire, then they reverted.

CHAIRMAN STRAIN: So how would we word that?

MS. DESELEM: I would prefer to see a certain year. Because regulations change. And if we're working at today's level --

CHAIRMAN STRAIN: But I think the point is if we set a certain year but they've already made progress, why do we need to bring it up for that year then? So the question is what is considered progress in regards to that application? So why put a five-year time frame in if they've already got an SDP or building started? It's moot.

MS. DESELEM: Well, then you could say unless vertical construction has commenced or building permits have been issued or --

CHAIRMAN STRAIN: Well, now, Jean says the Arboretum was tied to an SDP.

MS. DESELEM: Yeah.

CHAIRMAN STRAIN: So maybe that's what we should tie it to. Unless an SDP is issued and construction --

MS. DESELEM: And computed or however --

COMMISSIONER ROSEN: I would think once the SDP is issued, I mean, I would hate to recreate legislation here. If the SDP is issued, then they're locked in, as Jean said.

COMMISSIONER ROMAN: But don't you think the intent is to have a viable project and also to have advancement of the CRA in the area improving? I think that's the intent here. We want both to succeed. So how do you give that safety net to the CRA that's trying to advance the area and at the same time give maximum leeway to the project developer who wants a viable project? I think that's what we're trying to address here. And how do we make that happen is the question.

CHAIRMAN STRAIN: David, did you have some input?

MR. WEEKS: I do.

CHAIRMAN STRAIN: You usually stand there for that reason, so --

MR. WEEKS: This is purely a policy decision, and I'm not here to suggest what that policy should be. I just wanted to mention a couple of things, though.

One is as far as infrastructure goes, when the economy tanked one of the things we saw in some places was infrastructure had been installed and then the project stalled. So that's -- it can happen. The project can stop at any given point. It might be even when buildings are partway constructed even.

So the economy is going to dictate when a project goes and when it doesn't or how far along it goes before it stops.

Secondly, Mr. Rosen, regarding the mixed use project, the MUP provision in the Bayshore -- the area we're talking about, the overlay, that MUP process, bonus units through that process are linked to an SDP and that requires board approval for that MUP petition.

Those units are tied to the SDP. So if the SDP expires, the units expire. So it's not locked into the SDP. It would actually have to be the implementation of that SDP, that is, the actual infrastructure installation. So those units are not locked in with the SDP approval, it would be with the SDP construction, the implementation, which would be infrastructure only.

Now it gets back to your -- in your lap for what policy you want to, if any, attach to this project. And that is whether it would be horizontal -- back to your question earlier, Mr. Rosen -- horizontal construction infrastructure or do you want it linked to vertical, or in either case do you want there to be a trigger of some certain amount, you know, some certain amount of infrastructure or some certain amount of horizontal. But again, that's purely -- my perspective, that's a policy decision for this body.

COMMISSIONER ROSEN: So that policy has not been written anywhere yet. This is something that you want us to talk about today.

MR. WEEKS: It only exists for a mixed use project, and that is as long as the SDP is valid then those units are tied in. And that SDP eventually expires if construction does not commence.

COMMISSIONER ROSEN: That sounds like it's self-resolving then.

MR. WEEKS: In a case of the mixed used project.

Here, as Jean was referring to, that amendment that occurred earlier this year to this overlay that now allows this type of project, a residential only project, that is not administered through a mixed use project which is tied to a Site Development Plan, it's through a zoning action. That's the significant difference here. The -- that MUP will expire if the SDP becomes invalid, if it's not -- the project is not constructed as that is SDP approves.

In this case zoning doesn't go away. Now, PUD can sunset after a certain number of years, but even then you've not lost it. There has been no automatic reverter. So those units would still be tied into the zoning on the property.

That's the whole discussion here is do you want to create some type of policy for how those units could revert or at least be reviewed to determine if it's appropriate to take them back.

So it exists for mixed use project, it does not exist for residential only rezoning, and that's what you're talking about here.

CHAIRMAN STRAIN: Thank you, David.

Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Rich, did you want any rebuttal? And afterwards I want to walk through the list with you of what we might consider as a stipulation, if someone --

MR. YOVANOVICH: Yeah, I wasn't trying to rebut anything, I was just trying to answer questions that came up during the break.

CHAIRMAN STRAIN: Right. So that's why I'm asking. Do you want a rebuttal at this point?

MR. YOVANOVICH: I don't know that there's anything to rebut yet, because we're -- I don't know you-all's position on anything. So I'm happy to go through the list and answer it that way. I think that's probably the easiest thing.

CHAIRMAN STRAIN: This is something that whoever makes a motion might want to consider as a point of beginning.

Number one: There's to be 1,000 square foot minimum would be the unit size, which is changed to that development standards table.

Number two: At least one parking space will be below the building for each unit.

Number three: They'll have a gated entry.

Number four: There will be security cameras.

Number five: No vehicle accesses behind the buildings.

Number six: All rentals will be for 12-month minimum.

MR. YOVANOVICH: No, can't agree to that.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: What we -- since we want to be treated like every other multi-family for sale condominium project in Collier County, we'll follow the Land Development Code regulations that applies. I don't think any other condominium project has a minimum requirement of a year for. That came up --

CHAIRMAN STRAIN: It wasn't my idea, it was yours.

MR. YOVANOVICH: No, that came up purely when we were talking about an apartment complex and the concern that we might have transient type people coming in related to the apartment complex, and they want to have a minimum rental period for tenants in an apartment complex of one year. We're not building an apartment complex.

CHAIRMAN STRAIN: Did you have a second NIM to clarify it when you switched from multi-family to fee simple?

MR. YOVANOVICH: No.

CHAIRMAN STRAIN: Or single family?

MR. YOVANOVICH: No.

CHAIRMAN STRAIN: Or I should say condo.

Okay. Kay, is there an issue in regards to what was -- those kind of comments at a NIM in relationship to what we're talking about?

MS. DESELEM: I can see his clarification that at that time it was designed to be totally rental and the concerns of transients. So I --

CHAIRMAN STRAIN: I do too, but I just want to make sure we're not going outside any of our previous --

MS. DESELEM: I think I can see his concern.

CHAIRMAN STRAIN: Okay, Karen?

COMMISSIONER HOMIAK: I still think that we can do that anyway. And that would be for an association document to --

CHAIRMAN STRAIN: We've done it before. We've had rental --

MS. ASHTON-CICKO: Generally I'd agree with you. But there are some LDC amendments in the works for some residential areas to address transient housing and the, you know, minimum or max -- minimum rental period. I don't recall what that period is. I want to say it was --

COMMISSIONER HOMIAK: Three months?

MS. ASHTON-CICKO: You're looking at either -- yeah, 30 days or three months, I'm not sure which. I don't recall.

CHAIRMAN STRAIN: And I don't have a -- with Kay's comments, I have no problem taking it off

the list, so --

MR. YOvanovich: Mr. Strain, can I go back to your vehicle comment?

CHAIRMAN STRAIN: Yes.

MR. YOvanovich: Earlier you had said no parking behind the buildings?

CHAIRMAN STRAIN: Right.

MR. YOvanovich: But this time you said no vehicles behind the buildings. And I wanted to make sure --

CHAIRMAN STRAIN: No, I said no vehicle access behind the building. Because I believe that's what you stated in the NIM. How are you going to have vehicle access behind these -- oh, where your parking spaces are.

MR. YOvanovich: Yeah, it's access to the backs of the buildings.

CHAIRMAN STRAIN: Okay, why don't we put no vehicle parking in the setbacks. Would that work?

MR. YOvanovich: Is there a concern to the property to the north?

CHAIRMAN STRAIN: Yes.

MR. YOvanovich: Would that work? Where did Wayne go?

Yeah, I think that's fine.

COMMISSIONER ROMAN: Nobody can park in the setback.

CHAIRMAN STRAIN: Well, they can put parking spaces in setbacks.

MR. YOvanovich: No parking in the setbacks along the northern boundary, is that --

CHAIRMAN STRAIN: That works.

MR. YOvanovich: Wayne, does that work?

Wayne's nodding his head yes.

CHAIRMAN STRAIN: Okay.

MR. YOvanovich: Because we do have some out front, as you know, Mr. Strain.

CHAIRMAN STRAIN: I know. That's why I'm -- I'm not trying to do something against the plan that's in front of us.

MR. YOvanovich: Sorry, I didn't mean to interrupt your thoughts.

CHAIRMAN STRAIN: No parking in back of the northern units. We'll just clean it up by consent.

MR. YOvanovich: Right.

CHAIRMAN STRAIN: But that's the intent.

Construction is to be of concrete block and precast concrete.

Project will be completely fenced.

There will be a community pool built by when? How much percentage of the project, so staff has a way to monitor it like we do on all projects.

MR. YOvanovich: Fifty percent?

CHAIRMAN STRAIN: Okay.

There will be no blasting allowed on-site.

Any fence fronting on either street shall be an architectural design.

Revise footnote to provide the sidewalk clearance, like we discussed. I think we're all on -- we know that one's got to be addressed.

The right-of-way deed will be provided prior to the first building permit.

Northern setback will be 30 feet.

The southwest dumpster will be allowed to have a five-foot setback where the right-of-way was taken.

Majority of the units shall be greater than 1,200 square feet.

The payback provisions will be at 90 percent of sales. 100 percent will be paid back or within five years approval of this rezone.

Charlette, what were you think of time frames?

COMMISSIONER ROMAN: I was thinking about that timeframe, since you were talking about also those credit reverting back when we were discussing that timeframe of five years.

CHAIRMAN STRAIN: Well --

COMMISSIONER ROMAN: We're not to that yet, I know.

CHAIRMAN STRAIN: Rich, do you want to suggest a time frame that you'll agree to, or do we forward this without your agreement? It doesn't matter to me, I just thought I'd give you the opportunity.

MR. YOVANOVICH: You know, Mr. Strain, I think five years is unfair. You probably wouldn't like 10, and I'm not in a position to split the baby at seven. I don't know the right answer. I don't know why we're continuing to put additional restrictions on this when you have a developer who has every incentive in the world to try to pay you back as quickly as possible, but at the same time needs to have some flexibility if market conditions change. So I don't know why we have to put any year in there. Any number I pick could be wrong. Just like your five years could be way wrong. It could be unfair. Not intentionally but in practicality.

I mean, I think we all understand the county wants to get its money back as quickly as possible. And we want to pay you as quickly as possible. We want to build it, we want to sell it. But we also have to have some fairness on the recognizing that things can change.

CHAIRMAN STRAIN: Well, we don't have a lot of good experience with this site in the past, so I think we're just trying to make sure that whatever comes out of this we've got some assurances now that the seven years that we haven't got the money paid back from the taxpayers, that there's some hope that it will be paid back. And I think even if you don't complete 100 percent of the project within the five years, if you're 50 percent along or whatever percent you would have, you're going to have a lot of incentive then just to finish it off so it doesn't jeopardize your zoning.

I think that would -- I don't see where five years is bad at 108 units, Richard. That means you're doing 20 units a year. That's -- I mean, in that location across from Isles of Collier and all the other stuff going on that's positive for the CRA and Bayshore, I don't think that's unreasonable, and I think also you could also come in and ask for an extension of that. Just do a PUD amendment and come to the Board. I don't understand what you're so concerned about, unless there's a reason we should be concerned and we hit on it.

MR. YOVANOVICH: Mr. Strain, I don't know who's going to be sitting up there in five years. I don't know what's going to be the state of affairs in five years. It's not that I have any, you know, reason why I'm not willing to agree to this other than there's uncertainty that occurs.

And I could tell you from my own personal experience, and I know there's a lot of developers in this county that said you know what, I've got this great project, there's no way I'm not going to be able to sell 20 units a year for five years, I'm going to be out of here. I don't -- but I could tell you there's probably many examples of where that enthusiasm met a big thud.

And that's all I'm saying is we are going to be -- we're in this together, we're trying to give my developer an opportunity to build a market rate project and pay you back the money. I just hate to include an artificial time period for the payback of 100 percent of the money when you haven't gotten it back anyway.

CHAIRMAN STRAIN: And I understand your position, but at the same time I think the position -- with all the issues we're going through today show we're bending over backwards to try to accommodate a way for this project to come forward and meet the commitments that you're saying will be met. And that is timeframes.

So -- and it's up to this board. What does this board as a group want? Do you want five years, do you want 10 years, do you want nothing?

COMMISSIONER HOMIAK: Are you talking about five years vertical construction starts within the five years?

CHAIRMAN STRAIN: No, we're not even on that. We're on payback of the --

COMMISSIONER ROMAN: Of the grant.

CHAIRMAN STRAIN: -- grant.

COMMISSIONER HOMIAK: Oh, the grant paid back in five years.

CHAIRMAN STRAIN: No, we want it paid back at 90 percent of sales. 100 percent of it will be paid back. Up until that point it will be paid per sale. And after five years if it hasn't been paid back 100 percent, it will then be paid back 100 percent. That's what the suggestion is.

It's up to this board to debate, though.

COMMISSIONER ROSEN: Let me ask a question.

Rich, do you know what the -- yeah, I guess your client walked out -- what the proposed sales prices for these units are? And I'm -- still in this conversation here.

MR. YOVANOVICH: Yeah. If you could give me -- well, I think he's getting a call from the person who's actually putting the money up --

CHAIRMAN STRAIN: Well, the CRA said that --

MR. YOVANOVICH: -- to build the project. So if it would be helpful if we could just take a minute, let me go confirm who he's talking to.

CHAIRMAN STRAIN: Okay. Well, let's just take a break 'til 11:45, seven minutes.

MR. YOVANOVICH: And I appreciate that. Because it may answer some of the concerns we have. (Recess.)

CHAIRMAN STRAIN: Okay, everyone, let's resume our meeting.

Richard, did you have anything else you wanted to add?

MR. YOVANOVICH: We're on the payback --

CHAIRMAN STRAIN: Yes.

MR. YOVANOVICH: -- what we're on right now?

CHAIRMAN STRAIN: Yes.

MR. YOVANOVICH: Here's our proposal. You'll get 50 percent in five years, unless we sell quicker, and you'll get 100 percent in 10 years unless we sell quicker.

CHAIRMAN STRAIN: That's a good compromise. I don't have a problem with it. Charlette?

COMMISSIONER ROSEN: No, I think it is. Meaning so much per unit as you're selling them.

MR. YOVANOVICH: Right.

COMMISSIONER ROMAN: But at five years, 50 percent of the amount and then 10 years the rest of the amount.

MR. YOVANOVICH: Yeah, unless obviously we go quicker.

COMMISSIONER ROSEN: Yeah, if you sell it all out in one year then --

MR. YOVANOVICH: Well, Mr. Strain's so sure of this, he's going to buy several units on spec, I'm sure, so --

CHAIRMAN STRAIN: I can't get a discount, though, remember that.

MR. YOVANOVICH: Oh, no, oh, no, you get a premium.

CHAIRMAN STRAIN: Yeah. These attorneys always got comebacks, don't they?

Okay, so payback will be at 90 percent of sales, 100 percent will be paid back or within five years --

MR. YOVANOVICH: Wait, no, no. 100 percent -- 50 percent in five years, 100 percent in 10 years.

COMMISSIONER ROSEN: But then so much per unit still.

MS. ASHTON-CICKO: Can I just ask for clarification?

Wouldn't it be the language that's currently in the PUD that says that the payment is when they sell a unit they pay --

MR. YOVANOVICH: Right.

MS. ASHTON-CICKO: -- but then provide a minimum. However, at a minimum it will be 50 percent in five years and 100 percent in 10 years.

MR. YOVANOVICH: Correct. The 90 percent number is gone.

COMMISSIONER DOYLE: Fifty percent of remaining after units have been sold, not of total?

MR. YOVANOVICH: Right now it's 320. By year five you're going to have \$160,000. By year 10 you're going to have \$320,000.

COMMISSIONER DOYLE: Understood. But if during that time you sell more and you've paid more than the 50 percent --

MR. YOVANOVICH: Then I don't pay you any more on year five. If I'm ahead of schedule at year five because I've sold more units and I've given you more than 160,000, I don't have to give you any more

money.

CHAIRMAN STRAIN: Yeah, minimum payback within five years at 50 percent or 100 percent at 10 years. Or if it's all paid off by sales -- by the paragraph that exists in the PUD, that stands.

MS. DESELEM: If I may, just to clarify, it's just a question. Is it 50 percent of the total or 50 percent of the remaining balance?

CHAIRMAN STRAIN: Of the total.

MR. YOVANOVICH: I think that's what Mr. Doyle was trying to clarify.

MS. DESELEM: Yeah, that's what I was asking too.

CHAIRMAN STRAIN: Okay, and then there's two more. The principal uses will be restricted to residential condo/townhouse. Rental apartments are prohibited.

Any problem with that?

MR. YOVANOVICH: Correct.

MS. ASHTON-CICKO: Actually, we were going to coin it a little bit differently, which was Kay's language, which was multi-family limited to condominiums and townhouses.

CHAIRMAN STRAIN: Right. This isn't -- I used the phrase coining of the actual stipulations. I'm just -- these are the concepts of what we're trying to say for stipulations between the applicant and the staff. You heard the discussion today. We expect by the time consent comes through it will be accurately articulated in whatever language you bring out.

The density bonus is to be reviewed after -- and I have five years down as a starter -- from the approval of the rezoning to continued applicability -- for continued applicability, unless an SDP is issued and remains valid. (Use similar language as provided for the bonuses in the MUP process.)

MR. YOVANOVICH: So I want to make sure I got this right. I've got to have a valid SDP issued and alive by year five.

CHAIRMAN STRAIN: That's correct.

And my point is this was trying to be tailored after the language that David addressed us at concerning that already exists in the MUP process. And that was the intention is to frame this around that.

So as staff tries to clean it up and you guys do, it needs to be made sure that's the direction I believe we were heading.

MR. YOVANOVICH: Yeah. And I just want to make sure I understand the direction we're going so there's not a -- the concept is, is we have an SDP issued on this property.

CHAIRMAN STRAIN: And you keep it active.

MR. YOVANOVICH: And keep it active, we're good, we never lose the units.

CHAIRMAN STRAIN: Right. And if you lose the SDP, then you lose the units.

MR. YOVANOVICH: No, we come back to you and maybe we amend the PUD --

CHAIRMAN STRAIN: Well, yeah.

MR. YOVANOVICH: -- or we explain our reasonable circumstances --

CHAIRMAN STRAIN: That's correct, okay.

MR. YOVANOVICH: -- as to why we didn't meet it and --

CHAIRMAN STRAIN: Right, and that always -- yeah, that's the process that I think we're envisioning.

MR. YOVANOVICH: Okay.

MS. DESELEM: If I anyway clarify, I'm not familiar with the exact language in the MUP, but is it to the Planning Commission they come back or is it the Board? Or both?

CHAIRMAN STRAIN: I would suggest it go straight to the Board. I mean, that would be -- if it's the Board, it's a financial decision. The Board makes those. We're only getting into it because there's a paragraph in the PUD that addresses it. I think once we address it it's done for us.

MS. DESELEM: Thank you.

CHAIRMAN STRAIN: So --

MS. ASHTON-CICKO: And that's going to -- the stip will be both in the GMP and the PUD?

CHAIRMAN STRAIN: Yes.

And that's another comment, any of these that need to apply or be included in the GMP, the



stipulations would apply if they're approved to both the GMP and the rezone to the extent each one would warrant those kind of stipulations. So -- and that's the issues I've listed as we've talked.

Anybody else have anything they'd like to add?

(No response.)

CHAIRMAN STRAIN: Now, Richard, do you want any time for rebuttal?

MR. YOYANOVICH: I'll waive rebuttal.

CHAIRMAN STRAIN: Okay. With that, we will close the public hearing and entertain a motion.

COMMISSIONER ROSEN: One thing, Mr. Chairman. I want to make sure that I understood that we went back to the landscape buffer B on the east side property, like we discussed earlier.

CHAIRMAN STRAIN: We went back to 15-foot -- is it type -- I don't know what type was on that east side originally.

Do you know, Wayne?

COMMISSIONER ROSEN: It said in my notes here that they reduced from a 15-foot wide type B buffer to a 10-foot wide type A buffer. And I just want to be clear that we're going back to the original 15-foot type B buffer.

CHAIRMAN STRAIN: That's what the intention was.

Is that what the understanding was by you and --

MR. YOYANOVICH: Yes.

CHAIRMAN STRAIN: And Wayne's shaking his head yes, so --

MR. YOYANOVICH: Yes. And I believe that's what the master plan -- I'm trying to look at the old master plan, but I think that's what it says.

COMMISSIONER ROSEN: Okay. Because that was a note that you had requested that change.

CHAIRMAN STRAIN: So eastern buffers will be 15 foot type B.

Which brings back unfortunately a question I forgot to ask staff. Kay, what is the opacity requirements that would kick in for the northern property line?

MS. DESELEM: Looking at the LDC that Ray had up, the type A buffer does not have an opacity requirement. B does of 80 percent but A does not.

CHAIRMAN STRAIN: Okay. So basically once they clear out the exotics and the dead material, if it's wide open from their setback in that preserve to that fence, that's all that they get.

MS. DESELEM: That's correct, sir, according to the LDC.

CHAIRMAN STRAIN: Okay. Well, that's where the problem lies then. So we need to look at some kind of opacity in that particular area, or at least I think we do.

Richard, do you want to suggest something or do you want us to pile it on?

MR. YOYANOVICH: Honestly I don't know the answer to that. Can you give me two seconds to --

CHAIRMAN STRAIN: Sure.

COMMISSIONER ROMAN: Kay, I have a question. Isn't the opacity after one year? Doesn't it reach 80 --

CHAIRMAN STRAIN: Yes, it is.

COMMISSIONER ROMAN: -- percent after one year?

CHAIRMAN STRAIN: Yes.

MS. DESELEM: Yes.

And if I may, rather than trying to measure opacity, you might want to just consider increasing some buffer level to like a type A with B plantings or something that's a bit more measurable.

CHAIRMAN STRAIN: So it's a type A --

MS. DESELEM: And that's just an example.

CHAIRMAN STRAIN: Well, wait, let's back up here.

MS. DESELEM: Just a suggestion.

CHAIRMAN STRAIN: A type A would be required right now, right?

MS. DESELEM: That is correct.

CHAIRMAN STRAIN: What is the amount of vegetation in a type A? Maybe there's enough there already in the type A to supplement. And would they have to supplement the preserve with the missing

vegetation?

MS. DESELEM: Yes.

CHAIRMAN STRAIN: Okay. That may be all we need then.

MS. DESELEM: Okay, type -- an alternative A buffer is 10 foot wide landscape buffer with trees spaced no more than 30 feet on center. There would be no hedge included. So you'd have the trees as they grow but you would not have a midstory or an understory to that.

CHAIRMAN STRAIN: No there would be no understory canopy, except for the fence that's there.

MS. DESELEM: When you go to a B buffer planting then you do have the trees that are 25 foot on center and you do have a hedge of number 10 shrubs four-foot on center, 60 foot high at planting. I'm just giving you examples, I'm not saying that one is what you want.

And then it goes on up from there. I do have a sample.

COMMISSIONER ROMAN: And Kay, I have a clarification. I'm not sure I recall, on a three-story building, are those trees taller when they're actually planted on these buffers than a shorter building? Is there a requirement for that?

MS. DESELEM: I'm sorry, I didn't actually follow that. Say that again?

COMMISSIONER ROMAN: Are the trees required to be taller for a three-story building on these buffers?

MS. DESELEM: No, ma'am, not to my knowledge.

CHAIRMAN STRAIN: I think as long as we've got the type A buffer, I think that's fine. I don't -- I mean, I certainly don't have a problem now. I just wanted to make sure that should the preserve not have adequate vegetation that we have a way of making sure something's put there.

MS. DESELEM: Yes, it should be according to code.

CHAIRMAN STRAIN: Okay. I mean, I'm fine with that. Is anybody else?

(No response.)

CHAIRMAN STRAIN: Okay, then that wraps up the 19 stipulations, the last one being east buffer to be 15-foot type B.

And that also where it wraps -- matches the old plan, basically, is that what we're looking at?

Okay, if there's nothing else, then at this point we will -- is there -- closed the public hearing and entertain a motion or discussion, whatever the board would prefer.

COMMISSIONER ROSEN: Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir?

COMMISSIONER ROSEN: Would these motions be simultaneously?

CHAIRMAN STRAIN: No, we got -- I'm sorry, we've got to do the comprehensive plan first.

COMMISSIONER ROSEN: Okay. I would propose a motion then to approve Petition number CPSS-2013-1/PL20120002382, small scale Growth Management Plan Amendment, according to the stipulations that you had articulated.

CHAIRMAN STRAIN: Okay. To the point that they apply to the comprehensive plan application.

COMMISSIONER ROSEN: Yes, sir.

CHAIRMAN STRAIN: Okay, is there a second?

COMMISSIONER CHRZANOWSKI: I'll second.

CHAIRMAN STRAIN: Now is there discussion?

(No response.)

CHAIRMAN STRAIN: All in favor, signify by saying aye

COMMISSIONER DOYLE: Aye.

COMMISSIONER ROSEN: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-on.

Now we need a motion on the rezone. Is there a similar motion?

COMMISSIONER ROSEN: I'll make a similar motion, Mr. Chairman, to approve PUDZA-PL20120002357, Cirrus Pointe RPUD, with the stipulations as articulated.

CHAIRMAN STRAIN: Okay, is there a second?

COMMISSIONER CHRZANOWSKI: I'll second.

MS. DESELEM: For the record, excuse me, Kay Deselem.

Does that include staff's stipulation as well? Which is the termination agreement for the affordable housing.

MR. YOVANOVICH: I just want to make one change to that, if I can.

CHAIRMAN STRAIN: To what?

MR. YOVANOVICH: To the stipulation of staff's stipulation about the termination.

CHAIRMAN STRAIN: Let's hear it.

MR. YOVANOVICH: I have no problem with it terminating, but I want it to terminate upon the effective date of the PUD. Because PUDs have -- there's a 30-day period, and I want to make sure that if some reason my PUD doesn't become effective then I get to keep my existing zoning and density bonus agreement.

CHAIRMAN STRAIN: That makes sense. So staff agrees to that?

MS. DESELEM: Yes, sir. I'm looking to Heidi for her confirmation as well.

MR. YOVANOVICH: I know I made that comment before. I just wanted to make sure it was understood.

COMMISSIONER ROSEN: I have no problem adding that to my motion.

CHAIRMAN STRAIN: Is the second okay with -- who's --

COMMISSIONER CHRZANOWSKI: Second.

CHAIRMAN STRAIN: You okay?

COMMISSIONER CHRZANOWSKI: Fine.

CHAIRMAN STRAIN: Okay.

Kay, is that okay with --

MS. DESELEM: Yes, sir. I didn't who seconded the motion, if you could --

CHAIRMAN STRAIN: Stan seconded it.

MS. DESELEM: Thank you.

CHAIRMAN STRAIN: Discussion?

(No response.)

CHAIRMAN STRAIN: Heidi, we okay with it?

MS. ASHTON-CICKO: Uh-huh.

CHAIRMAN STRAIN: Okay, all in favor, signify by saying aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER ROSEN: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Richard, thank you for your patience and cooperation today. It was hard to get through but maybe if you don't do anything, it will stay intact at the Board level and for consent.

MR. YOVANOVICH: Who doesn't do anything?

CHAIRMAN STRAIN: You.

MR. YOVANOVICH: I'm here. I'm okay.

CHAIRMAN STRAIN: Well, you seem to be a little ruffled, but that goes with the territory.

MR. YOVANOVICH: That's why I have gray hair.

CHAIRMAN STRAIN: Well, I got a gray beard because of that, so -- with that, I think that just about wraps everything up.

There's no old or new business.

And with that, Merry Christmas to everybody and we'll get a motion to adjourn.

COMMISSIONER CHRZANOWSKI: Move to adjourn.

CHAIRMAN STRAIN: Seconded by?

COMMISSIONER ROMAN: Second.

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

COMMISSIONER DOYLE: Aye.

COMMISSIONER ROSEN: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

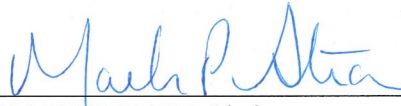
COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: We're out of here. Thank you all and have good holidays.

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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 12:00 p.m.

COLLIER COUNTY PLANNING COMMISSION

  
\_\_\_\_\_  
MARK STRAIN, Chairman

These minutes approved by the board on 1-16-14 as presented  or as corrected \_\_\_\_\_.

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