

April 3, 2014

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
April 3, 2014

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
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: Okay, good morning, everyone. Welcome to the April 3rd meeting of the Collier County Planning Commission.

If you'd all please rise for Pledge of Allegiance.
(Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Thank you.

If the secretary will please do the roll call.

COMMISSIONER EBERT: Yes. Good morning. Mr. Eastman is absent.
Mr. Chrzanowski?

COMMISSIONER CHRZANOWSKI: Present.

COMMISSIONER EBERT: Mr. Rosen?

COMMISSIONER ROSEN: Present.

COMMISSIONER EBERT: Ms. Ebert's here.
Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER EBERT: Ms. Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER EBERT: Mr. Doyle?

COMMISSIONER DOYLE: Here.

COMMISSIONER EBERT: And Ms. Roman?

COMMISSIONER ROMAN: Here.

CHAIRMAN STRAIN: Thank you.

Addenda to the agenda. We have one item on the agenda today. I don't believe there's anything that needs to be changed.

Does anybody else have anything?

(No response.)

CHAIRMAN STRAIN: Let the record show that Mr. Eastman has arrived. Rather late, but he's here.

Good morning, Tom.

MR. EASTMAN: Good morning.

CHAIRMAN STRAIN: Planning Commission absences. The next regular meeting is March (sic) 17th, regular -- do we have --

COMMISSIONER EBERT: April.

CHAIRMAN STRAIN: April 17th, I'm sorry.

Do we have a scheduled agenda for that day?

MR. BELLOWS: Yes, we have about four items on that agenda.

CHAIRMAN STRAIN: Okay. Does anybody know if they're not going to make it to that meeting?
(No response.)

CHAIRMAN STRAIN: And we are fortunate enough to have a meeting on April 29th. That's the one in Immokalee.

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: Have arrangements been made for the transportation and all that? Are we working on that?

MR. BELLOWS: It's my understanding the arrangements have been made. And Mike Bosi is here, he can elaborate in more detail.

CHAIRMAN STRAIN: The only thing I'd like to make sure is that by the March (sic) 17th meeting --

COMMISSIONER ROMAN: April.

CHAIRMAN STRAIN: -- you can provide us with the information we need.

April 17th. That's hard to remember those days.

You can provide us with the transportation hookups and where to meet and where to get together.

MR. BELLOWS: Yes, we'll be glad to do that.

CHAIRMAN STRAIN: Okay, thank you.

***Approval of minutes. We have two sets of minutes that were sent to us electronically. February 20th. Does anybody have any changes?

COMMISSIONER HOMIAK: Motion to approve.

CHAIRMAN STRAIN: Made by Ms. Homiak.

COMMISSIONER EBERT: Second.

CHAIRMAN STRAIN: Seconded by?

COMMISSIONER ROMAN: Second.

CHAIRMAN STRAIN: Ms. Ebert.

Discussion?

(No response.)

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

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: 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 7-0.

The March 6th minutes. Anybody have --

COMMISSIONER HOMIAK: Motion to approve.

CHAIRMAN STRAIN: -- any changes?

Motion made by Ms. Homiak.

COMMISSIONER ROMAN: Second.

CHAIRMAN STRAIN: Seconded by Ms. Roman.

Discussion?

(No response.)

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

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: 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 7-0. Thank you.

***Ray, do we have any BCC report?

MR. BELLOWS: Yes. At the last board hearing they approved the amendment to the Quail II PUD. That was by a vote of 5-0, subject to the Planning Commission recommendations. And then on the summary agenda they heard the amendment to the Naples Bath and Tennis Club.

CHAIRMAN STRAIN: Great, thank you.

***Consent agenda. We have nothing from last meeting. Yeah, it was because we took care of it in the meeting before, we didn't do consent.

***So we'll move to advertised public hearings. We have one item up. It's PUDA-PL20130001919.

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

(All speakers were duly sworn.)

CHAIRMAN STRAIN: Okay, disclosures on the part of the Planning Commission? Stan, we'll start at your end.

COMMISSIONER CHRZANOWSKI: I talked to the project engineer.

CHAIRMAN STRAIN: Mike?

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

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: And I spoke with Mr. Anderson.

CHAIRMAN STRAIN: And I've had a meeting and a telephone conversation with the applicant's representatives, including their attorney and engineer. And I talked to a gentleman this morning about a Power Point, but I didn't get into the specifics of it.

Karen?

COMMISSIONER HOMIAK: Nothing.

CHAIRMAN STRAIN: Brian?

COMMISSIONER DOYLE: I spoke with Bob Mulhere on this subject.

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: No contact.

CHAIRMAN STRAIN: Okay. Oh, and yes, I did speak with Bob Mulhere and George Hermanson when they were in the office on another issue. They brought that up.

So with that, Bruce, it's all yours.

MR. ANDERSON: Thank you, Mr. Chairman. My name is Bruce Anderson, I'm with the Roetzel and Andress Law Firm, and I'm here on behalf of Germain Real Estate Company, the petitioner.

This is an application to amend the Pine Ridge Center West PUD. I'd like to introduce the other team members with me today. Engineer Dominic Amico and Jane Eichhorn, both from the Agnoli, Barber and Brundage Engineering Firm.

I have displayed on the overhead projector the subject property. It's here in the red. You will see that it is surrounded by a sea of other commercial uses, zoned and existing.

This PUD amendment is a simple straightforward addition of one use: A car dealership, a new car dealership. It is to an existing retail commercial PUD. And this property is located in an interstate activity center. The Growth Management Plan states that the, quote, full array, unquote, of commercial uses are allowed in activity centers.

This site has been previously cleared and filled and is void of any vegetation other than grass. And the vacant parcel is served by an approved surface water management system located elsewhere within the PUD.

This same PUD amendment was heard by your predecessor Planning Commission in 2011. They recommended approval by a vote of 6-1. That application was subsequently withdrawn before it went to the County Commission because of the economic situation at the time.

A list of 12 conditions to address the issues from the prior Planning Commission hearing are included in the draft ordinance that's in your packet immediately after the staff report.

I'm displaying the 12 conditions. And I'd like to go through them with you.

This is the language that would be added to the PUD: New and used car dealerships, Group 5511, limited to new car dealerships only, with new cars comprising a minimum of 65 percent of the inventory. Used car sales are allowed only as an accessory use with the principal use of new car sales.

Further limited as follows: There will be no amplified sound of any kind.

There will be no vehicle parking on the Kraft Road right-of-way.

The car dealership will be limited to platted tracts B and E only.

There will be a 15-foot buffer with buffer type C plantings along Kraft Road and along the southern property line.

There will be finished building facades on the north and east sides.

And there will be no collision shop on-site.

The repair bay doors will be closed except for entering and exiting.

There will be no on-site delivery of vehicles by truck.

Cars will be delivered to an off-site location and driven to the site.

Buildings and accessory structures are limited to one story, single story, and there will be no rooftop parking.

If the 24-foot platted access easement between tracts B and E is vacated in the future, the owner must create a replacement 24-foot access easement to the south within platted tract B.

County staff has proposed that one new condition be added: Quote, the interconnection to extend Kraft Lane through the subject site will remain in its current configuration, unquote.

That new condition contradicts the last one that I read about the replacement easement. And we object to it. It attempts to prohibit the property owner from ever filing a separate application for a public hearing to vacate and relocate a platted right-of-way easement that bisects the property owner's property.

A prohibition on platting does not belong in a zoning document. Vacation of a platted easement is an entirely separate procedure governed largely by state statute. It has its own set of public notice and public hearing requirements, and its own set of legal and factual requirements that must be met for approval. Anyone who wants to object will have the opportunity then to do so.

The county's also supplemented the state statutes with their own additional requirements. We respectfully request that you not include this proposed new condition. It attempts to take away my client's statutory right to petition the government for redress to relocate a burdensome easement on his own property.

We respectfully request that you reaffirm the prior Planning Commission approval with the 12 conditions that are contained in the ordinance in your agenda packet.

And with that, I'll finish up for now and I or the other team members will be happy to answer your questions now or later.

CHAIRMAN STRAIN: Okay, we'll start with questions of the applicant.

Does anybody on this panel have any questions?

(No response.)

CHAIRMAN STRAIN: I was one of the people on this panel when it came through last time. I have reviewed the document. There are some I think helpful clarifications that might be needed so I'm going to move right into those.

One of them is the reference that this is a new and used car dealership application. It is not. It's a new car dealership application. Although the SIC Code allows for new and used cars, the Land Development Code in a C-4, for example, allows only 5511 for new vehicles only.

New vehicles are anything less than 51 percent. The applicant has changed that ratio to provide up to 65 percent new or more. So I wanted to make that clarification in regards to the staff report and both the application.

In your amplified -- your number one, 13.A, there will be no amplified sound of any kind. I'd like a clarification added to that that it does not include personal electronic devices. At one point in a conversation with staff I understood that it could be construed to mean telephones and belt pagers like you keep in your pocket or on your belt. That was not the intention of the board when we met last time on this.

And I know there's new information or new people that want to speak on this in contrast to last time, so we'll certainly listen to everything that's got to be said from the public, and by that time I, as well as the rest of us, may have more questions of the application.

So Bruce, if there's no other questions right now of this panel, we'll move on to staff report.

MR. ANDERSON: Thank you very much.

COMMISSIONER HOMIAK: I would --

CHAIRMAN STRAIN: Hold on.

Go ahead.

COMMISSIONER HOMIAK: I was just going to say, I probably should say that I was on this board when this came through last time, so --

CHAIRMAN STRAIN: How many -- I think you, Diane --

COMMISSIONER EBERT: I was also.

CHAIRMAN STRAIN: So the three of us were here, yeah, last time.

Okay, Kay, do you have staff comments or report?

MS. DESELEM: Good morning. For the record, Kay Deselem, Principal Planner with Zoning. Just keep it simple. You have the staff report submitted last revised March 21st, 2014. Staff is recommending approval with the one stipulation regarding the Kraft Lane extension through the subject site. I see that John Podcerwinsky is also here, and he could address any transportation questions that you might have.

Other than that, we're recommending approval, recommending that it be found consistent with the Growth Management Plan. The staff report contains the findings of fact in support of our recommendation.

CHAIRMAN STRAIN: Thank you. Any questions of staff?

Charlette?

COMMISSIONER ROMAN: Kay, regarding the staff report, in looking at Page 6 of 13, that's your recommendation, that that remains, that extension of Kraft Lane, as I see it on this diagram?

MS. DESELEM: Yes, ma'am.

COMMISSIONER ROMAN: Thank you very much.

CHAIRMAN STRAIN: Okay, with that, we will move on to public speakers and we'll start with the registered public speakers and then anybody that wishes to speak, we'll provide you time to speak as well.

We ask that public speakers, after called, identify themselves on the microphone for the record and we ask that you limit your discussion to five minutes. That is flexible depending on the information. We try and avoid redundancy.

Ray, will you call any registered public speakers first.

MR. BELLOWS: The first speaker is Judy Hudgins.

CHAIRMAN STRAIN: Did you say Judy?

MR. BELLOWS: Jody.

MR. HUDGINS: Hi. Jody Hudgins.

CHAIRMAN STRAIN: I know Judy Hudgins and you don't look like her.

MR. HUDGINS: I appreciate you recognizing that fact, Mr. Chairman.

For the record, my name is Jody Hudgins. I work at First National Bank; I'm the Senior Executive Vice President.

Mr. Tice, Gary Tice, our Chairman, could not be here, and Senator Richter is busy with the State's business in Tallahassee. And I appreciate the opportunity to speak to you this morning.

We're speaking to the petition out of one concern: Mainly site planning, mainly traffic flow, as staff has alluded to. And we want to just let you know what our concerns are.

In its present form we object to what's being presented. I've given you the site plan on the screen. I'm sure you have it in your packet.

But in essence what we have here is the interconnectivity between our parcel; the bank is in this parcel here where your planning key is located. North is to the right. And we went to great lengths and great expense in constructing our building to make sure that Kraft Lane and Kraft Road had reasonable interconnectivity. Sidewalks are there.

Our building was designed in such that to the north side of our parcel we put our branch. To the south side of our parcel south of this interconnectivity we put our three-story office building and we occupy both buildings 100 percent and own those buildings.

And so our issue is what happens when you try to put 20 pounds of potatoes in a 10-pound bag. We have an issue here where there's a lot of intense development. We have parking here for new cars and used cars. We have parking supposedly provided for by -- for employees. And we have right-of-way here, right-of-way here, and here's our site plan. Now, what I want -- there was our site plan.

Here's what I want to show you to the dealership to the east of us. And this is in no way any criticism of our dealership to the east. I think all of you know it's the Naples Nissan dealership. They are an ultra successful dealership. And the challenges of an ultra successful dealership are upon them.

This lane right here, Kraft Lane, this lane right here is the road that was constructed to separate our branch and our three-story office building from each other and allow interconnectivity to Whippoorwill.

This just in and of itself is a bit of a struggle for people. There are still people that come to this intersection and try to make a left turn and come out here. We witness it every day. You can imagine if

people getting off the intersection make this first traffic light here at Whippoorwill and you have people here thinking that they're slowing down for the intersection, they don't and they come in this left southbound turn lane going west and make that left turn. It is -- we've seen many accidents, and it's a safety consideration.

This parcel here is 15.57 acres. This parcel here is 8.75 plus or minus acres. This parcel here at 15 acres; I think this being the dry retention pond. This parcel here being 15 acres has trouble storing, it has trouble with traffic flow, has trouble with what they do and how they carry on their business.

We just wonder, with this access lane here staying in place, the easement, the access easement, and I think the plans are to eventually connect that to Livingston, from what I'm told, we just wonder what is going to happen with traffic flow and the safety and the safe and secure movement.

Now, stepping back a bit. Here's the easement, here's our building. Here's the 15 acres that the Naples Nissan folks own. And we wonder how you get what this is, a successful dealership, into here. And we wonder, wouldn't a dealership better be suited if it was on this size, this rectangular size of land more at a lighted intersection so that you do not have the access and the interconnectivity problems?

Now, here are our concerns: In the application that we understand today that there would be no parking on the easement. According to the mention today, that word easement now has been removed.

In the neighborhood meeting, conducted on March 3rd, I believe, the information was given that there would be no parking on the easement. Today we come to a public hearing, after we've had a neighborhood meeting, and we understand that the easement, parking on the easement, no parking on the easement has been removed.

As I mentioned earlier, when we purchased our existing property, we recognized the easement through the property and we provided a right-of-way to the LDC specifications to facilitate safe and secure traffic movement.

The applicant is now suggesting that they plan on relocating that access easement, in effect vacating it on the recorded plat. All of us as existing property owners in the west PUD and center PUD have made our building plans and made our traffic configurations to comply with what's platted. There is an opportunity to interconnect over to where First Watch is and Starbucks is and Tire Kingdom is, Five Guys is, and eventually get to Livingston Road. We think the more jigs and jags you put in that, the less people are going to use it.

If access easements and restrictions of parking cars are not maintained and enforced, the neighborhood will degrade.

And you say, how will they degrade? Let me show you a series of pictures. This is in no way an indictment on our neighbor to the east. This is just an illustration to show you what happens when you have a successful dealership. Show you what happens when you try to put too much in too little.

This is our bank building right here. This is Kraft Lane coming out to Whippoorwill. Here they are stacked, some already starting to get into the dry retention pond area. We wonder about stormwater management. All on the sidewalk, up and down the sidewalk, all the way out to here.

This looks kind of harmless, but this red Mazda here backs up almost to the curb to our property. And so traffic parking on the side, on the sidewalk is all the way down to Whippoorwill all the way back to our property. This is employees. I don't think the Mazda fits the Nissan.

Well, you say why is that a problem? Look where the Mazda is, right in the right-of-way for the sidewalk, handicaps folks, bicycles, dogs, everything, coming out of this blind, people coming around this corner trying to get out to Whippoorwill.

These are the problems when you have a poorly designed site plan. These are the problems when you have a successful dealership.

Here we are on the very eastern end of Whippoorwill. This is the lift station, I believe. This is your dry retention pond. Here we are, parking there. Until about last summer when we notified code enforcement there was hundreds of cars parked out here. And Code Enforcement came out and that's been resolved.

Here you are, another look, sidewalk, road, cars in. Again, we've got a 15-acre site here, almost 16, compared to an eight, almost nine-acre site, the petition.

Here's what happens.

Just so you know who it is, here you are again. All of these are documented when? This was Monday.

Here you are again, shoehorned in.

Now, here you are, two trucks unloading at the same time, some parking here, all the way backed up on the sidewalk. Cars trying to get through, people blind coming out of the dealership for test drives, trying to get to the Whippoorwill. People coming off of Whippoorwill. Folks, this is not good interconnectivity. This is not safe.

There we have Monday, a little later, another unloading right at the curve going into our property.

So what are the findings of fact? The suitability of the area is not compatibility for the type and the pattern of development. The internal land uses is not compatible with the proposed uses. The ability of the subject property does not have the ability to accommodate expansion. As they become more successful, as they try to recoup their two and a half million dollars they paid for this or sell it for more, whatever the investment is, there's no expansion here. And we just exacerbate the problem and we reduce the opportunities for the interconnectivity out to Livingston.

The proposed change will adversely influence the conditions of the neighborhood. I think we demonstrated that.

The proposed change will be a deterrent to the improvement or development of adjacent property.

The proposed change we think grants a special privilege to an owner as contrasted with the public welfare.

The change is out of scale with the needs of the neighborhood.

Parking, traffic flow.

And I think the thing that sort of for us says, is there is something going on here that we have an absolute need as a community, a need of services? And can we sort of pinch our nose and stop the smell a bit and say okay, let's live with it because this is a greater need for the community?

Well, it's not impossible to find other sites. Across the street next door to the Harley Davidson dealership, between the Harley Davidson dealership and the Raceway -- Racetrak is a suitable site that has a lighted intersection. It alleviates all of the concerns that we see here.

And the physical characteristics of the property and the degree of site operation do not allow the property to be usable for the proposed changes.

Members of the Commission, if you seek to grant the addition of the permitted uses, we suggest and we would ask -- and we have no opposition necessarily to what goes there, it's just that we've had experience in what works and what doesn't by the neighbor to the east -- that 65 percent of all car inventory be new cars at all times. Not average, not on a certain report date, but at all times.

That signs be posted on Kraft Road indicating that no parking is allowed on the right-of-way.

I will guarantee you there will be cars parked on the right-of-way on Kraft Road.

The total parking allowed for new cars, used cars and employee cars be limited to 266 parking spaces, conforming to the LDC of Collier County.

And, you know, we're really seeing we're trying to put 20 pounds of potatoes in a 10-pound bag. It would seem to me, and it would feel better to us if we saw a site plan we could count on, if we saw a site plan that was binding, if we saw a site plan that addressed all of this stuff, if we saw a site plan where the retention ponds are going to be and the stormwater management, if we saw a site plan how the buffering is going to be.

So that is what we would like to say. And Mr. Chairman, I'm happy to answer any questions.

And further, I have this presentation, one for the clerk and some for you all if you would like. I'd be happy to --

CHAIRMAN STRAIN: And we'll need one distributed to the court reporter, and staff will have the rest distributed.

MR. HUDGINS: Happy to answer any questions, Mr. Commissioner.

CHAIRMAN STRAIN: I don't have any at this time, but we have a ways to go.

MR. HUDGINS: Thank you.

CHAIRMAN STRAIN: Thank you very much.

Ray, next public speaker?

MR. BELLOWS: The next speaker is Clay Brooker.

MR. BROOKER: Good morning, Mr. Chairman, Planning Commissioners. My name is Clay

Brooker. I'm with the law firm of Cheffy Passidomo, 821 Fifth Avenue South. I'm here before you today representing First National Bank of Gulf Coast. You just heard from Jody Hudgins, one of the officers of the bank.

I will not -- I'll try to keep my comments brief and not duplicate or repeat what Mr. Hudgins has just said.

But in general, as we all know, the Growth Management Plan requires compatibility and that uses, proposed uses, be complementary to surrounding land uses.

There's no dispute today that the immediate surrounding land uses are upper scale business office to the east, upper scale business office to the south, and it's my understanding that just last month or a month and a half ago, a pre-application meeting went in for a property to the west, immediately to the west to be an assisted living facility.

So those are the immediate surrounding land uses. And we would contend, First National Bank would contend, that a car dealership is not compatible or complementary to those immediate surrounding land uses.

I do note the list of conditions that the applicant has offered. I believe they're essentially a carryover from the 2011 version of this rezone petition, which I've reviewed. It occurred to me though when you're looking at that list, the sheer number of conditions that are being opposed, suggesting compatibility.

And then as I was sitting here listening to the presentation, the staff report and public comment, I questioned whether I was sitting at a rezone hearing or a conditional use hearing.

It is somewhat unusual to have a list of conditions like this inserted in a permitted use section of a PUD document. And I would suggest to you that this is more akin to a conditional use and a procedure. The difference in procedure is an important one. And Mr. Hudgins spoke to that very briefly at the end of his public comments.

The difference between a conditional use hearing and a permitted use rezoning hearing is that we have a site plan that we can chew on, that we can look at, that we can ensure or attempt to ensure compatibility by imposing reasonable conditions, knowing what's going to go there.

My most recent conversations with Mr. Anderson on behalf of the applicant is they don't know. They do not have a buyer, they do not have a car dealership. They don't know what's going to go there. So we are all sitting here today in the abstract. We don't know what it's going to look like, how it's going to work, and for that reason I suggest to you that this is a conditional use. It should be added, if at all, new car, SIC 5511, new and used car sales as a conditional use. And that would permit all of us, fairness to all property owners around the area, to see what is being proposed and how it can fit into the small parcel.

So that would be my suggestion to the Planning Commission is this really deserves to be called a conditional use. Call it what it is, and not a permitted use.

Just a few comments about the -- about the conditions in particular. And Mr. Chairman, you hit on a couple of them.

I'm showing you -- I don't know if you can zoom in on that or not. But this is the cover letter that accompanied the -- this version of the rezone petition. And there are -- that's the list of conditions. Right in the cover letter, the first page of the application.

And I've highlighted there the first one, there will be no vehicle parking on Kraft right-of-way or the easement. And this is what Mr. Hudgins was just talking about. The words "or the easement" have disappeared from the proposed PUD.

That's the proposed PUD in the staff report. I don't know why "or the easement" has been omitted. But we believe that would be -- if the Planning Commission is considering recommending approval, we need to make sure that there's no parking on the easement. And I don't know why it's been omitted.

Another question I would have is with respect to the landscape buffering. It says type C plantings. I assume that means exactly what it says as the code reads. Type C is two rows of trees and 20 feet, not 15 feet. So my understanding is this is a hybrid, we're taking a type C buffer and squeezing it into 15 feet. So other than that five-foot difference everything type C is required. I would request a clarification in that regard.

The no on-site delivery, I point that out and I highlight this again as another comment about incompatibility.

This is a proposed use by which they admit through this condition they can't deliver directly to the site what they want to sell. Doesn't that -- it just doesn't function. They can't. A truck cannot -- a car delivery truck can't get in there. Doesn't that suggest to you incompatibility? Just it can't function as a car dealership.

And then with respect to the access easement, again, I'll look there at No. 12. This is again straight from the application. There will be no additional easement -- I'm sorry. There will be an additional easement, additional, of equal capacity, size and terminology that exists today between platted tract B and E also placed on the south.

So what they have applied for and agreed to through the application is not only the existing 24-foot easement but also an additional easement of the same size, capacity and terminology at the south of the property.

But when you go to the proposed PUD, the additional easement is gone. Now they're saying, well, we'll take that under consideration.

So I would suggest to you clarification there. I would suggest to you that the First National Bank has relied upon the easement where it exists and where it is platted today. And if the applicant would like to add an additional easement to the south, that's their -- that would be fine with the bank. But we would want the existing easement to stay where it is.

Ultimate -- I will conclude with that. Those are my comments.

Again, in conclusion, I believe strongly, as I stand here today listening to this and reading all these conditions, this is truly a conditional use; it should be a conditional use where we can all look a site plan and figure out what kind of impacts will result with a reasonable degree of certainty and how to mitigate them. Thank you.

CHAIRMAN STRAIN: Before you leave, anybody have any questions?

(No response.)

CHAIRMAN STRAIN: Clay, I've got a clarification. You're focused a bit of this idea of a conditional use process and the stipulations generally indicate it should have been a conditional use.

You've been around here a while, you know very rarely does a case go from this Planning Commission to the Board without a lot of stipulations. In fact, we've had one case that had over 60.

The idea that because it has stipulations doesn't necessarily mean it should be a conditional use. This one's got stipulations, because you weren't here the very first two meetings. The first meeting we had on this case back in, what was it, 2011, or whatever year it was, John Passidomo was here and he came in to the issue rather late and he didn't feel they had adequate time to work out the differences or their concerns with the applicant. So we continued the meeting for two weeks or maybe four, I don't remember how long, for them to try to get together.

These stipulations are a result of trying to find a compromise to make this use more compatible with your client's buildings, and the concerns that were raised. Had your client not had any concerns, none of these may have been there.

So I'm not sure it's a conditional use process that you're -- that these tend to lend itself to, it's in response to your client's concerns. We were trying to accommodate your client. So that's how that got there.

As far as the clarifications on the buffers, I'll ask staff to clarify that before the meeting's over so we get a handle on that.

The idea of offloading vehicles off-site, I don't recall that being because they couldn't do it on-site, it was a request to look at more of compatibility issues for you guys. Again, these stipulations were there because your client had concerns and we were trying to find a solution and a compromise to those concerns, and that was just another one.

So I don't have the same feelings you do in regards to this being a CU. If we were to put uses that can go into a C-4 as a CU use in interchange activity centers, I think we'd be changing a broad context of our Land Development Code application, which I see no need to do in that particular issue, especially an interchange activity center with the intensities that are allowed here.

So I just wanted to make that clarification for you.

MR. BROOKER: May I just --

CHAIRMAN STRAIN: Sure.

MR. BROOKER: -- have a brief moment to respond? I appreciate those comments, Mr. Chairman.

With respect to the last go-around in 2011, let me just show you what you've already seen. You saw this in Mr. Hudgins's public comments.

This was a conceptual plan that came out of the last go-around. And you're right, Mr. Chairman, that Mr. Passidomo of my firm appeared late in the last go-around and that this was part of the two Planning Commission hearings that occurred in 2011. And this conceptual site plan was presented as a result of that.

And I understand your comment about conditional uses being -- I'm sorry, conditions being imposed through this process. But frankly, I have been around a lot and, Mr. Chairman, I trust you that those conditions would have been there regardless of whether we appeared because you're good at it. You would have addressed those conditions at any rate.

But the difference here, the significant difference here is this is a conceptual site plan. This was in no way binding. This was just a picture of what could possibly occur, and what we would ask in fairness to First National Bank is that a site plan that has some binding nature to it, some binding nature to it be presented so we can actually see how things will work.

And in a conditional use procedure, that site plan must address ingress/egress, locations of buildings, parking, lighting, utilities, buffering, signage, all of that is required through the conditional use process. And I would submit to you, that would be in fairness to the surrounding landowners who are already there today to see what's going to go in there and really do what we're trying to do today really, but what we're trying to do today in the abstract. So that would be my comment to that.

With respect to the truck deliveries on-site, yes, that came out as a result of concerns and experiences with Naples Nissan to the east, seeing how they were unloading their cars. But it was mentioned during the transcripts that this was not really -- it's not really -- well, it was argued in the transcripts of the previous round that this wasn't a concession to deliver the cars off-site, this was a reality. How do you get a truck of that size -- you saw pictures of delivery trucks earlier -- into that type of plan. Where does it stop? Where does it unload? Where does it turn around?

It's those kind of issues that -- it possibly could be done, I'm not sure. I question the functionality of it. But that's why we need a site plan through a conditional use procedure to chew on all of that, to figure it out for real, rather than in the abstract.

CHAIRMAN STRAIN: And I know, Clay, you've been around long enough to know, and you've worked with plenty of PUDs, the standards that are in a PUD are there to provide the standards for how to construct and how to build and develop a property. They will -- whatever they build there have to be with the limitations of all the development standards: The heights, the setbacks and now the stipulations that we have and all the rest of the creative language that's in the PUD. Failure for a PUD to address anything, that falls back on Land Development Code.

So in essence all the standards are there to box them into a very limited area. They have the flexibility within that area within those standards to do whatever site plan they can come up with.

We don't generally see in detail site plans with most of our PUDs. We see what we see with this one, an area that they intend to develop in and apply the standards that they're approved to comply. If you have some standards that are not addressed in the PUD that you can talk to us about and suggest, we'd certainly be open to listening to them. But I think the PUD has its own set of standards and they're intending to abide by them.

At the same time, Mr. Passidomo had, and I'll read one of the quotes. He got up and he -- they talked about -- Mr. Schiffer, our former commissioner, had asked a question.

Mr. Passidomo responded: They fully acknowledge that there are other uses that are permitted here. And that's why we suggest that when you look at this form from a perspective of what is compatibility in an activity center, is a car dealership compatible. We readily acknowledge it is.

Is a car dealership compatible with other permitted uses in the PUD? We readily acknowledge it is.

Then we go into the issue of the easement. And this was also addressed by a representative at the time, Mr. Arnold. And he acknowledged that the easement is not safe, because of their customers,

communicating back and forth. That is on Page 29 of the transcript that's on record.

Livingston -- Whippoorwill Lane -- they'll have to have all their customers, all employees, go back and forth between what is presumably their outdoor sales and the showroom area and the service area. I think that's a point of a huge conflict and it's one of the components of functional -- incompatibility that Mr. Passidomo spoke about and that I've identified in looking at this from a planner's perspective.

That's why they want to move the easement. That's why the second easement location was offered.

I also went and pulled the Brynwood Center's PUD and the minutes from next door; they're all public record. And on that particular center they weren't intending to provide two access easements, they were only providing one.

And the staff -- the traffic report that they supplied at the time only showed one of the easements. The fact they have two access points only means that if you were to use the southern one it would have been as straight as if the northern one went through the bank property and this car dealership property.

So I don't see any downside to that easement being suggested as one, as it was intended, or being moved. But that vacation is not an operation that this panel is going to be part of.

I just wanted to make that point because it was clear in the previous record in the Brynwood Preserve next door, not necessarily were there two easements anticipated, it was written up as one, so --

MR. BROOKER: I just rely on what the petitioner submitted itself, and that's what's on the screen today. That's what -- this go-around what the petitioner submitted. That's No. 12.

CHAIRMAN STRAIN: I understand.

MR. BROOKER: And with respect to the transcript, I have it too, I've read it. I could quote from it. Mr. Passidomo, back on September 15, 2011 stated: There's three ways you can look at this; this is it compatible with an interchange activity center; is it compatible with the PUD uses; or is it compatible with the existing surrounding land uses?

And Mr. Passidomo stated, I won't quote, but he stated that from First National Bank's perspective the most important of those is the last, is it compatible with them. They exist. Their land use, the surrounding land uses that are in existence today. And that's what Mr. Passidomo was stating on September 15th, 2011.

CHAIRMAN STRAIN: So a car dealership on one side means you can't have one on the other side, and it's not compatible on the other side, it's only compatible on one side of a bank? So that standard that you're suggesting is something we should consider? I mean, I don't understand how that would apply, Clay.

MR. BROOKER: You're sandwiching two -- sandwiching the First National Bank between two car dealerships. They knew going on they were not part of the rezone of Naples Nissan parcel. And they designed their building to have the back of it towards Naples Nissan. Now what's being proposed is that they would be confronting it as well in the front of the building.

So yes, we acknowledge that there's an existing dealership, nobody can say that it isn't. But the existing immediate surrounding land uses are upscale office building and what appears to be assisted living facility.

CHAIRMAN STRAIN: Okay. Well, we could continue to debate it because this one actually has a lot of history.

Your client bought into this PUD with the uses that were in the PUD, some of which are much more intense and probably would be more concerning to your client than a car dealership. For example, a supermarket, an auto parts store. They would probably generate a different kind of traffic.

And by the way, the idea of the traffic having to attempt to make a left out of that center roadway occasionally, it's going to happen no matter use you put in there, whether it's a car dealership or anything else.

But some uses will generate a lot more traffic than a car dealership. And that's been proven by the TISs that have been supplied.

So from that perspective I don't know why your client would be expecting an upscale office environment when none was -- that's not necessarily what the PUD was restricted to.

MR. BROOKER: You're absolutely correct and we cannot argue with what the PUD allows. And they bought into it knowing that. They also bought into it being represented by their sellers what was going to be going in there. And I know that was discussed at length at the last Planning Commission hearing this last go-around so I won't get into it again.

But there was a site plan shown upon which the bank thought it was buying into. But that's neither here nor there because you pointed out at that time, Mr. Chairman, that's an issue between the seller and the buyer.

We are not debating what existing uses can go in there, and you are absolutely right, there could be some that are more intense in terms of traffic.

A car dealership is an animal in and of itself. You have lights, you have night operations, you have noise, you have parking issues which are indisputable. And so those are the types of issues they would like to avoid if they could.

And our position is that if this could be a conditional use as opposed to a permitted use with a site plan that becomes binding through that conditional use process, then there's no harm to anyone. Everyone is upfront, everyone discloses what's going to go there, and everyone has a fair chance of rather than in the abstract dealing with the impacts that are going to result from it and how to mitigate them.

CHAIRMAN STRAIN: So if we put a supermarket or auto parts store or many of the other uses in the PUD that are allowed by right and they only need to come in for an SDP, they wouldn't have lights and noise? They would have, I would argue, probably more lighting because it's going to be -- and more noise for certain, because they may not have an amplified issue like we have stipulated here.

So I'm not -- I don't know if that's a good argument, Clay. But at the same time, this project is supported by the company, Summit Management Group from Kraft. And if they support the project why would they have sold this project without restricting its use to upscale office if they -- if that was the commitment that was made? Because it's not spelled out that way in the PUD.

MR. BROOKER: You raise a good question. I don't know what occurred between the sale to my clients and the sale to Germain's predecessor in ownership. The deed restriction does not appear. And we're getting beyond what is enforceable by the county, as you well know.

I can't answer that, other than to speculate that the economy had a part in it, that the seller was looking to sell the land for whatever it could get at the time. I don't know.

The point is, with respect to did they join this application, did Kraft, whatever entity that is, join this application? Did they? Can someone clarify that for me? I see the unified -- the Covenant of Unified Controls not signed by anyone by Kraft. Kraft owns part of the PUD. They didn't sign it. If there's some sort of joinder or they're moving and they're in support of it, I may be wrong, but I haven't seen it. I've seen no signature by anyone on behalf of Kraft.

CHAIRMAN STRAIN: I was reading from the minutes that were supplied under oath that was stated by Mr. Mulhere at the last meeting in which Mr. Passidomo was present. I didn't see it challenged, so I'm assuming his comments were accurate. Maybe the applicant will enlighten us on that.

But at the same time, the applicant had the opportunity to restrict the uses on the property. Section 11 of their covenants provide that. In example, your very facility was restricted by its uses and its square footage, which you later came in and got an amendment to to expand the square footage of the medical portion that you wanted there.

At the same time, Kraft itself put restrictions on their own property. But I don't find those same restrictions when they sold to Mr. Germain. What I do find is a right of first refusal and a buyback provision, which if this is problematic, there's conditions there in which they can buy the property back, maybe that should be considered if your clients and the Kraft people are not so happy with this.

MR. BROOKER: Where is that right of first refusal? Is that in the deed?

CHAIRMAN STRAIN: It's in the special warranty deed. It's a three-page document. Well, there's two conditions: The time frame to build and after they don't meet the time from to build within so many years, they can have the exclusive right to repurchase the property for the same price as the grantee paid the grantor for the property.

And then: In the event grantee desires to sell the property prior to have construct (sic) and completing the improvements, the grantor reserves the right of first refusal to repurchase the property. Then it goes on to some of the conditions.

And it's -- just so you know, it's OR Book 4659, Page 1293. I mean, that's a possibility too if there seems to be a conflict now between the seller and the purchaser.

MR. BROOKER: Right. And that's not First National Bank, just so we're clear.

CHAIRMAN STRAIN: No.

MR. BROOKER: I'm here on behalf of First National Bank. First National Bank has no right to enforce that.

CHAIRMAN STRAIN: But you had said the issue -- these deed restrictions are between you and the seller.

MR. BROOKER: With respect to our property --

CHAIRMAN STRAIN: Right.

MR. BROOKER: -- not with respect to --

CHAIRMAN STRAIN: Maybe there's an option for you to work something out in that regard if you are that dissatisfied with this project.

Other than that, clay, I don't have any other comments right now. I appreciate your time in responding. Thank you.

MR. BROOKER: I appreciate your time. Thank you.

CHAIRMAN STRAIN: Next speaker, Ray?

MR. BELLOWS: The last speaker that registered is Gary Beyrent.

MR. BEYRENT: For the record, my name's Gary F.X. Beyrent. I'm a registered lobbyist, and I represent Amalgamated Motor Cars.

And I got somewhat of a conflict because I own the property directly across the street from this petitioner. And it's a PUD, it's zoned for gas station, fast food and hotel. And I have a reciprocal agreement with my neighbor to the east to build a 200-unit hotel room across both our PUDs and he would have uses in the front of everything but a gas station.

In any case, the PUD's so old it's actually sunsetted twice.

And a very long story short, I wasn't going to represent Amalgamated Motor Cars, but I had to. So I thought I'd make everything pretty evident here.

Amalgamated Motor Cars objects to this rezone basically because they don't want competition. I'm telling the truth, they just don't want a dealership anywhere near them. And it's really not near them. Amalgamated Motor Cars, their address is 3115 Magnolia Pond Drive. It's five miles away. And their phone number is 434-4330.

And basically that's all I have to say. That's the only reason I'm even here is because they're my clients, so I had to represent them. Thank you.

CHAIRMAN STRAIN: Thank you.

Any other speakers, Ray?

MR. BELLOWS: No one has registered.

CHAIRMAN STRAIN: Any member of the public that's here wishing to speak on this item?

Sir, come on up. Please identify yourself for the record.

MR. BROWN: My name is Glenn, G-L-E-N-N, Brown, B-R-O-W-N.

Good morning, members of the Planning Commission. I am a homeowner and resident of Brynwood Preserve, which is a residential community, the northeast corner of which touches the southwest corner of the subject property.

And I'm not here this morning certainly to advocate in favor of this petition, but what I would like to advocate in favor of is that if the Commission is inclined to approve the petition before you, that at a minimum that you incorporate the 12 stipulations that have been discussed earlier that appear on Page 2 of the staff report, as well as the four additional requirements that the staff has recommended that appear on Page 13 of the staff report.

And I'd like to ask for one additional stipulation that the Planning Commission imposes, and that pertains to the southernmost part of the subject property, which was discussed moments ago, upon which it's improved now by an office building owned by Kraft. And it's my understanding that if this rezoning is approved, allowing a car dealership and used car sales on the property, that it would also apply to the southernmost portion of the property, which happens to be the closest to our community. And there's currently a building there, but if that building was ever removed, then presumably the car dealership

operation could expand into the southernmost portion of the property.

CHAIRMAN STRAIN: No, sir, very specifically no, it could not. The red area on the overhead map you see is as far as where that -- the extended limits of where a car dealership could go. The property to the south, which is those buildings, is not part of this applications in regards to where they would put this use. It could only be in that red area.

So if those buildings were torn down they still couldn't put a car dealership there without coming back through a public process.

MR. BROWN: Thank you for clarifying that, Mr. Chairman.

That's the extent of what I wanted to say today. We're concerned that we want to maintain the peace and beauty of our 85 single-family home community, and we don't want to get a car dealership any closer to us than it has to be.

CHAIRMAN STRAIN: Thank you. And I think your organization came here and we worked closely with you to try to structure some standards to the Brynwood preserve that were to your benefit. You were having trouble with a tire repair shop or something.

MR. BROWN: That's correct.

CHAIRMAN STRAIN: Yeah. Well, you got a wall that's going in and some other stuff when that project north of you gets constructed.

MR. BROWN: That would be very helpful. We appreciate that.

Yes, we can hear from the tire store amplified sounds and phones ringing seven day a week, and that's not conducive to peace and harmony.

But I appreciate your time in listening to me this morning, and I thank you. I am the -- I wasn't at the -- able to attend the neighborhood meeting that was held a few weeks ago, but I am the president of our homeowners association, and I'm sure our residents would be pleased to have the car dealership noise and operation mitigated, if it's going to be approved at all.

CHAIRMAN STRAIN: Thank you very much, sir.

MR. BROWN: Thank you, sir.

COMMISSIONER CHRZANOWSKI: Can I ask a question?

CHAIRMAN STRAIN: Go ahead, Stan.

COMMISSIONER CHRZANOWSKI: Did I hear you right, you said something about four additional staff stipulations on page --

MR. BROWN: 13.

COMMISSIONER CHRZANOWSKI: I only see one on Page 12.

MR. BROWN: My copy has 14 pages, and on Page 13 --

CHAIRMAN STRAIN: Kay?

MR. BROWN: -- there's four additional recommendations.

MS. DESELEM: For the record, Kay Deselem.

He has a previous draft that was not the final draft. What you have before you with 13 pages is the final draft.

COMMISSIONER CHRZANOWSKI: So what are the four? Could you read them out?

MR. BROWN: Well, the first one has to do -- says the interconnection to extend Kraft Lane through the subject site will remain in its current configuration.

Number two, this is very important to us, the prohibition of amplified sound includes phones and pagers.

Number three, any overhead doors to be oriented to the north or east rather than to the south or west. That's quite important to us.

And another neighbor in another community suggested this one and it was part of the recommendations that number four, vehicle road testing along Whippoorwill Lane is prohibited.

So am I hearing those did not make it into the final report?

MS. DESELEM: If I may reply?

That's correct, sir, they're not in the final report. The only recommendation by staff is for the access way, the Kraft Lane.

MR. BROWN: Well, again for the record, I'd like to request that the other three be included as well.

CHAIRMAN STRAIN: We'll have to -- we will discuss each one of those individually with the staff and the applicant.

MR. BROWN: Thank you, sir.

Any other questions?

(No response.)

MR. BROWN: Thank you very much.

CHAIRMAN STRAIN: Appreciate it.

Anybody else in the public wishing to speak in this matter?

Yes, sir, come on up and please identify yourself for the record.

MR. HIGGS: Good morning. Thank you. My name is Clark Higgs, H-I-G-G-S.

I'm with C 1 Bank, headquartered in Saint Petersburg. We acquired the 13 plus acre tract immediately adjacent to the west of the subject property when we acquired the First Community Bank of Southwest Florida which failed back in August of last year.

We have been through this process with the Brynwood PUD, actually the predecessor bank had been through this process, and they met with a great deal of objection based on the potential uses. I think there were a lot of concerns that this parcel would become -- our parcel would become an auto dealership.

We currently have a PUD in place. We've got a contract with an assisted living firm on the rear four and a quarter acres. The other intended uses for the site are retail on Pine Ridge Road and possibly hotel or some similar use in the middle of the parcel.

Had a long conversation with the assisted living facility company just before this meeting and we're here to voice our objections to the approval of this application.

They have expressed very grave concerns about putting a dealership on this property. And quite frankly, even more grave concerns about moving the easement to the southern part of the property, which would be very close to their building.

They intend to make a capital investment of up to \$24 million. 70 full-time equivalent jobs would be generated by this development. I think they're planning on building I think a 120-bed facility. And quite frankly, if this is approved, they have advised us that they will rethink their plans.

For that reason, we would object. We think that it is inconsistent with our PUD in particular and with the other uses in the neighborhood. I'd be happy to answer any questions.

CHAIRMAN STRAIN: Anybody have any questions?

COMMISSIONER CHRZANOWSKI: Yeah, I have one. There's a -- on Page 6 of 13 of the staff report, I suppose I'm looking at the proposed ALF? And the easement runs right by the proposed ALF property. You want this? Can you put this on the visualizer?

MR. HIGGS: I believe that the current easement runs through the middle, which would be north of -- there would be an access road from Pine Ridge that would go down the east side of our property. The connection would be somewhere up between what I refer to as the retail parcel and the hotel parcel. But it would not be immediately adjacent to the ALF facility.

COMMISSIONER CHRZANOWSKI: From what I see, the easement is immediately adjacent to the ALF facility. And if they move the easement across the car lot, it lines up better with your easement -- am I missing something?

MR. HIGGS: It currently is north of the proposed ALF facility.

CHAIRMAN STRAIN: Well, Stan, there may be a way to resolve your question.

Would you put what I just gave you up on the overhead. Brynwood project was approved with two interconnections.

MR. HIGGS: Right.

CHAIRMAN STRAIN: The one that you now believe is the only one you're obligated to is the one in the middle. That's not the way this was approved. It could be either one of these.

MR. HIGGS: I understand that. But the existing easement is the one to the north.

CHAIRMAN STRAIN: That's the existing easement. Doesn't mean there couldn't be another one to the south. And that's something your PUD accepted as part of the approval process.

MR. HIGGS: I understand. If somebody were to request vacation of the existing easement in moving it to the south, we would come back to object.

CHAIRMAN STRAIN: Right. And I think that's the appropriate course to take if that's where you want to be. Right now this Board isn't re -- we're not doing the vacation, but that will be a separate public process if it comes to pass.

MR. HIGGS: Understood. I just wanted to make --

COMMISSIONER CHRZANOWSKI: Just a little editorial comment. The traffic flow at the intersection of Pine Ridge and Livingston is some of the worst I've seen in the county. And thanks, John. So I'm not even going to go there. Just a little editorial comment.

CHAIRMAN STRAIN: Thank you, Stan.

Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Sir, thank you very much.

MR. HIGGS: Thank you all very much.

CHAIRMAN STRAIN: Anybody else wishing to speak?

Yes, sir.

MR. FISCHLER: Good morning.

CHAIRMAN STRAIN: Were you sworn in?

MR. FISCHLER: I was, thank you.

Good morning. My name's Phil Fischler, 1605 Hendry Street, 33901.

THE COURT: Would you spell your name, please.

MR. FISCHLER: F-I-S-C-H-L-E-R.

I'm here on behalf of Fischler Property Company. We're a commercial real estate development investment adviser, and we've been working with the prior speaker and his predecessor as well. I was involved in that PUD that you referenced in 2011 where we were before you to convert the Brynwood Center from ag. zoning to the commercial PUD. And the intent at that time was to create a wide variety of uses consistent with not only the Brynwood Preserve to the south but the Kraft Construction development next to us.

Part of that process approved medical office, regular office, retail, hotel, and a senior living community. Since that time we've been working to bring that to fruition. And as Clark mentioned, we have a senior housing group that's interested in making a \$24 million investment here and bringing 70 full-time equivalent jobs.

You've heard their reaction to this auto dealership. Our concern is that an auto use on eight acres creates a number of conflicts, not only with us but with what their future opportunities will be. I think we all know the uses that like to be around auto dealerships. It's more auto dealerships. So if one gets approved here, we've already been told by our first tenant that they no longer have an interest in being here. We've been given negative feedback from the other folks that we're trying to bring here to create quality construction and develop the PUD that this group approved. They're backing away. They don't want to be next to an auto dealership.

As far as the two easements that were approved, those were both approved under the expectation that what we would be next to would be consistent with what's there today. No one expected loaded 18-wheeler delivery trucks driving by the front door of that ALF community, I can say that with absolute certainty, when those two were approved. It was more let's work together with our neighbors, let's find a way to keep traffic off Pine Ridge Road, let's make for convenient access for ourselves and our neighbors. But at no point did anybody expect that we were going to have 18-wheelers loaded with trucks driving across a community that's going to be filled with people that are 86 years old and frail. So just to speak to the thinking that agreed to that plan right there.

The other thing we have concern about is the hardship that it creates for the current owner. If we do have an auto dealership next door to us and most of the approved uses that are in the PUD no longer will be appealing to the market, our primary buyer is going to be another auto dealership.

But our PUD doesn't allow that. Because the Brynwood Preserve was very vocal against auto

dealers and auto uses of any kind, as we've heard about. That tire store that's at that sound end of Marquesses creates a lot of racket and we heard a whole lot about that. And so we made concessions with setbacks and uses and buffer walls and landscaping to try to work with our neighbors. And we specifically agreed to not allowing auto use on our property.

But if our neighbor becomes an auto use, then we're going to be kind of put into a situation where we're going to probably need to come back to you and ask for that same use as well. So that's a concern that we have.

And I guess in summary is the points that the first group made about taking an auto dealership and putting it on eight acres, putting 10 pounds of potatoes in a -- or 20 pounds of potatoes in a 10-pound bag is a similar concern we have as well.

And being a neighbor to that, we have substantial concerns about the impact that it will have. So with that, I'm happy to answer any questions.

CHAIRMAN STRAIN: Anybody?

(No response.)

CHAIRMAN STRAIN: I have a couple comments to make. One of the stipulations specifically prohibits the trucks that you're concerned about. So unless they're breaking the law, those trucks won't be there. And we can't stop anybody from breaking the law until they do it, but that's a prohibition written into the stipulations that were on the board earlier.

MR. FISCHLER: Parking there or using the access at all?

CHAIRMAN STRAIN: They're not going to be in the area at all. That's not what the intention was. Any delivery trucks are not allowed there. They can be offloaded offsite and the cars are then brought to the site, they're actually delivered to the site individually.

The 10 pounds in a five-pound sack, I don't anticipate this being a Nissan dealer of the size that you have on the opposite side of the bank because there's not enough land for it. But my son goes to college over in West Palm Beach and driving down the roadway leading to his college we pass many of the what I consider boutique car dealers, the upscale -- and over there they happen to be Ferraris, Lamborghinis, I'm sure that can fit in Naples too. But not all car dealerships need to have the spread-out pattern that you see in the Nissan dealership next door.

And then the other item I wanted to make, if you were to come back in for a change in use on your car dealership, just be aware that you're not in the interchange activity center. It ends at this property's western boundary. So you would have a different set of standards and criteria to be reviewed against. So that's all I have.

MR. FISCHLER: It would be even a more difficult hardship for our current owner.

I hear at all your points. I wouldn't want to live next to one. I certainly would not want to put my aging mother in one of them either, next to it in a senior housing community.

So with that, we appreciate your consideration.

CHAIRMAN STRAIN: Thank you.

Okay, is there anybody else that wishes to speak?

(No response.)

CHAIRMAN STRAIN: Okay, with that, Kay, I had some questions for clarification of you. Let me start with those.

Could you clarify the buffer issue that we were asked about?

MS. DESELEM: If you would, please, restate the question so I'm exactly certain or somewhat certain?

CHAIRMAN STRAIN: The document that Clay put up on the board indicated that the dealership would be reducing -- they'll have a 15-foot -- well, I forgot what it said, because I thought it was part of the stipulations, so I'm not sure why now why it was up there.

Our stipulation says there will be a 15-foot buffer with buffer type C plantings along the Kraft Road and along the south property line.

Is that buffer standard or is there any deviation language within that statement?

MS. DESELEM: It's not a deviation, per se. It is a more intense buffer than what would be required.

A 10-foot wide type D buffer would be required along the roadway. They're proposing a hybrid of that, which is their 15-foot wide type C.

CHAIRMAN STRAIN: Okay. Well, then, it's a better buffer, not a less buffer.

MS. DESELEM: That came out as part of the original hearings. It was agreed upon.

CHAIRMAN STRAIN: I want to make sure there was an improvement, not something less. I'm just trying to see if there's anything else.

Oh, the staff's comment that you want to see the easement retained at the location it currently is, that contradicts staff's approval of the Brynwood Preserve that showed two potential easement interconnections. So I'm not sure why you would -- I don't know if you were the planner, but I'm not sure why one would suggest it's approved with two different locations, clearly only one being intended to be used, and yet now we're restricting this one saying that you prefer it to be the north one only.

MS. DESELEM: I'd ask John Podczerwinsky to respond to that.

MR. PODCZERWINSKY: Good morning, Commissioners. For the record, John Podczerwinsky, Transportation Planning Department. And I need to be sworn in very quickly.

(Speaker was duly sworn.)

MR. PODCZERWINSKY: Very briefly, the answer to your question is yes, I agree, it does not match what was approved in the Brynwood PUD.

My understanding is that this comment was not generated directly from transportation staff, this is a directive from management that came around after the staff report was written from transportation.

So I'm a little bit in the dark as to why the exact location of the existing easement is to be retained other than the fact that I think upper management is trying to be sure that it is retained, no matter what, that some form of interconnection easement is retained. The caution being if it's vacated, then we may lose the opportunity to have it rededicated in another location.

CHAIRMAN STRAIN: I think that it would be our responsibility to make sure language is there so that if one goes away there's always another. And I appreciate the clarification, thank you.

MS. ASHTON-CICKO: Also, if I could comment for a moment. If you do go with staff's recommendation, it does conflict with item K under the stipulations under the 13.K.

CHAIRMAN STRAIN: Right. Thank you, Heidi, appreciate it.

With that, I'm sure the applicant may want to have some rebuttal. It's typically what we allow. So if the applicant wants to come forward and -- Bruce, I do have a couple questions, but they may be more related to engineering, or at least one of them would be.

The stormwater for this project, that seemed to come up as a concern because of the amount of apparent stormwater the Nissan dealership has to the rear of their site.

How have you considered the stormwater in this project? I believe there's a -- isn't it a common element as part of the location that already exists on this PUD?

MR. AMICO: That's correct. For the record, Dominic Amico with Agnoli, Barber and Brundage.

The site is served -- the subject eight acres is served by an existing permitted water management system located to the south.

CHAIRMAN STRAIN: And that is in the Declaration of Covenants. That's why I thought that one also served -- would be serving this property as well.

MR. AMICO: That's correct. And there's also the preserve --

CHAIRMAN STRAIN: You need to bring the mic a little closer to you.

MR. AMICO: Also the preserve requirement is met off-site for this property. So both water management and preserves are both off-site.

CHAIRMAN STRAIN: Okay, thank you very much.

Well, Bruce, what I'd like to do is -- and you can comment any rebuttal you want to first, but I'd like to ask Kay to repeat the draft conditions that apparently were sent to a member of the public and he commented on them earlier. I didn't write them because I assumed you had a copy of what you sent out.

MS. DESELEM: I do not have those. If I do release a draft staff report ahead of time, it's with a caveat that it is a draft subject to change. But I do not have what this gentleman has.

CHAIRMAN STRAIN: It's like once you have the toothpaste out of the tube, how do you get it back

in? I kind of --

MS. DESELEM: Very carefully.

THE COURT: So I'd like to ask this gentleman to read those to us again since he has them and you don't. And maybe we can understand from Bruce's perspective. I'll write them down as you read them, then we'll --

COMMISSIONER EBERT: Maybe he can put it up.

CHAIRMAN STRAIN: We can just get them from him.

MR. BROWN: Yes, I'd be happy to.

Number one: The interconnection to extend Kraft Lane through the subject site will remain in its current configuration.

CHAIRMAN STRAIN: Okay.

MR. BROWN: Number two: The prohibition of amplified sound includes phones and pagers.

CHAIRMAN STRAIN: Okay, number three?

MR. BROWN: Number three: Any overhead doors to be oriented to the north or the east rather than to the south or west.

CHAIRMAN STRAIN: Okay. And --

MR. BROWN: Number four: Vehicle road testing along Whippoorwill Lane is prohibited.

CHAIRMAN STRAIN: Thank you very much, sir.

MR. BROWN: You're welcome.

CHAIRMAN STRAIN: Okay, and Bruce, why don't we walk through those.

The interconnection to the site, well, that's going to be a public process through a vacation if you're successful or not. So I'd just as soon we left that to that vacation process and we don't -- this board doesn't hear vacations.

The prohibition of amplified sound, Kay, originally if you sent that out, did you really mean cell phones and pagers? I mean --

MS. DESELEM: No, that was to refer -- it wasn't well written, I admit, but what it was supposed to mean was, you know, we didn't want to have that thing where they're saying, you know, John, line two or, you know, paging John or --

CHAIRMAN STRAIN: That's amplified --

MS. DESELEM: -- actual ringing of a phone going over the overhead system so somebody out in the yard would know to go pick up the phone.

CHAIRMAN STRAIN: That's already covered under the no amplified sound. I think -- that's why I suggest that we exempt personal electronic devices from that. It would be hard to tell anybody they can't have their phone.

MS. DESELEM: Yeah, it was never meant for personal phones, it was for the business operation itself.

CHAIRMAN STRAIN: And the -- Bruce, from the overhead doors, as far as -- your guys are fully air conditioned bays for any kind of work and they will be closed at all times unless you've got a car going in and out; is that correct?

MR. ANDERSON: That is correct, sir.

CHAIRMAN STRAIN: And that's a stipulation we've used with other car dealerships and they've been fine. So I don't think that you're going to be working then with any doors remaining open.

MR. ANDERSON: No, sir.

CHAIRMAN STRAIN: And then as far as the vehicle testing on Whippoorwill Lane, have you given that any thought or have you heard of that before?

MR. ANDERSON: I believe that my client, as well as any member of the public, is entitled to use a public road. That's why we -- and I'll let Ms. Deselem elaborate on why the county agreed with us in that respect, the county staff did.

CHAIRMAN STRAIN: Okay. Clay, did you on -- I mean, Kay, you had that objection first, you withdrew it.

MS. DESELEM: Yes. It came out from the neighbor information meeting, based on experiences

with the other car dealership.

Staff's thinking was that, you know, it could be done internally with the salespeople being directed not to do that. But in reality, it is a public road and people are entitled to use a public road.

If it becomes an issue of speed, then they go to law enforcement.

CHAIRMAN STRAIN: And is Whippoorwill supposed to be eventually connected? Isn't that the controversial road at the end that connects over to Livingston, that --

COMMISSIONER EBERT: It is.

CHAIRMAN STRAIN: -- even though it was on the books to be always connected, there was some brouha over that?

MS. DESELEM: I'll defer to John on that.

CHAIRMAN STRAIN: Right now it's a dead-end road, I think.

MS. DESELEM: That's correct.

MR. PODCZERWINSKY: Just for a quick update on that question, my last understanding of the interconnection between Whippoorwill Road and Whippoorwill Lane, that has been taken off the books and is no longer a possibility at this point. It's no longer in our current capital improvement plan.

We did attempt to take that before the Board sometime over the last year or so and that was shut down, due to neighborhood concerns.

CHAIRMAN STRAIN: Okay.

COMMISSIONER CHRZANOWSKI: Do you want an editorial comment on that too?

CHAIRMAN STRAIN: Sure. Stan, you're great for editorials.

COMMISSIONER CHRZANOWSKI: That should be done, but --

CHAIRMAN STRAIN: Okay. Did you have something?

COMMISSIONER ROMAN: I had a question, Mr. Chair.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER ROMAN: Yes, for staff. What buffer is required on the west side of the subject property? It's the one towards the Brynwood.

MS. DESELEM: Can I look it up and get back to you on that?

COMMISSIONER ROMAN: Yes. Because that one has not been addressed that I saw.

MS. DESELEM: It would be whatever the LDC requires, and I'll look that up and let you know. Oh, he's got it right here.

Okay, thank you for indulging me. It's a type A that would be required. It's commercial property abutting commercial property. And an A is a 10-foot wide buffer.

COMMISSIONER ROMAN: With only trees?

MS. DESELEM: Yes.

COMMISSIONER ROMAN: And maybe there's a possibility for us to look. It seems to be a concern for that property to the west. If in fact the subject property would be developed as a new car dealership, there might be a way to look at improving that buffer.

I have a question regarding the new car dealership and the parking that's come up a couple of times with some of the public speakers. And I would like to know, is there a ratio for calculating parking spaces for a new car dealership?

MS. DESELEM: Yes, there is a matrix in the Land Development Code. I don't know off the top of my head what it is. Ray has the Land Development Code, we can take a peak and see if we can find it.

COMMISSIONER ROMAN: And could you clarify, and maybe this is better for the applicant, but could you clarify why a new car, 65 percent, one of the speakers brought up, 65 percent would be new cars only at the dealership, why that stipulation would improve the conditions?

MS. DESELEM: I will let Bruce address it. But I can tell you where it came from. It came from the prior hearing.

CHAIRMAN STRAIN: Yeah, that was one of the stipulations that we imposed on the prior Planning Commission as a result of input from the applicant in discussion with some of the opposing parties.

In this county if you wanted to have -- for example, let's use one that everybody at least might be familiar with and that's the Stevie Tomatoes bar versus restaurant. They were permitted as a restaurant but

the concern has been they're operating as a bar. In order to show that you're a restaurant, 51 percent of your receipts have to be for food, and that means 49 percent can be alcohol. But even though you run the alcohol late at night and you don't serve much food because 51 percent of the business sells food, the rest is considered -- it's still restaurant, because it's not a bar until you get above 50 percent alcohol.

Same with cars. If you have a car dealership and you want to sell new cars, as long as you sell above 50 percent new cars, you're a new car dealership. But as an accessory use to a new car dealership there are used cars. So to try to find a better compromise in this particular project and its location, the applicant offered to retain at least 65 percent new cars, and the balance would -- no more than the balance would be used cars.

COMMISSIONER ROMAN: Now, the question that I had, and maybe it wasn't clear, I notice that Mr. Hudgins requested that we consider adding "at all times" to that 60 percent in his comments, or what I thought I understood that he said.

My question is, just for clarification, is there a difference in intensity for the use of the site if there are -- if there is a higher inventory of new cars versus used cars? Is that why he's asking that?

CHAIRMAN STRAIN: Well, I don't know what his particular reason was, but the intensity of a used car dealership would increase the amount of repairs and other vehicle activity involving that. And sometimes your used cars are not as shiny and polished as the new cars. It also brings in a different demographic.

So I think there are advantages to having a greater number of new cars and that's why it was stipulated that way in the past Planning Commission.

COMMISSIONER ROMAN: Okay, thank you.

MS. DESELEM: If we may, we're ready to respond to your question about the parking.

COMMISSIONER ROMAN: Okay, thank you.

MR. BELLOWS: For the record, Ray Bellows with Zoning Services.

The parking requirement for an auto dealership is one parking space for 400 square feet of building area except service body shop buildings which are calculated at 3.5 per service bay or one per 250 square feet, whichever is greater.

CHAIRMAN STRAIN: So based on the size of the building, they'd have a very limited amount of parking needed because of the square footage. But then you work into the display, and that's really to whatever they generally can fit on site. And the request was previously asked that the -- if it was to be considered allowable that they limit it to 266 spaces.

And I guess that's something we can ask the applicant to consider and respond to in rebuttal.

COMMISSIONER ROMAN: Yes, because I just saw, you know, from the concerns that some of the members of the community have, you know, there's some parking issues related to the other dealership that's in the same area. And it was clear by some of the photos that there seems to be a lack of parking space for whatever reason. So I want to make sure that there is a calculation and that we keep that into consideration. Especially if we're going to consider no parking on Kraft, that Kraft extension there.

CHAIRMAN STRAIN: But see, that's more of a matter of Code Enforcement and legal actions to respond. Because one dealer acts inappropriately, we don't want to be judging all of them by that. We set the rules, and if they aren't followed, it's up to the citizens who recognize these things to make the calls to Code Enforcement and others and try to stop the inadvertent -- or whatever the activity is that's apparently not legal. Ray?

MR. BELLOWS: I'd also like to point out that at the time of site development approval, if the PUD is silent to a specific parking requirement then the requirements of the LDC are applied to ensure that it's consistent with code. So a PUD can have its own parking requirement or if it's silent to it then the parking requirements of the LDC apply. And we ensure that those parking -- the required parking is provided at that time.

CHAIRMAN STRAIN: Ray, the photographs that were shown here today that were taken on Monday certainly don't appear to be consistent with our codes. Parking on the sidewalks, parking on --

MR. BELLOWS: That is definitely a code issue.

CHAIRMAN STRAIN: -- right-of-ways. Well, then why don't we make sure Code Enforcement

follows it up.

COMMISSIONER ROMAN: Exactly.

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: Since it was presented today. And we can at least try to nip it in the bud because of the presentation we saw. And if there's any more, hopefully someone will point it out.

MR. BELLOWS: Correct.

COMMISSIONER ROMAN: And sometimes when things run smoothly then you don't have the objections later on when another project is being presented. Usually it's because of the frustration with maybe things that aren't running smoothly with a particular project that causes the opposition.

COMMISSIONER CHRZANOWSKI: But a car dealer is a different animal when it comes to parking. Because if you look at the Nissan dealer, they're parked four deep in most areas and you wouldn't do that as parking. It's only because it's like valet. They move cars as they need to.

MR. BELLOWS: Yeah, those are the car display areas.

COMMISSIONER CHRZANOWSKI: Yeah, they're display areas, yeah.

CHAIRMAN STRAIN: Okay, Bruce, do you want to move into your rebuttal? Or let's put it this way, you can start -- if you have any comments you want to put on record in response to what you've heard then I've got a list of things I want to talk to you about.

MR. ANDERSON: Just a very few. Number one, I have displayed here on the overhead from the application that was originally filed for the Brynwood Center PUD. In fact, they did request the right to have an auto dealership. Now, that was subsequently removed, I'm not sure why. But to get up and tell you that Brynwood Center finds it incompatible and doesn't want a car dealership there, it's quite curious that they originally requested one.

Secondly, there is a longstanding official interpretation issued in 2004 that is very specific to this PUD. And it says that an auto dealership can be compatible with surrounding uses under the currently existing conditions in the PUD, much less the dozen that we have agreed to.

The Planning Commission and the Board of County Commissioners have previously made findings that an automobile dealership is a compatible use next door to a residential area on one side and a true office only park on the other side. That occurred last year when the former King Richard's Fun Park was approved to be rezoned for an auto dealership.

And at this point we'll be glad to respond to other questions that you may have.

CHAIRMAN STRAIN: Okay. And I think it would be an appropriate time to give Cherie' a break. Her fingers are probably a little worn out. So let's take a 15-minute break and resume at 10:45 and finish up.

MR. ANDERSON: Thank you, Mr. Chairman.

(Recess.)

CHAIRMAN STRAIN: Thank you, Ray.

If Mike was sitting there, those 10 seconds would not have occurred.

MR. BELLOWS: I know. He's always got --

CHAIRMAN STRAIN: He would have pushed that button immediately.

If everybody will resume their seats and we will continue on. And Bruce had just finished his rebuttal remarks.

I have some questions, but maybe the rest of you may have.

Does anyone have any comments they'd like to talk to Bruce about first?

(No response.)

CHAIRMAN STRAIN: Bruce, I've made some notes for some discussion items. One of the items that should this go forward that needs to be added to the list of stipulations, at least these are considerations for your coming, that there will be no -- no parking signs will be added to the right-of-way in between the bank and your building and along the easement. Okay?

MR. ANDERSON: That's reasonable. As long as the county will give us a right-of-way permit to put the signs in. Oh, no, it's not a public right-of-way. Yes, no problem.

CHAIRMAN STRAIN: There was a number brought up for the total allocated parking spaces. I'm assuming it must have come from some prior plan or something, but it was 266 spaces. Do you have from a

planning perspective any objection to that?

MR. ANDERSON: Yes. We'll comply with the Land Development Code. I mean, that's more than adequate.

CHAIRMAN STRAIN: Well, I need to see where you stand on them, and then this Board will determine what they want to do with it.

Under the parking restrictions, we're going to add back in the words no parking in the right-of-way or the easement. I think that's a given.

MR. ANDREA: That's fine. I mean, public right-of-way includes an easement, but that's fine.

CHAIRMAN STRAIN: Okay. Well, it helps.

We're going to make sure we add that the amplified sound is not in regards to personal electronic devices.

Do you have any objection to providing a notice to the potential buyers through the salespeople, and it can be verbal or however, to avoid vehicle testing on Whippoorwill Lane? It's not a prohibition, it's a request just for advice. I think as a friendly neighbor gesture there would be nothing wrong with you advising your salesmen to suggest the buyers not to use that roadway.

MR. ANDERSON: Sure.

CHAIRMAN STRAIN: Okay. The car dealership, if it were to go in, compared to the Brynwood Preserve, you talked about a type A buffer, and that really is probably a less intense buffer. You've obviously accepted the idea of a wall going in, or a buffer going in on other locations but no walls. But I think a wall along that western boundary line, if a car dealership goes in, would help the compatibility issues for some of the uses proposed there.

MR. ANDERSON: Could we instead simply increase the intensity of the buffer with additional plantings?

CHAIRMAN STRAIN: I think as long as part of the intensity increase was a hedge.

COMMISSIONER ROMAN: Well, that would be a type C, wouldn't it? Wouldn't that be a type C buffer, which is the more --

CHAIRMAN STRAIN: Putting it in a 10-foot -- well, if you want to convert to a type C with a hedge. The hedge or a wall is important. It's an opacity issue.

COMMISSIONER ROMAN: Here's the diagram here. Yeah, an improved --

CHAIRMAN STRAIN: Well, you can do it with a B too then, it looks like, isn't it? No?

COMMISSIONER ROMAN: Well, it's a -- you know, you've got the overlap of the trees in the type C. And that was one of my concerns that would be addressed.

CHAIRMAN STRAIN: Well, it would be a type C then at 15 feet like the rest of the project is?

COMMISSIONER ROMAN: I think we've put type C in 15 feet before.

CHAIRMAN STRAIN: Well, we have. Quite a few projects ask for that modification.

So instead of a type A, which is just the spacing of trees, either a wall or a hedge in the form of a type C would be more appropriate for that location with the neighboring parcel.

You don't have to agree to it. We can still stipulate it. I was just hoping you would agree to it.

MR. AMICO: Maybe a little explanation. I just put a plan up on the overhead, which is a preliminary SDP plan that was provided by county staff.

CHAIRMAN STRAIN: The mic's not picking you up, Dominic. Sorry.

COMMISSIONER ROMAN: I don't think the mic's working.

MR. AMICO: Up on the overhead is a preliminary plan that was supplied to us by county staff, which is of the Brynwood project. It's a preliminary SDP plan.

The portion from here to here is our abutting property. You can see they have -- what we would be buffering is a road, a retention area before we got to the area that they're talking about putting a hotel on. I'm not sure that a wall --

CHAIRMAN STRAIN: That's --

MR. AMICO: -- between a car dealership and a road makes a lot of sense.

CHAIRMAN STRAIN: Well, and one of the parties that presented to us today suggested the wall. I'm suggesting that as an alternative a landscape buffer with a hedge would be sufficient, especially on the

conditions you just showed.

MR. AMICO: Yeah, we're agreeable to the hedge.

CHAIRMAN STRAIN: Okay. So you'd be putting a 15-foot type C buffer all the way around the site then except for the front.

MR. AMICO: Well, they're commercial, we're commercial. They're going to have a 10-foot requirement, we're going to have a 10-foot requirement. Combined you have a 20-foot buffer. We're agreeing to --

CHAIRMAN STRAIN: Ray, is that --

COMMISSIONER ROMAN: Can you put a type C in 10 feet?

MR. BELLOWS: No. We just got an email from Mike Sawyer, and he's saying a type C buffer will not fit into 10 feet due to the double row of tree requirement.

CHAIRMAN STRAIN: Okay. Dominic's point that we're going to have a commercial operation next door, what kind of buffer would they have next door on the side of the road up against this car dealership?

MR. BELLOWS: I think Kay mentioned that already, it was a type A.

COMMISSIONER ROMAN: Even though it was a roadway? Would that be considered a right-of-way, since they are going to be using that?

MR. BELLOWS: Is that a driveway or a roadway?

COMMISSIONER ROMAN: Because that's going to connect to Livingston, as I understood.

MS. DESELEM: For the record, Kay Deselem.

At first blush they would -- it's a right-of-way, but normally it's commercial to commercial with a zoning. I'd have to confer with Ray and see what his impression might be.

CHAIRMAN STRAIN: Hey, Mike, since you're watching this, would you email Ray?

MR. BELLOWS: It's type D, he says.

CHAIRMAN STRAIN: Type D?

MR. BELLOWS: Yeah. As in dog.

COMMISSIONER ROMAN: And could you show us Type D.

COMMISSIONER HOMIAK: 10-foot type D, that's what Kay said before, commercial to commercial.

COMMISSIONER ROMAN: She said type A before.

CHAIRMAN STRAIN: The dimension varies 10, 15 or 20, depending on right-of-way width. So that would be the smallest right-of-way because it's only 25 or 30 -- it would be a private drive. So you'd be looking at -- isn't that culling out a staggered hedge row? Yes, it is. So you'd still have a hedge row but with a type D buffer. And that would get you your 10 feet type D buffer. Okay.

Dominic, do you see any problem with that?

MR. AMICO: So you're asking for us to provide the D buffer?

CHAIRMAN STRAIN: You'd have to put on your side a 10-foot type D buffer.

MR. AMICO: That's fine.

CHAIRMAN STRAIN: Okay.

Diane?

COMMISSIONER EBERT: I just have just to clarify something. There's no parking on the Kraft Road or the right-of-way or any access easement. And only parking, Bruce, within the designated spaces within the car dealership, correct?

MR. ANDERSON: Yes, ma'am. Yes, ma'am.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: I'd like this Board, when we make a motion, to consider not supporting the staff recommendation but instead to support language to be added as a stipulation that should the petitioner attempt and be successful to vacate the existing easement that because of the language we have in item No. 12 requiring an additional easement they would not have to come back in and amend the PUD. I don't want to see that having to force the whole public process again. It doesn't make -- it seems kind of wasteful to do that. So I'd like to address that upfront.

This Board doesn't make any decision on the vacation, it's not our jurisdiction.

COMMISSIONER HOMIAK: Is that added to K, or what?

CHAIRMAN STRAIN: We could add it to K as a statement there.

MS. ASHTON-CICKO: I don't think you need it. I think it just says that -- I guess the issue would be if they want to vacate it and they don't want to replace it, then they'd have to amend the PUD.

CHAIRMAN STRAIN: Right, I want to make sure they got to replace it. That's --

MS. ASHTON-CICKO: Yeah, that's in K. So I think you can leave it as-is. You can leave K as it's currently written, you don't need to add anything.

CHAIRMAN STRAIN: Okay, good. We'll take that out.

Okay, those are the only comments I had from today's meeting in addition to the ones from the prior Commission meeting. Does anybody else have any issues?

(No response.)

CHAIRMAN STRAIN: Bruce, did you have anything else you wanted to add?

MR. ANDERSON: No, sir, thank you very much.

CHAIRMAN STRAIN: Okay. And staff, I assume you're fine at this point?

MS. DESELEM: We're good to go.

CHAIRMAN STRAIN: Okay. So with that, we'll close the public hearing and we will entertain a motion.

Anybody on the Planning Commission wish to make a motion?

COMMISSIONER CHRZANOWSKI: I move we approval PUDA-PL20130001919, Pine Ridge Center West PUD with all the stipulations as listed.

CHAIRMAN STRAIN: Okay, is there a second to the motion?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Okay. Before we vote, I want to make sure we've -- we'll read these again so that we've got everything accurately listed because there was some discussion that occurred.

There will be no parking signs posted in the right-of-way.

In the parking restriction language there will be added "or within the easement".

The amplified sound does not apply to personal electronic devices.

The dealership will notice their salespeople to advise potential buyers to avoid the vehicle testing on Whippoorwill Lane.

There will be a type D buffer added to the west property line between the car dealership and Brynwood Preserve.

And the staff recommendation is not supported.

MS. ASHTON-CICKO: May I ask a question?

CHAIRMAN STRAIN: Yes, ma'am.

MS. ASHTON-CICKO: There was some discussion on parking. Is that part of it?

CHAIRMAN STRAIN: The applicant didn't have a concept plan firm enough to commit to that --

MS. ASHTON-CICKO: Okay.

CHAIRMAN STRAIN: -- so it's going to go strictly by what the LDC says and what they can utilize the site for based on the restrictions they have.

MS. DESELEM: If I may ask another question?

CHAIRMAN STRAIN: Sure.

MS. DESELEM: What width type D buffer did you wish to have?

CHAIRMAN STRAIN: Ten feet.

MS. DESELEM: Ten feet.

CHAIRMAN STRAIN: But with the plantings required as shown on the diagram in front of us, the standard LDC plantings.

Okay, does anybody else have anything?

(No response.)

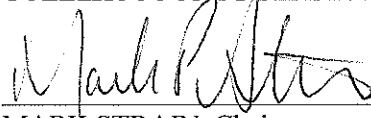
CHAIRMAN STRAIN: If not, does the motion maker and the second accept the clarifications?

COMMISSIONER CHRZANOWSKI: Yes.

COMMISSIONER HOMIAK: Yes.
CHAIRMAN STRAIN: All those in favor, signify by saying aye.
COMMISSIONER DOYLE: Aye.
COMMISSIONER EBERT: 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 7-0.
Thank you everyone very much for your participation and time today.
And with that, we will move on to the rest of our rather busy agenda.
MR. ANDERSON: Thank you very much.
CHAIRMAN STRAIN: Thank you.
There is no old business that we have listed, there is no new business. Is there a motion to adjourn?
COMMISSIONER ROMAN: So moved.
CHAIRMAN STRAIN: Made by Charlette.
COMMISSIONER EBERT: Second.
CHAIRMAN STRAIN: Seconded by Diane.
Everybody in favor, signify by saying aye.
COMMISSIONER DOYLE: Aye.
COMMISSIONER EBERT: 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.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 10:57 a.m.

COLLIER COUNTY PLANNING COMMISSION



MARK STRAIN, Chairman

These minutes approved by the board on 5-1-2014 as presented or as corrected _____.

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