

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida, May 1, 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:

CHAIRMAN: Mark Strain
Stan Chrzanowski
Mike Rosen
Diane Ebert
Karen Homiak
Brian Doyle
Charlette Roman

ALSO PRESENT:

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

PROCEEDINGS

CHAIRMAN STRAIN: Good morning, everybody.

If everybody would please take their seats so I can ask you to rise again for Pledge of Allegiance, please.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Thank you. And welcome to the Thursday, May 1st meeting of the Collier County Planning Commission.

Will the secretary please do the roll call.

COMMISSIONER EBERT: Yes. Good morning.

Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER EBERT: Mr. Chrzanowski?

COMMISSIONER CHRZANOWSKI: Here.

COMMISSIONER EBERT: Mr. Rosen?

COMMISSIONER ROSEN: Here.

Ms. Ebert is here.

Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER EBERT: Ms. Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER EBERT: Mr. Doyle?

COMMISSIONER DOYLE: Here.

COMMISSIONER EBERT: Ms. Roman?

COMMISSIONER ROMAN: Here.

CHAIRMAN STRAIN: Thank you.

Ray, this is a GMP meeting as well as some zoning. And Mike is usually up here making sure I start at a split second and do things that the clock tells me to, so I'm glad to see that you're here making life a littler simpler for me today.

Addenda to the agenda. I've had a request, which I hope this board will grant, to move the Walgreens project up to a time-certain, and I suggested between 11:00 and 11:30.

The Walgreens project is tied to the YMCA property, and the representative of the YMCA is a volunteer, so they're trying to coordinate their schedule with a time-certain. And is that okay? Anybody from the Planning Commission have an objection to that?

(No response.)

CHAIRMAN STRAIN: Okay. So we'll pause somewhere close to 11:00 -- between 11:00 and 11:30; move into that before lunch.

Just for the Planning Commission's agenda benefit, we have to fit in an LDC meeting or two. This month along with everything -- the other two meetings that we have that are pretty booked up, including this.

And just so you know, the reason for that is, as we all know, the Board of County Commissioners goes on vacation over the summertime. And we're trying to get as much to them before they leave so we don't hold up a lot of -- a lot of issues.

So with that in mind, we've got two tentative -- well, two meetings scheduled for the Land Development Code for this month in addition to our Thursday meeting. The first one will be at 5:01 on May 19th. And the reason it's at 5:01 is we're required by law to have meetings on the Land Development Code that involve changes to zoning. The first meeting has to be in the evening so the public that may be working -- or more public can possibly attend.

Now, that will start at 5:01, and we'll go to 8 o'clock. I don't know how many of those we'll finish that night. If we're lucky and finish them all, that's great. If not, the continued meeting would be to 5/21, I believe.

And, Ray, was that the last -- I was talking to Caroline. She was looking at --

COMMISSIONER HOMIAK: 5/22.

CHAIRMAN STRAIN: 5/22. Yeah, I'm sorry, 5/22 was the -- in the morning. I don't know, but we'll announce that at the 5/19 meeting when we continue it, but I think it was 10 o'clock in the morning, something like that.

So those two dates, if you could put them on your calendar. Does anybody know if they're not going to be available in the evening on 5/19?

COMMISSIONER ROMAN: I won't be available, Mr. Chair.

CHAIRMAN STRAIN: Okay. What about 5/22?

COMMISSIONER DOYLE: That's a daytime meeting?

CHAIRMAN STRAIN: Yes.

COMMISSIONER DOYLE: I won't be available for that.

CHAIRMAN STRAIN: Okay. Well, at least we'll still have a quorum so we can continue with those.

Our next regular meeting is May 15th. That's our Thursday meeting. Does anybody know if they're not going to make it? I think we have one absence.

Mike, is that the meeting you're -- oh, you're going to leave early today?

COMMISSIONER ROSEN: Today.

CHAIRMAN STRAIN: Anybody else?

COMMISSIONER DOYLE: I won't be at that meeting. I have a deposition.

CHAIRMAN STRAIN: Okay. Thank you.

We'll move on to approval of minutes. We were all electronically sent our April 3rd minutes.

Anybody have any changes to those?

COMMISSIONER HOMIAK: Motion to approve.

CHAIRMAN STRAIN: Made by Ms. Homiak.

COMMISSIONER ROMAN: Second.

CHAIRMAN STRAIN: Second by Ms. Roman.

All in favor, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER ROSEN: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

Ray, do we have any recaps?

MR. BELLOWS: Yes. On April 22nd the Board of County Commissioners heard the RPUD for the Dockside PUD. That was approved on their summary agenda, so it was approved subject to Planning Commission recommendations.

CHAIRMAN STRAIN: Great. Thank you.

Chairman's report. I'm going to, just for the sake of the audience here, lay out what we're going to be doing today.

This is a Growth Management Plan hearing as well as a rezone hearing for some items. The Growth Management Plan issues are adoptions. They've already been here for transmittal, so we're going to be hearing them the second time around and response from the state. And some of those have a rezone application with them. That will be the first and only hearing on the rezone for this board. Everything we do is a recommendation to the Board of County Commissioners.

The next hearing on these issues will be probably in June before the Board of County Commissioners. I don't know the exact dates, but I'm anticipating that's what it will be.

The first item we're going to have up is Naples Reserve. That is a GMP issue, Growth Management

Plan.

The second item will be the Buckley mixed-use subdistrict both for the Growth Management Plan review and for the rezone to a PUD.

The third item up will be the Olde Florida Golf Club. That's off Vanderbilt Beach Road extension. That's here for a Growth Management Plan adoption and a PUD.

And the last item that was now moved to about 11 o'clock is the YMCA's property for a rezone for a Walgreens. It's called Walgreen Naples rezone on Pine Ridge Road.

That's the order -- that's the items we're going to be hearing today. If anybody wants to speak, we do have speaker slips out in the hall, but I will try to remember to ask between each item. If anybody wants to speak, you can just come up and identify yourself. We like to use the speaker slips, but they're not something that we strictly adhere to.

***So with that in mind, we'll move on to the advertised public hearings, and the one up is PL20120000139/CP-2013-1. It's for the Naples Reserve Residential Planned Unit Development.

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

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

CHAIRMAN STRAIN: Discussion -- or disclosure on the part of Planning Commission?

Anybody? We'll start with Stan.

COMMISSIONER CHRZANOWSKI: I've emailed -- I've had email correspondence with Maureen Bonness.

CHAIRMAN STRAIN: Okay. Anybody else? Diane.

COMMISSIONER EBERT: I just spoke with -- I just spoke with --

COMMISSIONER MURRAY: Mulhere.

COMMISSIONER EBERT: Yeah, Mr. Mulhere.

CHAIRMAN STRAIN: Okay. Karen?

COMMISSIONER HOMIAK: I spoke to Mr. Yovanovich.

COMMISSIONER DOYLE: I had spoken with Richard Yovanovich as well.

CHAIRMAN STRAIN: Okay. Charlette?

COMMISSIONER ROMAN: None.

CHAIRMAN STRAIN: Okay. And I spoke with Richard and maybe Bob. I don't even remember now. But we -- I did have conversations with them as well as staff.

So with that in mind, I'll turn the presentation -- David, do you want to make an introduction since it is a GMP issue? One of them is at least.

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

Mr. Chairman, I think you covered my introductory remarks, but I surprised the petitioners this morning with something, and so they've asked me to go first, very briefly. I won't make a detailed presentation.

Regarding the Naples Reserve PUD, you might have noticed that the staff recommendation changed from transmittal to adoption. At transmittal we had recommended approval. We did, in the staff report, identify some concerns but, nonetheless, recommended approval based upon the data and analysis provided by the applicant.

Subsequently at the board hearing for transmittal, the board gave some direction for the applicant outside of the actual GMP amendment -- that is not part of the text amendment that they're proposing -- to work with one or more persons within the sending lands within one mile of the urban area from which they presently are required to obtain TDR credits for the urban residential fringe subdistrict portion of the Naples Reserve PUD.

In the adoption staff report for this petition, staff changed its recommendation to approval but with the requirement that 30 percent of the TDR credits needed for the urban residential fringe portion of the project continue to come from within one mile or, conversely, that only 70 percent of those TDRs could come from beyond the one-mile sending lands.

And a key part of that recommendation was not board direction, because we don't typically change our recommendation based upon what the board has done any more than we do for this body's

recommendation. You function independently and so does staff; however, mistakenly I, and perhaps other staff, had thought that we had not contemplated the fact that the PUD might also come in for an amendment because this PUD already contains language identifying where the TDR credits will come from.

Well, mistakenly, because, in fact, in that transmittal staff report we do acknowledge that very eventuality, that potential. That was the basis for our changing in recommendation.

Well, the PUD already requires them to obtain a certain number of TDR credits from those what we call qualified sending land within one mile of the urban residential fringe. So even if the GMP language changed, the PUD still required them to come from within that one-mile corridor.

But because staff had already acknowledged at transmittal the potential for the PUD to be changed and, nonetheless, we recommended approval of their plan amendment without restrictions, it seems completely improper for staff to come up at adoption hearing and say we changed our minds.

And so the recommendation from staff is the same as it was at transmittal and that is approval of this petition without limitations.

CHAIRMAN STRAIN: Well, good. That will save me a lot of discussion that I had planned to have this morning.

But at the same time, a lot of the members of the Planning Commission may not have familiarity with the reasoning of the rural fringe. In fact, I doubt if, including staff, that anybody in Collier County has an understanding of the reasoning for the rural fringe. It's a very difficult and cumbersome overlay, to say the least.

So would you -- why don't I -- because I'm -- you were more involved than anybody else, could you tell us why the philosophy was originated that required the TDRs to come within that first one-mile area as a preference compared to the overall program?

MR. WEEKS: Well, the assertion had been made by landowners within that one-mile corridor -- again, that's the first one mile of sending lands east of Collier Boulevard. The first mile east of Collier Boulevard is designated urban residential fringe. Then you get to the sending lands, and they go on for a few miles.

In that one-mile corridor of sending lands touching the urban area, landowners asserted that the value of their property, their sending lands, was greater than the value of sending lands more distant from the urban designated area because they were closer to the urban designation. They were closer to infrastructure, including water and sewer.

And staff, doing some data collection from property appraiser records, we agreed with that assertion.

The property owners, as I recall, had asserted, because of the increased value -- well, "assert" -- they expressed their desire that they should be able to generate more TDR credits within the one-mile corridor from the more distant lands because their land was more valuable.

Ultimately, what the County Commission did was leave the TDR generation the same for those one-mile lands, but they did give them the advantage of being the only sending lands that could transfer the density credits, TDR credits, into the urban residential fringe subdistrict, that one-mile corridor of urban on the east side of 941.

Stated differently, sending lands within the one-mile corridor east of the 951 can be transferred to any receiving areas. All other sending lands can transfer their credits to any receiving lands except for the urban residential fringe along 951.

So it all had to do with -- the short answer is it had to do with the value of those properties.

CHAIRMAN STRAIN: Something you said that -- one of the reasons that this land that's this one mile -- actually, it's within the -- it's the two-mile section past 951, because the first mile is the urban fringe and the second mile is where this supposedly more valuable environmentally sensitive land is.

I thought you said it was more valuable because of the proximity to the infrastructure. I mean, that -- sensitive land doesn't get more valuable because of proximity to infrastructure. Actually, it would be more problematic.

MR. WEEKS: Well, the assertion was because it's closer to the urban designation, it's closer to urban services, the potential -- the demand or the potential demand for development of those properties is greater than those more distant. If you're six miles from the urban area, why would your land be at the same

value of one that's right next to the urban area?

We're extending water and sewer lines, your proximity to roadways, urban services, shopping, et cetera, et cetera. Why would those lands more distant be of the same value as those close?

And, again, maybe I wasn't clear. This is during the amendments to create the rural fringe mixed-use district including the sending lands. So at the time of the public hearings, those properties within one mile, as well as all of those future sending lands were, in fact, simply designated agricultural rural. They were allowed to develop at one unit per five acres. They were eligible for conditional uses for churches and childcare, you know, very much like the agricultural zoning district would allow.

So, again, that argument that we're right next door, our land is more valuable, and the property appraiser records, the research staff, did verified that.

CHAIRMAN STRAIN: Okay. So the theory, then, is that if we're closer to an already urbanized area, we're better off protecting a strip and making the land further out less valuable so that it gets developed sooner and we end up with more leap frogging and haphazard development instead of concentrated development?

MR. WEEKS: Not at all, because those more distant lands are also designated as sending. They also had a significant reduction in their development rights, including density.

CHAIRMAN STRAIN: Right. But they're not considered as valuable as the land closest to where the urban area is.

MR. WEEKS: Monetarily valuable. I'm not talking about habitat value.

CHAIRMAN STRAIN: Oh, so this was a monetary --

MR. WEEKS: Yes.

CHAIRMAN STRAIN: -- decision, not an environmentally sensitive decision.

MR. WEEKS: Correct.

CHAIRMAN STRAIN: Okay. Well, that helps clarify a lot of it, since the purpose of the rural fringe -- one of the purposes was to preserve more environmentally sensitive land for the benefit of developing more -- less environmentally sensitive land.

MR. WEEKS: That was the prime reason for the rural fringe, to protect --

CHAIRMAN STRAIN: Okay. Thank you.

MR. WEEKS: -- habitat.

COMMISSIONER CHRZANOWSKI: Could I ask something?

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER CHRZANOWSKI: So why do you have to force people to buy land in that one mile? Is it strictly money? I mean, you put a percentage on it. You said you have to buy 30 percent of your credits or whatever within that mile. Is that just -- because they won't do it if you don't force them to?

MR. WEEKS: Well, the applicant probably could better respond to that. But as I recall from the transmittal hearing, I think their position is, a lot of the -- some of the sending lands within the one-mile corridor are comprised of small properties. I mean, their parcel sizes vary. And for them to obtain the number of TDR credits they need for their project, they have to buy a lot of TDR credits. They're going to need to -- well, I said it, buy a lot of TDR credits.

It's easier to negotiate with, say, one landowner that can provide all the TDR credits you need rather than to have to negotiate with 25 different landowners or smaller numbers to aggregate into the total number you need. And I think that's the way they explained it at the transmittal hearings.

And part of that negotiation, of course, is the price, how much the seller is willing to sell their TDR credit for. And so if you're negotiating with 25 people, you know, the monetary value could be up, down, and all over the place, and it's much easier to lock in all of those with one entity.

COMMISSIONER CHRZANOWSKI: I was going to go somewhere else, but, okay. I'll wait for the presentation.

MR. WEEKS: Okay.

CHAIRMAN STRAIN: Okay. Thank you. Thanks, David. Appreciate it.

We'll move on to the applicant's presentation.

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

And with me I have Don Mears who represents the property owner for Naples Reserve and is also one of the co-applicants. Mr. Torres is out of town. He was here last time, and he represents the other applicant for this petition. And, obviously, I have with me Mr. Mulhere.

My presentation is significantly shorter with staff's revised recommendation going back to their original recommendation, but I do think we need to talk a little bit about the economics of the current Growth Management Plan and why the economics don't work and why this amendment is actually necessary.

Just to go backwards for a brief moment, this particular project is an already zoned project. It's already got the density approved. The PUD recognized the then existing Comprehensive Plan amendments or Comprehensive Plan provisions relating to where TDRs come from. And since a portion of this property is in the urban residential fringe and a portion of this property is receiving lands, regular receiving lands, we have to get our TDRs for this project from two different areas.

The green area of the project, which is outlined in red, is receiving lands. We can get those TDRs from anywhere in Collier County where there are sending lands, the yellow portion with the crosshatch, that's the urban residential fringe portion of the project, and we can only get TDRs from that one-mile area that David took you through.

The problem with the one-mile area and the way the county Comprehensive Plan was originally structured, they were trying to address a perceived economic value of the land, that one-mile land, through the TDR process by limiting the area in which you can get TDRs, theoretically, which will increase the value of those TDRs, because you can only acquire it from that area. And law of supply and demand tells you the price will be higher if there's more demand than supply.

The problem is, land development is really a function of simple arithmetic, which is, you've got to figure your land costs in, you've got to figure your land development costs in, you've got to figure your construction costs in, including impact fees and everything else related to construction costs, and you've got to figure out how much can you sell a house for on this particular piece of property.

So you probably start with the price that you think you can sell the house for and work your way backwards as to what you can afford to do all these other things that are required to develop the land.

You can only pay so much for a TDR in order to still be able to deliver the house in the price range that you're talking about.

So if you limit us to an area where we can buy the TDRs -- and let's just say the market rate for a TDR for a house in that area is \$12,500. Let's just take that as the market rate. That's what we can afford to pay. If people in that area say we want \$25,000 a TDR, you're not going to buy the TDR and you're not going to build the house.

So the way they went about addressing the issue, I think, was the wrong way. There was an amendment to the TDR program that occurred, if you recall, after the original adoption where we had one unit per five acres; minimum price of \$25,000 is the way the program was originally set up.

There was another amendment that went through the process that would allow you now to generate up to four TDRs per 5-acre parcel; never changed the \$25,000 minimum price for the first TDR.

So we had an interim step that created value theoretically not only for the sending lands further out but also the more proximate TDRs to the urban residential fringe.

That didn't work to create a market where sending lands were willing to sell at a market price that a developer of the urban residential fringe receiving lands could afford to pay in order to get this project off the ground.

So you have a choice. We can develop the property with the maximum density allowing TDRs -- which is still, if you remember, Naples Reserve -- I don't remember the exact. It's about one unit an acre, I think, is the overall project density if we max out the density on the entire project -- or you can have something less, because we can't buy enough of the TDRs to develop in the urban residential fringe, and we'll have a less dense project, but it will be profitable and, you know, that's a good thing, or -- which is a bad thing for the rural fringe mixed-use district program, because if you don't have places for sending lands to send their TDRs, people aren't going to put their land in conservation, which is really what you want them to do when they have sending lands. You want them to put their lands in conservation so that they'll generate the currency, which is a TDR, and someone will buy it at a market price that makes sense for both the seller and

the buyer.

So the program, in our opinion, is broken. In fact, there is a restudy that's going to happen, but we can't wait for that restudy. We've got a project that's out of the ground and being developed right now, and we need to figure out, is the project going to be at the max density, which was approved in the PUD, or is it going to be something less?

So we proposed a GMP amendment to open up, for this project, the universe in which we can buy TDRs.

Now, at the transmittal hearing, one of the TDR property owners, I believe, wrote an email to Mr. Strain that everybody saw where she recommended a 50 percent requirement, that you get 50 percent of the TDRs that you need for the urban residential fringe portion from the one-mile area.

You-all didn't go with that recommendation. Staff didn't change their opinion based upon that input. At the BCC level, the number came down to 40 percent, I believe. The BCC didn't say 40 percent. They said go talk to the property owner.

And one of the concerns that was raised by the -- I think it was Commissioner Nance who said he's worried about the small little guy and the small property owners within this area. And I provided you all some information -- I hope you got it by email -- that we provided to staff a couple weeks ago -- actually three weeks ago -- that we sent out in the interim after transmittal; we did a couple of things.

We met with or talked to Joe Bonness after Maureen told us to talk to Joe about TDRs that they control. We also sent out a letter to all of the property owners within that one-mile area. And there's a lot of them. And we provided -- we said, county give us the mailing list. We sent letters to everybody, said we would like to buy your TDRs, if you have any, for the price of \$12,500, which we already had an agreement to buy for from somebody else.

Mr. Mulhere, I think, fielded six calls from people based upon that letter. And all six of those people said, no, not enough money. We're not willing to do it. So we did reach out to the small guy and say we're willing to buy your TDR.

Now, keep in mind, if you have a five-acre parcel, you have four theoretical TDRs, but you really only have two. You have the base, which you get as a matter of right, you get the early entry, which it basically is -- you get as a matter of right.

The third one you've got to clean up your land, so who knows what that's going to cost the property owner to do to clean it up, get rid of the exotics.

And the fourth one is you've got to find somebody who's willing to take and own that TDR, a governmental agency. Most governmental agencies make you give them money to take the property because they know they now have an obligation to maintain it.

So, basically, I refer to it as you get two for free, and it costs you something to get the other two. And the question is, to get the other two, does it make economic sense to try to get those other two? And on small 5-acre, 10-acre pieces I don't know if it makes sense for that person to go and try to get those other two.

So the small property owner, effectively, has two TDRs and, theoretically, with all the letters we sent out, we could have gotten responses from 281 -- responses from enough people to sell us 281 TDRs within that one-mile area for the price we were willing to pay.

We didn't get any that were willing to sell us TDRs at the price we were willing to pay.

CHAIRMAN STRAIN: I don't mean to interrupt, Richard, but the amount you were willing to pay, you have verified that that is an amount you can buy them for elsewhere?

MR. YOVANOVICH: I have a contract to buy them for that amount elsewhere.

CHAIRMAN STRAIN: How far from the one-mile area?

MR. YOVANOVICH: Very close to the one-mile area.

CHAIRMAN STRAIN: Thank you.

MR. YOVANOVICH: I'm going through this because I think it's important to understand, are you really devaluing the TDRs in that one-mile area? You're not devaluing the TDRs in that one-mile area, because the market is going to tell you what the value is.

The fact that you've created a limited area doesn't create the value for that TDR. The market creates the value for the TDR.

And so by doing this change, you are in no way hurting people in that area. They have to compete with the market and what a willing buyer is willing to pay.

Now, we've had some discussions with other property owner, or another property owner. It took a while. I think the price is now close to what we were willing to pay for others, but the problem is is, you know, we have a -- we have to either get all 281 in that area at 12,5-, or we lose another agreement we have, and we can't take that risk.

So we have a program that isn't working. What we're trying to do is further the program by buying 281 more TDRs, which means sending lands were converted commercial -- I mean to conservation to make that happen, and we are proposing something that furthers the rural fringe mixed-use district provisions.

Your staff now is -- your staff agrees. They agreed at transmittal. They're agreeing today that what we've provided as far as data and analysis supports the original submittal as well as the additional data that we've provided since then, I think, supports what we're requesting.

And we hope that the -- you will make a recommendation to the Board of County Commissioners to adopt the GMP amendment as it was originally transmitted and reviewed and approved -- or not commented on, basically, by the state. Thank you.

CHAIRMAN STRAIN: Okay. Thank you. Do we have any questions? From Mr. Rosen?

COMMISSIONER ROSEN: Yeah. Rich, I've got a question or maybe a statement you could help me out with here.

Are you saying there's 281 property owners, you know, along the -- closest fringe to 951; is that correct?

MR. YOVANOVICH: No. I'm saying we need to get 281 TDRs.

COMMISSIONER ROSEN: Okay. But how many property owners did you make contact with?

MR. YOVANOVICH: Let me see if I can count quickly on the --

MR. MULHERE: Well, we only sent it to private, no public.

MR. YOVANOVICH: Yeah. We sent it to private property owner, obviously, you know, the ones that needed to make money.

COMMISSIONER ROSEN: Sure.

MR. MULHERE: It was 50 or 60.

MR. YOVANOVICH: It was more than that, Bob. Bob says 50 or 60 property owners within that area.

COMMISSIONER ROSEN: All right. That's fine.

MR. YOVANOVICH: We gave the list, so you've got the list.

COMMISSIONER ROSEN: All right. Let me continue then.

From what you said -- and I sort of understand the program. It's a very difficult program to understand, you know, especially with all that you mentioned. You're talking about the market, the value, you know, the market value. The market value, part of the elements of creating a market value, location is one of them. So you've got a market value, but it's just not a plain statement. It's based on elements that make up that market value, and location is one of those elements that makes up the market value.

MR. YOVANOVICH: For the TDR or for the ultimate home?

COMMISSIONER ROSEN: For the TDR. Now, when you want to discuss the home, you're going to buy, eventually, TDRs at a fixed price, correct, whatever it turns out to be?

MR. YOVANOVICH: Correct.

COMMISSIONER ROSEN: Okay. How many homes are there going to be in this particular development? I don't recall.

MR. YOVANOVICH: 1154.

COMMISSIONER ROSEN: 1154.

MR. YOVANOVICH: If we buy all the TDRs.

COMMISSIONER ROSEN: Understood. Okay. So possibly, we'll call it 1150 homes, around there, plus or minus.

I would imagine that the pace of the absorption of those homes -- when I say the "absorption," the sales pace, 100, 150 a year, 200 a year, somewhere around there; does that make sense?

UNIDENTIFIED SPEAKER: When we level off.

CHAIRMAN STRAIN: I'm sorry. You can't answer from the audience.

MR. YOVANOVICH: He's the developer. He's telling me, yes, about 200 when we level off is about the right number.

COMMISSIONER ROSEN: So it's a five-year, six-year sellout, somewhere around there.

MR. YOVANOVICH: Correct.

COMMISSIONER ROSEN: So over that five or six years, I would imagine that the price of homes are going to escalate if our economy continues to move up like it is. So that's kind of my thought on that particular item.

Then when you talk about the program not working, it almost sounds, Rich -- and please correct me if you think I'm wrong. It almost sounds like it's not working for the applicant. It sounds like it might be working for the people who bought into this program, the landowners, that relied on this program for all these years that are in that one-mile swatch of land where --

MR. YOVANOVICH: Can I -- when do you want me -- do you want me to wait till you make all your comments or comment one at a time?

COMMISSIONER ROSEN: Yeah, let me finish.

So it almost sounds like there's that one-mile strip; is that right? Is there a one-mile strip?

MR. YOVANOVICH: Correct.

COMMISSIONER ROSEN: Yeah, the one-mile strip. Are those called qualified TDRs?

MR. YOVANOVICH: Yes.

COMMISSIONER ROSEN: Yeah, qualified TDRs. You know, that one-mile strip has a value to it that when this program was initiated those landowners that bought into the program relied, you know, on the fact that there was more value to that one-mile strip.

And nothing against your client, you know, the applicant, but it sounds like it, just for today, isn't financially working for them, and they'd like to change the entire program to make it work for them. So now I'm finished.

MR. YOVANOVICH: A couple things. One of the applicants is a fairly significant owner of TDRs within the qualified area.

So that applicant is saying, I agree; open up the area. So that's in response to, allegedly, these people bought into this program, which I don't know that the individual small property owners in the sending lands throughout Collier County and specifically to this area, quote, bought into this program.

I think this program was imposed upon them, and they have no option. I don't believe -- unlike out east where you had a smaller universe of property owners who helped design the program, the Rural Land Stewardship Area Program, you didn't have that same type of process in the rural fringe mixed-use district. You had too many property owners that were either receiving lands or sending lands.

COMMISSIONER ROSEN: There were no public hearings during that program?

MR. YOVANOVICH: There's a difference between there being public hearings and buying into a program. I could tell you -- I participated in them. I don't think that there was one person or a group of persons representing specifically the small sending land property owners.

COMMISSIONER ROSEN: Were there a lot of objections you recall from your memory?

MR. YOVANOVICH: I know I did, yeah. I remember going up there and I said, I don't think this program's going to work. But it got adopted, and now we have to figure out how to make the best of the situation.

Now, if the program doesn't work for this applicant, that's fine. We'll just develop less units. And in doing the development of less units, that means there are less receiving lands for those who are sending lands for them to sell their asset.

COMMISSIONER ROSEN: Rich, what are the -- and I apologize for interrupting. What are -- the dollars that we're talking about per unit, what's the difference?

MR. YOVANOVICH: What's the difference?

COMMISSIONER ROSEN: Yeah. Well, you say you have a contract to buy what you need from an entity or a couple of entities. I'm confused. Is the 12- or 15,000 a credit that you're looking to buy it for?

Is that too much? I'm not -- I'm confused on the dollars.

MR. YOVANOVICH: I could tell you right now. Can I? Can you give me one second?

COMMISSIONER ROSEN: Sure.

MR. YOVANOVICH: We don't have -- let me take a step back. We talked to a property owner who has 60 TDRs within the qualified urban area, qualified area. I need 281. Okay.

If we went with 40 percent of 281, I would need to get 112, okay. So I talked to one property owner who has 60.

COMMISSIONER ROSEN: Yep.

MR. YOVANOVICH: The price doesn't matter. Let's just say the delta between those two is anywhere from 0 to \$2,500, whatever the number is, I still don't have enough. I've still got to find another 62. And, oh, by the way, not only have I got to find another 62, the deal I have to buy the 281 in the first place goes away.

So I'm back into the market chasing 281 TDRs, not 112. I'm chasing 281 TDRs because we get near the end, and you know when people are near the end they start getting a little bit more realistic.

But I'm -- that's where I am. All the cards are on the table. I've got the ability to buy my 281 TDRs that I need. The co-applicant, who I'm buying the TDRs from, is one of the primary landowners within the qualified area. He thinks it's a good idea. He's the same guy who had the, you know, quote, economic advantage because he was in the one-mile area.

And we have it at a price to buy it that we can afford to make sure we have a project that will make sense. Because we've all been through the ifs. You know, we -- if the economy keeps going like it's going is a risk we're not willing to take. We need some certainty. We're not going to bet on the come (sic). And if we can't get it at a price we can afford, we'll develop less.

COMMISSIONER ROSEN: See, here's my confusion. And try to help me out if you can. If it's 281 credits that your client needs for this one individual project, are you -- are you talking about \$281,000, or are you talking about \$2,081,000? You know, I mean, that's the question. Are we going through this --

MR. YOVANOVICH: Are you talking about the delta, or are you talking about total cost?

COMMISSIONER ROSEN: The delta.

MR. YOVANOVICH: The delta?

COMMISSIONER ROSEN: Yeah.

MR. YOVANOVICH: I can't answer the question because I don't have some -- I don't have people within the one-mile area -- I don't have 281 -- I don't have enough people to come up with 281 credits at any price.

CHAIRMAN STRAIN: But, Richard, I think what he's asking is, say you did it at the 281 credits and you had to be restricted to buy them within the one-mile area, what is the delta between what you'd pay for that 281 versus if you bought it off site, and that difference is about \$12,000 per credit -- well, whatever the going rate is for the --

MR. YOVANOVICH: We're willing -- you know, come one, come all, \$12,500, okay, wherever you get it.

CHAIRMAN STRAIN: But what are you getting in the one-mile area? What's the best price you've gotten in the one-mile area from anybody? What was a recent sale? I think I know where Mike's trying to go.

MR. YOVANOVICH: The last number we heard was 13,5-.

CHAIRMAN STRAIN: Okay. So --

MR. YOVANOVICH: But that's only -- that's only for a small -- that's for 60. I haven't heard that that's what everybody is willing to do for 281 credits.

CHAIRMAN STRAIN: So if you had to do 281 credits and you were able to get that number for all of them, if you could even find them --

MR. YOVANOVICH: If I could find them.

CHAIRMAN STRAIN: -- it would be \$1,000 more for 281, so you're \$281,000. Does that get to where you're trying to -- I think that's what you're trying to ask him.

COMMISSIONER ROSEN: It does, exactly, yeah.

MR. YOVANOVICH: That's real simple, but that's a big if, can I find the 281.

CHAIRMAN STRAIN: I know. But I'm just trying to put it on the table to get to the answer I think Mike was trying to get out of you, so --

MR. YOVANOVICH: But I don't know what that information does for the -- the ultimate question is, can you find the TDRs at a price you can afford to pay?

COMMISSIONER ROMAN: I have a comment, Mr. Chair.

CHAIRMAN STRAIN: Mike, were you finished?

COMMISSIONER ROSEN: I think so. I might have some more questions later, but please go ahead, Charlette.

COMMISSIONER ROMAN: Thanks, Mike.

I wanted to follow up on Mike's line of questioning, because it seems to me one of the reasons that it's being presented today -- that this program doesn't work is because the holders of the TDRs credits in the one-mile area don't want to sell for the price.

MR. YOVANOVICH: Correct.

COMMISSIONER ROMAN: And I'm not sure if that's just not having a valuable commodity that you own that you want to get the best price possible for. I don't know if that's reason enough to say that the program itself does not work.

CHAIRMAN STRAIN: Well, let me talk about a statistic, because I've been working on trying to get this whole program reevaluated and replanned. And some of the numbers that I had to research through staff came up.

And this program was initiated on February 11, 2004. Now, that's been -- that's 10 years and three months, approximately. And you can weigh the successfulness of it by how many TDRs were actually used in that period of time. 17.8 percent of the program has been used in 10 years and approximately three months. Now, that doesn't say that's how many credits have been created. That's how many have been used.

So if that's a sign of success, I guess 17 -- less than 20 percent over 10 years, I'm not sure we would all think the program is successful or it's the easiest program to maneuver. So that may help in your understanding of what Richard was trying to get at.

COMMISSIONER ROMAN: I have a question on those credits used. Do we have a relationship with the context of how many projects have come forward to use that 17.8 percent?

CHAIRMAN STRAIN: I mean, I'm sure we do. We could ferret it out. I don't have that number. I mean, they had to be used on projects that were allowed where they were allowed to be used on, whether it was in the urban fringe or somewhere else. For example, there's a project DR Horton did called Mockingbird. They used credits up there. I believe Bonita Bay was going to use credits on some areas south of Immokalee, but I don't know if they ever secured any or used them there. I don't even think it's developed yet, so --

COMMISSIONER ROMAN: Well, I guess what I was getting at was if that's one or two projects coming forward to buy credits and they worked successfully, that's different than if, you know, the credits were requested but they couldn't get anybody to sell them to them. And I --

MR. YOVANOVICH: Well, there are more credits severed than have been sold.

CHAIRMAN STRAIN: Yes.

MR. YOVANOVICH: There's more credits that are severed than have been sold. We're buying credits from people who've severed the TDRs. So we're at a point where they've bought into the program; they've severed the TDRs, and they worked out a fair market price that they're willing to sell it for, okay. So -- but they're not within the one-mile area. The people in the one-mile area, I don't know how many have been severed, but they're not willing to sell them at a price that we're willing to pay, and that's fine.

You know, I may say my watch is worth a million dollars, and I'm going to wait till someone's willing to give me the million dollars. But the universe of receiving lands is going away because we'll develop, we'll develop at a lower density, and there'll be less area for sending land people to sell.

The people who are closest get to squeeze everybody else out further away from the opportunity to sell their TDRs to us because they have established a price that they want, and there will be less and less receiving lands available and, yet, the people in the one-mile area can sell to anybody they want to, so they're

always going to be able to, at some point, agree to sell to another receiving land at a lower price and beat out the guy who's further away.

CHAIRMAN STRAIN: And, Charlette, out of -- the program has -- out of the 23,000 acres available to have credits severed from, there's been 7,834 acres that have actually been severed. That has produced a little over 3,100 TDR credits.

Actual sold were 1,842 at the date I did these numbers. Actually used was 1,150, which produces the less than 20 percent effectiveness of the program over a 10-year period. So if that helps with your understanding.

COMMISSIONER ROMAN: But your -- those figures are for the entire rural fringe or just for the urban fringe?

CHAIRMAN STRAIN: No. That's for the entire RFMUD district.

COMMISSIONER ROMAN: Okay. But the one mile is the urban fringe that we're talking about where -- if I understand you correctly, that you're not able to get the credits that you would -- you desire for your project within the one mile.

MR. YOVANOVICH: The qualified area, we cannot get them.

CHAIRMAN STRAIN: Go ahead. Are you finished, Charlette?

COMMISSIONER ROMAN: Yes.

CHAIRMAN STRAIN: Okay. Diane?

COMMISSIONER EBERT: I have a question.

Rich, if you don't get these -- and I see this property is split, and so you really need them on the light green area. How many less units would you have if you do not get the credits?

MR. YOVANOVICH: Two hundred eighty-one less units.

COMMISSIONER EBERT: So the project can still go forward. You really won't lose anything except 281 homes from this. So we're not stopping the project by any means?

MR. YOVANOVICH: What you're doing is you're stopping a transaction that would compensate somebody who has severed 281 TDRs. That's what you're doing is you're taking an opportunity for someone who has agreed to participate in the program and you're taking away an ability for them to be compensated for being designated sending.

COMMISSIONER EBERT: Okay. I guess -- what I'm going to say is that in reading this information -- and, yes, it is very confusing. But the Board of Collier County Commissioners passed this as qualified. Until they change it, I don't think we should be making exceptions.

MR. YOVANOVICH: And that -- again, we're going through this process, and you transmitted it with a change, and so did they. The Board of County Commissioners transmitted this understanding that this is a limited change, and they have basically --

COMMISSIONER EBERT: But they said this development would be the only one for this change.

MR. YOVANOVICH: And because we're the only one who has asked for this change -- there is a group of property owners that -- it's a more expansive group now -- that is made up of receiving land property owners, neutral land property owners, and sending land property owners to study the program and propose more global changes. Now, that process is probably a two-year process.

COMMISSIONER EBERT: But for now it says urban residential fringe cannot be used. I mean, this one mile was created for a reason, and until this program is changed -- and I understand your frustration.

MR. YOVANOVICH: I'm not frustrated.

COMMISSIONER EBERT: But it would only be 281 less homes out of the 1,154?

MR. YOVANOVICH: That's -- you're right, okay. Yeah, if you want to look at it that way, it will be 281 less homes for the project, but the program that we're trying to implement is a program where sending land property owners lost -- David has told you. They had very valuable development rights on that property. They had one unit per five acres.

People who had a 10-acre lot could do two homes. Now it's one unit per 40. And they were given a TDR as compensation, originally. Then there was a modification to give them, theoretically, an opportunity to get more TDRs.

What will happen -- it's very simple. For a five-acre piece, if we're willing to pay for the two TDRs

that is -- it can generate safely, that's \$25,000 for a five-acre piece.

Nobody's going to sell their five-acre piece for \$25,000. They'll build a house on it. They'll be pressured to put houses out there, which means the lands that were supposed to go to conservation won't be conservation. They'll be houses, and that's not what the program was intended to do.

We're saying the old Jerry MacGyver quote, "Help me to help you." We are willing to buy the TDRs at a fair market rate, and we have people who are willing to sell it to us at that. It's a win-win.

It is a low-density project, one unit per acre, basically, with all of the TDRs, and people who are in the sending land program get compensated.

COMMISSIONER EBERT: Well, I just -- and thank you, Mark, for letting us know when this started in 2004; then we went through our bad economic times, and we're still not quite coming out of it the way we should. So this has not been really used at all because nobody was doing the building within this.

That's all the questions I have right now on this.

CHAIRMAN STRAIN: Anybody else?

COMMISSIONER ROSEN: Yeah.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER ROSEN: A follow-up question, if I could.

CHAIRMAN STRAIN: Mr. Rosen.

COMMISSIONER ROSEN: It's a two-part question, and one is for David Weeks and one, Rich, if you want to respond.

David, is there contemplation that this program will be coming up for major re-haul, major change?

MR. WEEKS: There's no set schedule for that to occur. Mr. Strain --

CHAIRMAN STRAIN: You haven't been involved in it; I have. And, yes, the commissioner from the district has requested the property owners to come together to discuss this. They had a rather large meeting. There's a very active debate going on right now about how to proceed with it.

Based on my understanding, it's supported by the commissioner from the district to relook at this program. And hopefully when the property owners come together with a final solution, we'll see it move forward for some necessary changes.

I would suggest that it needs extreme changes. The program is one of the most difficult programs for anybody to follow. It is not just one overlay. It's multiple overlays on top of overlays.

COMMISSIONER ROSEN: And I would agree, it sounds that way. Now, here's the second part of my question. If this -- when this project moves forward, and let's say it moves forward under today's rules and regulations, which means you have to buy the credits from the qualifying lands or whatever it is, can you come back in a year -- because the absorption of the homes could be five or six years, as your client has told you. Could you come back in a year and then revise or amend, you know, your applications to then be able to buy additional credits if the program has changed around, you know, as Mark was relating to?

MR. YOVANOVICH: Well, the reality is the program, I think, on the most aggressive schedule -- and, Mr. Strain, correct me if I'm wrong -- you're going to have to, one, come up with a consensus as to what the change is going to be, then you're going to amend the Comprehensive Plan, which requires the process we're going through now, adoption -- transmittal and adoption. That's every bit of -- what, David, 12 to 14 months is a typical cycle?

MR. WEEKS: Yes.

MR. YOVANOVICH: Then you've got to adopt the appropriate Land Development Code regulations. Now, I guess you could do them all at the same time. But, realistically, I think you're two years out from now.

CHAIRMAN STRAIN: Two to three years to get the whole program redone.

MR. YOVANOVICH: Okay. So now I'm three years into development, and I probably am not at a point at that point where I'm going to come back and say, scrap the plan and go try to chase 281 more TDRs, wherever they may be, because I have no certainty as to what the market price is at that point. You know, I'm starting over, essentially.

And that's why we're going now is because we're ready to move forward. We have a project that is in the development. It's developing. I mean, it's been cleared. Infrastructure's going in. We're not a

theoretical project hoping to go forward. We're a real project, and we're a real buyer.

COMMISSIONER EBERT: I have a question.

CHAIRMAN STRAIN: Stan first, then Diane.

COMMISSIONER CHRZANOWSKI: I'm just curious. You seem happy with the 12,500. Is that the going rate for these things now? Can you get them cheaper? I assume in 2004 they cost a lot more because of what was going on, and in 2008 they cost a lot less because of what was going on. Now they're back up, or is that how it works?

MR. YOVANOVICH: I think the way the program really works is developers went out and acquired larger chunks of sending lands to control their own destiny. They were -- developers of receiving lands went out and bought --

COMMISSIONER CHRZANOWSKI: Destiny not density, right?

MR. YOVANOVICH: Went out and bought the sending lands themselves at a price they could afford to pay knowing that they were going to get X number of TDRs from them. And I bet you dollars to doughnuts that most of the TDR's that have been severed are from developers and have been used by those developers for their projects. Hacienda Lakes is a good example. They control both.

And I'll bet you dollars to doughnuts that most of the TDRs that have been severed and used within the urban residential fringe have been by Hacienda Lakes.

COMMISSIONER CHRZANOWSKI: So you're saying even the 17 percent figure is bogus?

MR. YOVANOVICH: I'm not saying it's bogus. It's part of the program.

COMMISSIONER CHRZANOWSKI: Psuedo bogus.

MR. YOVANOVICH: It was probably the lower -- you know, the lower level fruit. It was easier to get those lands at a price that made sense.

COMMISSIONER CHRZANOWSKI: Okay.

CHAIRMAN STRAIN: Okay. Diane?

COMMISSIONER EBERT: Okay. On the qualified, I noticed the Bonnesses, you have spoke with Maureen, and they want more for their credits, and it's more than your client is willing to pay? Is that the problem right now?

MR. YOVANOVICH: The last -- the answer -- it's a twofold answer. Even if they were to come to the price my client is willing to pay, it's only 60 TDRs. I've got to go find 221 others at that same price.

COMMISSIONER DOYLE: May I?

CHAIRMAN STRAIN: Okay. Yeah, go ahead, Brian.

COMMISSIONER DOYLE: Yeah, Richard, it seems that we have gone from requesting, whether it was staff or either of the boards, that you get 50 percent, then 40 percent, then 30 percent, and with what you're able to acquire right now, what percentage would that be, and would that be something we would support as far as the acquisition of your TDRs?

MR. YOVANOVICH: First of all, staff has never required a percent and neither has the Planning Commission nor has the Board of County Commissioners as we've been going through this process.

There has been a property owner who has recommended to you-all that you require us to get 50 percent, lowered their request to 40 percent. Staff came up with a 30 percent number that they've just told you they're withdrawing, so they're still at 0 percent.

So there has been no agency- or staff-level request that we do 50 or 40 percent.

COMMISSIONER ROSEN: So as far as today, it's 100 percent?

MR. YOVANOVICH: That's what the code requires, and we've gone through adoption at 0 percent -- I mean transmittal at 0 percent at two levels including the staff level, which would be a third level. So, yes, right now it's 100 percent.

CHAIRMAN STRAIN: Okay. Does anybody else have any questions of the applicant before we move to any further comments from staff and then to the public?

(No response.)

CHAIRMAN STRAIN: Okay. Richard, thank you.

David, is there anything else staff wants to add?

MR. WEEKS: Just a few comments, Mr. Chairman. As I stated earlier, the staff recommendation is

approval without restrictions.

As provided in the transmittal staff report, staff does have some concerns about the proposal but we also recognize the benefits of the proposal. As Rich has articulated clearly -- and he did it at transmittal hearing -- they have the option of developing without obtaining any TDR credits for the urban residential fringe portion of their property. They can just obtain the TDR credits from their receiving area portion, which they can obtain from any sending lands.

The benefit, the plus of this project as, again, Rich has already stated, is that if they are allowed to go beyond the one mile, then that is, his number, 281 credits. I had a different figure, but I'm not sure if maybe you-all have some credits in hand.

But at any rate, close to 300 TDR credits are in the balance. If they are not successful with their amendment, then that's 300 TDR credits that may not -- from their perspective it sounds like likely would not, but at least may not be consumed by this project. But, conversely, if this amendment is approved, then it seems like there's a likelihood that they will, in fact, purchase 300 plus-or-minus TDR credits from some sending lands.

The objective of the sending lands designation is to protect those lands. That is the county's objective. It all goes back to the -- I don't want to get too much in history, but the county was under a final order from 1999. We needed to re-evaluate our rural lands and, ultimately, we traded this TDR program.

So the county could have simply designated all of those sending lands as conservation, but we had to compensate those landowners. I mean, the Bert Harris Property Rights Protection Act of 1995 really changed the rules in Florida.

And so the TDR program is the compensation mechanism. That's how we -- the county is able to change that designation for many landowners to sending which, unquestionably, took away property rights. That's not subject to debate.

What might be debatable is on any given piece of property whether or not it was ever likely to have been developed with anything other than a home or even developed at all due to its remote location, environmental conditions, and so forth.

Nonetheless, here we are. We have a program. We're trying to make it work, and it's dependent upon individual landowners within receiving areas acquiring TDR credits.

I have to, as I did at the transmittal hearing, tell you that the staff perspective is that the TDR program is not broken. It is clearly a matter of perspective, but we don't think it is.

I do agree with Rich, and perhaps Chairman Strain, I think, may have indicated the same position. There's a big difference between a TDR being severed, that is a landowner saying I now have removed development rights from my property, and I have this commodity available for somebody to buy; big difference between that and someone else in the receiving areas actually buying that commodity, buying that TDR credit.

You've got to have both -- excuse me. You've got to both sell, but you've also got to buy and redeem for the program to be successful. And so far it has been a limited success in the sense of actual redemption of TDR credits.

I'm only aware of two major projects that have actually redeemed TDR credits. Rich mentioned one, Hacienda Lakes. The other is Twin Eagles, all three phases, I, II, and III.

Indian Hills Estates is a large project that has -- that is pending. It's in for plat approval and proposes to use several TDR credits. And there's at least one more that's in the works. But actually redemption, no. It's not a significant number, but the severance has been -- I didn't know the figure, but I'll accept it as 17 percent.

That's over a 10-year time period. And as Ms. Ebert mentioned, that was notwithstanding a nationwide recession that we've still achieved the 17 percent rate.

TDR programs are not something that most people are familiar with. It's a very different concept, the idea that I can sever my development rights away from my property. I still own my land, but I don't have the rights to do what I used to be able to with them, and I can sell those rights to somebody else.

And I believe that's something that is probably the nature of all TDR programs. It's something new. Property owners are not familiar with it. It doesn't start off with a bang. It takes a while for the program to be

successful.

Ten years is not a long period of time. Won't belabor the point. Clearly there's some disagreement. Could the program be improved? Of course. Of course it could.

One of the concerns about making change to the TDR program were expressed by Dr. Nicholas who was the TDR consultant for the county, and that is don't keep making changes to the program, because if you do, landowners will stop, they'll sit back with the attitude, if I wait long enough, they'll change the program again. My land will be more valuable.

Now, I need to be specific to the TDR mechanism, like adding different bonuses or, you know, changing the value. That's not to suggest that other changes cannot occur to the TDR program without causing that freeze in activity.

But, again, staff had some concerns. But the data and analysis provided by the applicant does show that there is more demand, potentially -- because not every landowner of sending lands is going to participate in the TDR program. Not everyone is going to sever their credits. Not every receiving-lands owner is going to buy TDR credits. That's not going to happen, and we know that. So there's a certain amount of unknown here.

But their data and analysis does show that the potential is there for more TDR credits to be needed within the urban residential fringe than can be generated within that one-mile corridor. If everybody in the urban residential fringe says I want to use TDR credits, we're not going to have enough supply.

And, again, staff's recommendation is approval.

CHAIRMAN STRAIN: David, did you -- in part of that early part of that discussion you made a note that one of the reasons that we had to create the TDR system is to avoid taking of properties without any compensation. That's why the sending land -- and I'm sure you're referring to the sending lands. Is that a fair statement?

MR. WEEKS: Absolutely. That is the only compensation mechanism that I know of that exists.

CHAIRMAN STRAIN: Okay. Thank you, sir.

Anybody? Mike?

COMMISSIONER ROSEN: Dave, I have a question for you. And I appreciate your description of what this program was all about, especially the Bert Harris Act, which a lot of us that were in development really appreciated.

The issue -- or not issue, but concern that I have is that what you said -- not what you said, but the fact that this program was put in place to protect land rights, you know, property rights, you know, when you're telling a certain group of landowners you really shouldn't, you know, develop out here, but in compensation you're going to get credits, correct? I mean, the real simplistic terms.

MR. WEEKS: Correct.

COMMISSIONER ROSEN: I guess the real issue I have for the applicant is that since that system was put in place, now we have one applicant that's saying, well, I don't want to pay that rate, so let's change the system. That's what kind of concerns me a little, and what concerns me also, as I think I mentioned in my very first statement, that you want to change the rate, but we know that the market is going to change -- hopefully, it's going to change as it has been historically over the years, notwithstanding this past five years that we just went through, but now things seem to be bouncing back. You know, who knows, there might be another recession in five years, but hopefully not, but then things will bounce back.

If we go back to the history of housing here, you know, in 1993 or '92, when I got here, I was selling houses for \$120,000. Today those same houses are 300-. So things tend to move.

And with that absorption, annual absorption that the applicant is forecasting, which I think is a pretty robust absorption but probably could happen, it's going to be five or six years, you know, so I would think that the price, if it's a marketable price paid -- you know, I say "marketable;" market is the market. Pave (sic) those units, the applicant will make up for that in his price increases over the years. That's just my thoughts on that.

Thanks, David.

MR. WEEKS: Mr. Chairman, I'll just make one more note that I don't think would surprise anyone here. But if someone sees a change in regulations that they think is beneficial that's approved for one

particular area, someone else will see that and think, well, I'd like that, too. And we've already seen that. We do have another application for plan amendment pending right now with a very similar request to what you're seeing here.

I don't say that as a point of negativism, just an observation and so that you're not surprised if you see it, because they will be able to present the same data and analysis that this applicant has to show that there's more demand, potentially, than there would be for supply. But at some point, if we continue to see enough amendments of this nature for enough of those urban residential fringe properties, we'll get to a point where we're at or beyond a balance.

Thank you.

CHAIRMAN STRAIN: Okay.

COMMISSIONER CHRZANOWSKI: Mark?

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER CHRZANOWSKI: David, that was a very clear explanation; thank you.

And I -- the program seems to move, I understand, but I would guess that bookkeeping must be a nightmare.

MR. WEEKS: Marcia says it's a challenge, but we have -- we do have a log. We do -- of course, we have to, to monitor the program, we track all of the TDR severances and redemptions, and we also have -- on the county's website we do have a list of all of the sending lands properties showing those that have severed TDR credits, so that if those potential receiving lands owners could look and see where there are credits that have been severed, they could see who-all has those -- they can -- they don't necessarily know who owns the credits, because it's a commodity. I have sending lands. I can sever them and then sell them to a third party, but they can at least see what -- get some idea of the number of credits. They're floating somewhere in the marketplace and also, of course, we need it from the standpoint of implementing regulations to make sure somebody doesn't come in and propose development on their sending lands where they are not allowed to because they severed those credits.

COMMISSIONER ROSEN: Mr. Chairman?

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER ROSEN: I have one final question, if I could. Can I ask the applicant a question at this point?

CHAIRMAN STRAIN: As long as he doesn't get into concluding remarks at this point, because I've still got to get to the public before we --

COMMISSIONER ROMAN: And I have a question of staff, too.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER ROSEN: Just a fast question of Rich, if I could. I don't want to get into the mathematics too heavily but, quickly, I thought you mentioned a figure before of 12,5- a credit; is that correct?

MR. YOVANOVICH: Yes.

COMMISSIONER ROSEN: Okay. And I thought you had mentioned that the letter that was sent into the county from an owner out there that has 60 credits was willing to sell at 13,5-; did I hear that correctly?

MR. YOVANOVICH: I think that's -- I haven't had that direct conversation, but I understand that that's the price -- the last price that was presented to us.

COMMISSIONER ROSEN: Okay. So it's \$1,000 difference per credit.

MR. YOVANOVICH: For 60 units.

COMMISSIONER ROSEN: So a \$60,000 credit for -- to get you to the extra 281 units?

MR. YOVANOVICH: Which is still less than the percent that that person is telling you to force me to buy. That person's saying 40 percent, 112. They control 60.

COMMISSIONER ROSEN: Okay. Thank you.

CHAIRMAN STRAIN: Go ahead, Charlette.

COMMISSIONER ROMAN: Yes, I had a question for staff. My understanding of the rural fringe mixed-use overlay district is that in addition to protecting some of our county's most sensitive environmental

lands, that it was also designed to incentivize something other than single-family gated communities such as more of a village format. Could you speak to that, please.

MR. WEEKS: Sure. One of the allowances of the program is to develop a rural village. There are four receiving areas. If you can picture the Future Land Use Map that's identified in blue, there's four different large chunks of blue, four different receiving areas. Each of those receiving areas is eligible to be developed with a rural village.

For a receiving land that develops using TDR credits other than a rural village, the maximum density that can be achieved is one dwelling unit per acre. In a rural village, the maximum density is between two and three units per acre, and the village must include recreational uses, civic uses, and commercial uses. I mean, it's truly a village or small town, you know, as far as the whole composite of land uses, and it also requires a green belt around the project. So that's actually an ideal circumstance.

Rather than have a lot of individual receiving lands developed at one unit per acre or even less, the idea would be to have these rural villages developed so that the end result of that would be we would protect even more lands if it were concentrated.

COMMISSIONER ROMAN: Thank you.

CHAIRMAN STRAIN: But, David --

MR. WEEKS: Yes.

CHAIRMAN STRAIN: -- clustering was a high note of the program.

MR. WEEKS: Yes.

CHAIRMAN STRAIN: In fact, to even use TDRs, you've got to have no less than 40 acres. And if you do 40 acres or more, it has to be clustered.

MR. WEEKS: Yes.

CHAIRMAN STRAIN: That is, in essence, promoting exactly what we see in the residential design of some of these communities.

MR. WEEKS: Yes.

CHAIRMAN STRAIN: Mockingbird is another example of that. So it's not that they were trying to restrict any type of community, like gated communities or residential. They're actually trying to remote (sic) it through the clustering provisions and the acreage sizes, and the use of TDRs is limited to those kind of conditions.

MR. WEEKS: True. But I'll stand by my statement that the rural village would be the preferable development pattern.

CHAIRMAN STRAIN: But then you get with that the commercial aspects and all the rest of it?

MR. WEEKS: Yes.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: But we're not eligible for it.

MR. WEEKS: No, no, no. I'm not --

CHAIRMAN STRAIN: You've got 300 acres, up to 1,500 acres, unless you're in the North Belle Meade overlay, which is 2,500 acres. You go to 2,500. And they're not even talking in that realm here.

MR. WEEKS: No, no. Please be clear my response -- and I think the question was a generality --

COMMISSIONER ROMAN: He answered my question.

MR. WEEKS: Not this project.

Mr. Chairman, one more point I want to make, because we've thrown out the figure of the value of the TDR credits, and I think I need to put this on the record.

The Land Development Code establishes a minimum -- is that the floor -- minimum of \$25,000 for each base TDR credit, but the bonus credits, including the early entry bonus that Rich referenced earlier, is purely at market rate.

So when they talk about 12,500 or some other figure less than \$25,000, they're speaking of an average, and they have to be talking about base and bonus or just bonus credits averaged.

CHAIRMAN STRAIN: Okay. Anybody else, before we go to public speakers?

(No response.)

CHAIRMAN STRAIN: Ray, do we have any registered public speakers first?

MR. BELLOWS: Yes. We have one speaker, Maureen Bonness.

CHAIRMAN STRAIN: Okay. Do you want to come up and use the -- were you sworn in when we

MS. BONNESS: (Nods head.)

CHAIRMAN STRAIN: Okay, thank you.

MS. BONNESS: Maureen Bonness. I'm a property owner in the near urban area there as well as the manager of a preserve that straddles the urban rural fringe area.

I would like to see the TDR program work for the property owners that are sandwiched between my preserve and the Picayune. That's the area that we're talking about today, the area with the qualified TDRs.

Most of those properties are small in size, five to 20 acres at most, and right now the way the program is working is it's not being effective for those private property owners.

What I see, the way the program was made, to have the additional value given to their TDR, the additional marketability, the preference for using their TDRs first was in exchange for their greater land value.

In my view, that's how the program should continue to work, that the urban -- the near -- the urban fringe developments should be covering that cost of buying those higher value TDRs. And it's not just this project. It's all the rest of the projects in that area.

This project is setting a precedence now. If they are allowed to get their TDRs from anywhere, so will all of the other ones that are shortly to follow thereafter.

So I would suggest still at least a minimum percentage, that at least some of their TDRs are derived from the near urban area where those land values were recognized by the county as having higher value before they took away their development rights. And I'd like to see the program work for those smaller size parcels.

Right now it's difficult. The program is confusing. I would say the TDR program is easier to understand than the tax code, but it's confusing. I think a lot of the property owners are still trying to get information. What is my TDR worth? How do I do that? Then you go to the website and find out, oh, I've got to do this. I've got to have a notarized person. I've got to do this. It's not easy.

So I could see that the program, the greater TDR program needs a little incentive to get those smaller parcel owners involved. And it might end up being something like a real estate broker that starts being the person in between, the liaison or something. There does need to be more incentive for those small-sized parcels to work not just in this area. This is going to happen also -- you'll see it in North Belle Meade eventually and other areas of the rural fringe.

One of the important things here, though, is that when I was at the transmittal hearing for the Board of County Commissioners, they passed this amendment as stated by the petitioner, but it was also mentioned that they could, at adoption, change that number. Instead of it being 0 percent from the urban -- the near urban area to a percentage, another number, such as 40 percent. That could be done at the adoption.

And I don't know all the details. I just know it was mentioned by staff and other people that this number, this percentage that they have to get from the urban could be changed between transmittal and adoption.

So I don't think your choices are 0 percent from the urban area or 100 percent. You can choose a number in between.

I'd like to see the program work for my neighbors, and so I suggest -- I'll go with the staff's recommendation of 30. I won't go below it, though. I'd rather see 40, if you ask me, but I want the program to work for my neighbors.

CHAIRMAN STRAIN: Thank you.

David, as a point of clarification, is staff recommending 30?

MR. WEEKS: The staff recommendation is as it was at transmittal, and that is with no percentage requirement.

CHAIRMAN STRAIN: Thank you.

Anybody else from the public wish to speak on this item?

(No response.)

CHAIRMAN STRAIN: Okay. Richard, do you want to have a short --

COMMISSIONER CHRZANOWSKI: Could I ask a quick question of David before we do?

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER CHRZANOWSKI: The 30 percent, the urban credits, whatever, do they represent 30 percent of the total of all? So if we go with 30 percent, they'll all get used up at exactly the same time, or will the urban get used up very quickly? Does that make sense to you?

MR. WEEKS: Maybe. Let me try to answer. The ratio of TDR credits -- I was looking to see if I have the number here. It's not quite 50/50. If they use maximum use of TDR credits, a little over 50 percent would be to the urban residential fringe, and a little bit less than 50 percent of the total TDRs would be for the receiving lands portion of the project.

COMMISSIONER CHRZANOWSKI: I don't mean this project. I mean overall in the whole county. If we force everybody to go to the 40 percent, are we going to use up the urban quickly? Does that make sense to you, the question?

MR. WEEKS: Yeah. Any requirement for the urban residential fringe subdistrict to obtain all or some of their TDR credits from within the one-mile corridor, duh, would require -- would result in the use of more -- presumed use of more of those TDR credits in the one-mile corridor. I say "presumed." I can't give you a black-and-white answer --

COMMISSIONER CHRZANOWSKI: Well, how many total credits countywide are in the one-mile corridor? Percentage, roughly. Anybody have any idea?

MR. WEEKS: It's going to be pretty small because you're -- that's --

COMMISSIONER CHRZANOWSKI: So if we go to 40 percent, you're going to use --

MR. WEEKS: Let's say 10 percent.

COMMISSIONER CHRZANOWSKI: You're going to use them up quickly, right, more quickly than the others?

MR. YOVANOVICH: No.

COMMISSIONER CHRZANOWSKI: If it's 10 percent.

MR. WEEKS: Not necessarily, because those sending credits can be used anywhere.

COMMISSIONER CHRZANOWSKI: Okay. I see.

MR. WEEKS: It's just that all the other sending lands can be used anywhere except within this one-mile corridor. That's why -- I'm sorry, it's just a part of the complication of the program, I guess.

COMMISSIONER CHRZANOWSKI: Yes.

CHAIRMAN STRAIN: Okay. Richard, do you want to do a -- it's taken about an hour longer than I thought on this particular agenda item --

MR. YOVANOVICH: Me, too.

CHAIRMAN STRAIN: -- so try to wrap it up if you can.

MR. YOVANOVICH: Yeah, real quickly.

I think Dr. Nicholas, remembering back, I don't know, 14 years ago, 10 years ago, whatever the real number was, not all of his recommendations were actually followed for this program, and one of his recommendations was, I believe, don't put that \$25,000 figure into the plan because you created unreasonable expectations the minute you put that number in there. And we've been fighting those unreasonable expectations ever since.

So when you put the 25,000 in there originally for these people and everybody else and then you increased the number from one per five to four per five, they thought they went from \$25,000 for their five-acre piece to \$100,000 for their five-acre piece because they heard that \$25,000 number.

I think Dr. Nicholas always intended that the free market system was going to work or play a part in making this program work.

And there's two things in your code that stopped the free market system from working: The \$25,000 figure and the limited acquisition area. They stopped the free market system from working.

Now, knock on wood, the economy continues to go for the next five, six years, and home prices go up.

And, Mr. Rosen, when you did your original development, I'll bet you dollars to doughnuts you paid

a lot less for dirt than people are paying for dirt today, and the construction costs were probably significantly cheaper. Over the next years, construction costs will also go up, so it's going to be -- yeah, housing prices will go up, but it will go up because you've got to pay the subs more money. You've probably -- the county right now has reduced its impact fees. Doesn't mean they won't go back up. We don't know.

So the economy -- the economics of the deal, we have to look at it today. We can't bet on the future.

What we're proposing, we think, helps the program. It allows 281 TDRs to be acquired, and staff's recommending 0 from this one area, and I think the data and analysis supports that.

COMMISSIONER ROSEN: Rich, can I ask you a question?

CHAIRMAN STRAIN: Mr. Rosen?

COMMISSIONER ROSEN: Yeah. When you first appeared before us, Joe Bonness was here and discussed, you know, percentages and things like that, and you very quickly agreed at that very first hearing to 30 or 40 percent number?

MR. YOVANOVICH: I did?

COMMISSIONER ROSEN: Yeah, you did.

MR. YOVANOVICH: I don't think I did. It would have been -- it would have gone to the BCC with that number, and I --

COMMISSIONER ROSEN: No, I thought you did, and you did it here at the podium.

MR. YOVANOVICH: I don't think so.

COMMISSIONER ROSEN: Then you changed your mind.

MR. YOVANOVICH: I don't think so.

COMMISSIONER ROSEN: Something that happened, and I don't know what it was.

MR. YOVANOVICH: I'll be happy to go back and look at the record, but I'm pretty sure I didn't agree to 40 percent.

COMMISSIONER ROSEN: Okay. Well, we can agree to disagree, but I thought you did. So that's kind of a point that I was making is that the market -- I understand what you're saying about the market, and I understand thoroughly about the cost, but prices do go up and prices sustain at a certain level.

They go up; they might come down. They go up, and they might come down. It's a stair-stepping effect.

There's no houses available that I know in that fringe area for 119,000 that we were selling back in 1993. So it's just not going to happen. The prices are not going to come down; the price is 10 years.

So they are going to go up, and whatever rate differential or you call the delta between what you like to pay or your client, excuse me, and what's being offered, I think, is minimal.

I personally like the idea of a small percentage included so there is some fairness to your client and to the people that are in the program, landowners in the program.

Thanks, Rich. Appreciate it.

CHAIRMAN STRAIN: Okay. Does anybody else have any comments? If not, we will close the public hearing, and the Planning Commission will entertain a motion for recommendation.

COMMISSIONER EBERT: Wait a minute.

CHAIRMAN STRAIN: Go ahead, Ms. Ebert.

COMMISSIONER EBERT: Well, I will not -- I cannot support this only because I don't like to see exceptions. And I don't know why poor Rich always gets all these exceptions. You know, the other night he wanted to do an exception.

But he's trying to change the program at this point. I can just see 281 less homes on the property. It's not that they're stopping. I just can't -- if you're not going to get them from the qualified and stuff, I just -- not at this point.

CHAIRMAN STRAIN: Is that a motion? Are you going to make a motion, or do I -- or was that just discussion?

COMMISSIONER EBERT: It was just that -- it was just -- I feel sorry for Rich because he's always making these exceptions.

CHAIRMAN STRAIN: Well, I don't feel sorry for Rich at all. I mean, he's a very successful attorney here in the county. So let's get beyond that. Is there a motion? Then we can have discussion on it.

Does someone wish to make a motion? Mr. Rosen?

COMMISSIONER ROSEN: Yeah, Mr. Chair, I'll make a motion to approve PL20130000139 with the proviso that there's a 40 percent mix on the credits, and I apologize for not having the proper wording, but I think you know what I'm saying.

CHAIRMAN STRAIN: Yep, I do. Is there a second?

COMMISSIONER EBERT: I'll second that.

CHAIRMAN STRAIN: Motion made by Mr. Rosen, seconded by Ms. Ebert. Is there discussion?

COMMISSIONER HOMIAK: Is it 40 percent?

CHAIRMAN STRAIN: Yes.

COMMISSIONER ROSEN: Yes, that's what I said, yes.

COMMISSIONER ROMAN: I think that --

COMMISSIONER HOMIAK: I'm just -- I'm not going to support that. I want to go with the transmittal.

CHAIRMAN STRAIN: Yeah, I'm not going to support it either for different reasons. But go ahead, Charlette.

COMMISSIONER ROMAN: Yes. I'm sorry. I'm down here at the end. Sometimes I can't see.

I feel that there should be some small percentage for the property owners in the urban residential fringe, and I also favor the applicant's project and the ability to do the project. I think that 40 percent might be a little high for me to support the particular motion. I think 0 is too low, so --

COMMISSIONER ROSEN: I would amend my motion if there's a suggestion.

CHAIRMAN STRAIN: Yeah. Let's finish with the conversation first.

There's a motion made and seconded. We will take a vote on it or amendment to it, but let's go to full -- anybody else for discussion?

(No response.)

CHAIRMAN STRAIN: I have been involved in this program, and I didn't really get involved because I wanted to, but I saw that the program, in an area that I live in, wasn't, in my opinion, as clear as it should be. It was difficult to understand. So I think I know the program real well. And the more I've learned about it, the more I've grown to dislike it.

David just noted that there was a taking of property rights by creating the conservation lands if we hadn't provided the TDRs, yet there seems to be no hesitation to an indirect taking of receiving lands by this program's price fixing, price fixing in a form of demanding it be taken from a -- being supplied by a certain area controlled by a few people.

This program is a restriction of property rights producing de facto taking of private property. And using this project as a precedent-setting example to me is a good thing because this is an unjust program the way it's designed right now.

I cannot support the motion, any motion beyond the recommendation of staff's recommendation -- beyond approving staff's recommendation.

The federal government does enough price fixing for all of us. We don't need our local government to be involved in it. So I will be supporting no motion that has a percentage attached to it, that this should be supported with staff's recommendations, and that's my position on it.

Anybody else?

COMMISSIONER CHRZANOWSKI: Yes, a comment.

I worked for the county for almost 20 years, and I can't even come close to counting the number of times I went home saying to myself, I don't believe they paid that for that piece of land. You know, just -- we have a tendency to overvalue property, and you don't necessarily have a right to make a profit on a piece of land. It's -- it's a capitalist system. It doesn't automatically flow with the land that you have to be overly compensated, but we've come to that point sometimes.

CHAIRMAN STRAIN: Okay. Anybody else?

COMMISSIONER ROMAN: Well, one comment. I see this as a movement of density. I mean, let's not forget that our goal is to protect some of the most sensitive environmental lands in the county, and we want to move density from those lands into areas that we can develop more intensively so that we protect

the lands that we want to keep in perpetuity for our environment.

So, you know, the TDR credit is basically a density credit to be able to move it off our sensitive environmental lands. And, in principle, I think that the program has merit; it's just in the execution of how we move that density around the land.

CHAIRMAN STRAIN: And one thing to remember, this project, by using the TDRs, no matter where they come from, is doing exactly that. It's moving the density from sensitive lands to -- closer to the urban area where it's encouraged to be. From that perspective, it's the right thing to do.

My problem is the program itself. I believe it's severely broken and needs some attention.

COMMISSIONER ROMAN: I agree with you, Mr. Chair. The only thing I would like to see the commission consider is the fact that these property owners that were defined in this urban fringe all of a sudden go from whatever percentage they had in the amendment to 0, and I think that's unfair to those property owners, and I think it's not unreasonable for this commission to consider balance when we look at this amendment to both address the petitioner's request and also the people who live in that urban fringe and own those TDRs. And I think that I'd like to see this commission strike balance.

CHAIRMAN STRAIN: Okay. And I understand your position. And my concern was that people out further have the same equal rights to be able to sell their TDRs to anybody they want as well. So I see no difference between this one-mile -- the urban boundary was drawn as an urban boundary. So anything beyond that is open game. To give a preference to that one-mile strip close to the urban boundary, I see no sense to that.

COMMISSIONER ROMAN: But didn't we have reason to do that back when we developed this whole overlay?

CHAIRMAN STRAIN: Well, you've got to look back at the time that it happened, and I would suggest that the politics at the time were different, too.

COMMISSIONER ROMAN: Okay.

COMMISSIONER EBERT: Can I -- Mike, would you be willing to reduce it to 30 percent --

COMMISSIONER ROSEN: I would present an amendment to reduce --

COMMISSIONER EBERT: -- the motion.

COMMISSIONER ROSEN: -- it to 30 percent.

COMMISSIONER EBERT: And I will support that. So we have some balance here.

CHAIRMAN STRAIN: Okay. There's a motion on the floor to -- instead of using staff recommendation, to allow the project to go forward by using the 30 percent from the one-mile strip instead of the 100 percent that's currently required, and then there's a second. Is that stated well?

COMMISSIONER ROSEN: Yes, sir.

CHAIRMAN STRAIN: Okay. Discussion?

(No response.)

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

COMMISSIONER ROSEN: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Could you do that by show of hands so I can make sure.

COMMISSIONER ROSEN: (Raises hand.)

COMMISSIONER EBERT: (Raises hand.)

CHAIRMAN STRAIN: Two.

All those opposed, same signs, say aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: 5-2.

Is there another motion?

COMMISSIONER HOMIAK: I'll make the motion to support the adoption with the same language

as it was transmitted.

CHAIRMAN STRAIN: Okay. Is there a second?

COMMISSIONER CHRZANOWSKI: I'll second.

CHAIRMAN STRAIN: Motion made by Ms. Homiak, second by Mr. Chrzanowski.
Discussion?

MS. ASHTON-CICKO: Mr. Chair, could we put that transmittal language on the visualizer? I have it here if --

CHAIRMAN STRAIN: Well, it's in the staff report, but sure.

MS. ASHTON-CICKO: Well, I think there's some lack of clarity because --

CHAIRMAN STRAIN: We don't -- we haven't done that in the past, but --

MS. ASHTON-CICKO: Well, the reason I'm asking is because in my notebook under adoption the staff recommendation is for the 30 percent.

CHAIRMAN STRAIN: Okay.

COMMISSIONER DOYLE: No. In the ordinance -- we have an ordinance here that -- and it has an Exhibit A and it has the language that was used before.

CHAIRMAN STRAIN: She was using the language from transmittal, but the language from transmittal -- do we have that, David, that you could --

MS. ASHTON-CICKO: We'll just put it on the visualizer, because my attachment to the ordinance is the Buckley exhibit so -- in my notebook, so it doesn't have the right exhibit.

MR. WEEKS: It's two pages.

CHAIRMAN STRAIN: Well, your recommendation is all I think we're --

MR. WEEKS: This is Page 1 of the ordinance, and it basically is the same language in both sides. I'll now flip it over to the other page.

MS. ASHTON-CICKO: Thank you.

CHAIRMAN STRAIN: Okay. Any further discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER DOYLE: Aye.

CHAIRMAN STRAIN: All those opposed?

COMMISSIONER ROSEN: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Okay. Motion carries, 4-3. That will go on to the Board of County Commissioners with that recommendation.

And now we will see where we've got to move next. Well, we're going to have a break, but I'm thinking, if it's okay, Terri, we'll take a break at 11:00, and then when we come back at 11:15, we can go right into the Walgreens and save the break till then.

***So the next item up is the Buckley project. This is a two-part project. We have a Growth Management Plan adoption hearing. It's the same one as the project we heard months ago under transmission, and it's also a rezone; we have a PUD.

The two cases are PL20120002909/CP-2013-3, and then PUD is PUDZ-A-PL20120002906.

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

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

CHAIRMAN STRAIN: Disclosures on the part of the Planning Commission. Stan?

COMMISSIONER CHRZANOWSKI: I live right across from the Buckley PUD and have gone to a couple of neighborhood information meetings.

CHAIRMAN STRAIN: Okay. Mike?

MR. SMYKOWSKI: I think when this first came up before us, I had a conversation with the

applicant's attorney; that was a while back. So I'll just put that on the record.

CHAIRMAN STRAIN: Okay. Thank you. And we'll get Diane when she comes back.

And I've had meetings with the applicant's representative's attorney. And I know there's been some correspondence from one or two of the landowners behind, and I've, obviously, talked with staff about it.

So with that, Diane -- or, Karen?

COMMISSIONER HOMIAK: Nothing.

COMMISSIONER DOYLE: Nothing.

CHAIRMAN STRAIN: Brian? Charlette?

COMMISSIONER ROMAN: None.

CHAIRMAN STRAIN: Okay. We'll have to catch Diane when she gets back.

So let's go into the -- well, first of all, this is a GMP and a rezone. So, David, do you have any opening comments from the GMP side of it?

MR. WEEKS: No.

CHAIRMAN STRAIN: Okay. And go ahead, then, Bruce. You might -- when Diane gets back, at some point during a break in your presentation, I'll ask her to do her disclosures.

MR. ANDERSON: Thank you.

Good morning, Mr. Chairman, Commissioners. My name is Bruce Anderson with the Roetzel & Andress law firm.

I have here with me today Tim Hancock, senior planner with Stantec engineering firm.

I'll give you a brief overview. This is a Growth Management Plan amendment for the Buckley mixed-use subdistrict. It was approved in 2002, and this is also a companion item for an amendment of the existing PUD, which was approved in 2005.

This property abuts the north county library, which is on the south side of the property, and abuts the Emerald Lakes community on the west and the north.

This is not a request for new commercial zoning. This property is already zoned PUD for 162,000 square feet of commercial uses, and no increase is proposed.

Residential density is reduced as well, and we have added a conversion factor into the PUD document that for each acre developed commercially, 11 dwelling units would be subtracted from the allowed total of dwelling units, and for each acre of residential that is developed, 7,500 square feet of commercial is eliminated.

A lot has changed since this was first approved. Back then it was thought that the latest land-use trend was the concept of mixed use with people living above commercial establishments.

The current Buckley district MPUD require residential and commercial to be built, and it requires that they be in the same building as well.

The chief purpose of this amendment is to eliminate that requirement that both residential and commercial must be constructed and that they must be constructed in the same building.

What we have here is really simply a rearranging of what has already been approved, and we have moved the zoning level details out of the Comprehensive Plan into the PUD zoning document that you have as a companion item.

Mr. Hancock and I will address both the Comprehensive Plan amendment and the PUD amendment together since they're so closely intertwined.

The Growth Management Plan amendment was unanimously recommended for approval by the prior Planning Commission with certain additional conditions that were incorporated into the language. The Board of County Commissioners also gave unanimous approval at the transmittal hearing.

Prior to the transmittal and continuing since then, we have worked closely with our closest residential neighbor, the Emerald Lakes Homeowners Association, to address concerns or questions that they have. They have been very supportive of both applications.

But the staff report states, after transmittal it was noticed that there was some holdover language from the current Growth Management Plan that had been left in, which was inconsistent with the new amendment.

Those changes are featured there in the red. Paragraph G makes clear the residential and commercial

uses shall not be combined in the same building.

Also, clarification language was added that fuel pumps are not allowed in conjunction with convenience stores.

And, lastly, there was a typo that was corrected as well.

There are two changes to the PUD language that were requested by the County Attorney's Office, and that is highlighted in yellow. Also, numbers were transposed on the master plan, and that has been corrected at their request as well.

Lastly, there are a few changes to the PUD based on a meeting with Chairman Strain. And if you will permit, I will walk you through those. There were too many pages to keep flipping up here. And, for the most part, they're clarifications.

On the third page of the PUD document under commercial where it says "prohibited uses," and it says "convenience stores," we would add there "convenience stores with fuel pumps." And that's added under the C2 restrictions and the restrictions on C3 uses as well. So that would read, "SIC group 5411 convenience stores with fuel pumps only." Those would be prohibited uses.

Under accessory uses we are striking one, two, three, and five, because they are redundant and already captured in the Land Development Code as permitted accessory uses.

Next is on Exhibit B, residential development standards, Table 1. On the third line in Table 1, the heading is "minimum floor area of buildings." And instead that would read "minimum floor area of unit."

And then if we drop down four more lines where we had the reference to lakes and the setback requirements, the 20 feet across the board, it should read 20 feet from the maintenance easement.

And if we could turn, please, to the next page, Footnote 7, that would read 20 feet or 0 feet from the maintenance easement.

CHAIRMAN STRAIN: I'm going to go through these again for the benefit of this board just to make sure, because I've noticed you've got a couple of them. There's another one, too, but I was going to catch that for you.

MR. ANDERSON: Okay. Well, I'll just quit.

CHAIRMAN STRAIN: Oh, no, no, go ahead. I want to hear where you've gotten --

I just want to make sure we catch everything, that's all. And I have to do things in order, sorry.

MR. ANDERSON: Okay. Back to Footnote 7, that should read, "No building should exceed three stories in height. Underbuilding parking is prohibited." We would strike the words "with no allowance for."

On Table 2, commercial development standards, we drop down to the PUD setbacks for lakes, and it would be 0 feet from the maintenance easement or 20 feet.

And on Footnote 5, we have the same language change that no building should exceed three stories, and underbuilding parking is prohibited.

And then the last change is on the PUD master plan, and at the top of the master plan there are six different paragraphs, headings, and the -- all of them are being struck except the land-use summary and the deviations.

It's just more clutter on there, and those items are already addressed in the body of the PUD document.

You're keeping open space? Okay. Environmental staff asked that we keep the open space requirement on the PUD master plan, and we are happy to do that.

And at this point in time, unless there are questions specifically for me, I'll ask Mr. Hancock to come up and address the planning considerations.

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

(No response.)

CHAIRMAN STRAIN: Okay. Thank you.

MR. ANDERSON: Thank you.

MR. HANCOCK: Good morning. For the record, Tim Hancock with Stantec.

Again, following the pattern set by Mr. Anderson, I'm going to speak about the Growth Management Plan and PUD amendment somewhat interchangeably. I recognize some members of this body were not present at the time of transmittal, so I may give a small amount of background here and there to assist in some

understanding.

What I plan to focus on, basically, are what really are the differences between the recommendations contained in your staff report on Page 16 of 17, and the position of the applicant or petitioner and the bases for those differences.

First and foremost, the change in this project really is to take it from something that has no value in the marketplace, which is a forced integrated mixed-use development on 20 acres at a mid-block location. There's just no market for it, no opportunity for development.

So a lot of what was contained in the original Comp Plan amendment that was sought by the applicant at that time just simply doesn't work anymore.

What we've sought to do, and what this body agreed with in transmittal, was to basically take those two uses, commercial and residential, and require that they be separate. So the project has one of three possibilities. It could develop entirely as residential, it could develop entirely as commercial, or a portion could be residential and a portion could be commercial.

We just simply aren't going to stack one on top of the other. And if you look back at what the issues for the Emerald Lakes residents were at the time, it was that forced integration stacking and the massing of both uses at a high level on the property that gave them the greatest concern. We're decoupling and separating that, and I think that's, quite candidly, why we've had such a positive reception from that community and its leadership.

The question then becomes, in doing so, how does it change the scale and scope of the development? Previously, if you had forced integration and smaller buildings but you had a line of them, if you will, you still had a wall of buildings and you still had a high degree of commercial, but the buildings' footprints individually were smaller.

The concern was whether or not we would become a shopping center and thus compete with other shopping centers in the area. This concern was raised by staff. So we included in our language that no more than 50 percent of the commercial square footage could be placed in multi-tenant buildings. That's to say we don't want to compete with dark space up at the corner of Vanderbilt and Airport. We're going to be an assembly of individual buildings more so than a shopping center.

The next question became, well, how big could the buildings be or should they be. At the time of transmittal, we had a lengthy discussion with this body, and we were asked to put a cap on the size of the buildings. The cap that we chose that was approved for transmittal and that was found acceptable by the residents was 100,000 square feet.

The reason for that cap is important. The 100,000 square feet is a line of demarcation when you look at impacts from a retail use becoming what you might constitute or call a superstore. For example, just recently Robb and Stucky constructed a furniture store in the City of Naples on U.S. 41, two stories, 65,000 square feet. There's a multifamily development within 150 feet of that store. It fits into the fabric of the community well, it's a good neighbor, low traffic impacts.

However, if you look at furniture stores that exceed 100,000 square feet, for those that are under 100,000, you'll see a trip generation rate of approximately five vehicles per 1,000 square feet.

When you get to a furniture superstore which is in that 200,000 square feet range, that trip generation goes to over 20 vehicles per 1,000 square feet. There's no real distinction between a 49,000-square-foot furniture store and the 85,000-square-foot furniture store from the standpoint of impacts. Trip generation is similar, the parking demands are the same.

But when you get over that 100,000, you get into superstores, mega stores, and they do have a different traffic pattern and a whole 'nother set of impacts.

So it is our desire to retain the 100,000-square-foot cap for the simple reason that it does exactly what we intend it to do, which is prohibit a single mega or superstore on the site, but it doesn't unduly restrict the property from combining buildings or combining uses.

Probably the nearest example I can give you is immediately to the south you have a library. You also have a Clerk's Office. The two buildings combined are just under 100,000 square feet. They share a parking area. So if those buildings were physically attached or whether they're separate, how does that change the dynamics and the impact of the building? The answer is it doesn't. They're still the same height.

And we have a 29-page architectural standard in the LDC that addresses massing and transition for larger buildings.

So it is the position of the petitioner that to further restrict the size of any one building to an arbitrary number -- staff's recommendation of 50,000 is a burdensome limitation that has no place in the marketplace.

The second item is a limitation on drive-throughs. We have limited the number of drive-throughs, as this body approved and transmitted, to four with only one fast food with drive-through being allowed.

What you'll see in the staff recommendation is a line that says "no fast food." We find great problem and trouble with this because, as I pointed out to staff this morning, Moe's, Subway, Jimmy John's -- all my favorite places to go when I have 15 minutes for lunch -- those are all fast food restaurants. They're also in line -- they tend to buddy up with other stores.

The staff recommendation would prohibit those uses. I think the real issue is looking at fast food with drive-through and keeping the limit on fast food with drive-through. I think the more appropriate limitation, rather than eliminating them altogether, is to allow the one that was agreed upon previously and agreed upon by the residents and the petitioner but to limit it to within approximately 300 feet of Airport Road. That way you're putting that use up by the roadway nearer the vehicular traffic, and you reduce the opportunity for a use like that being closer to neighbors to the rear. That, to me, seems like an appropriate response.

The last item is hours of operation. We did not include hours of operation in the GMP language. We have not included them in the PUD, and that's for a good reason. We live in a changing world. I have a friend who owns a company that has office space, and he has two shifts because they have businesses in India. They can't work at -- from 7 a.m. until 11 p.m. They have to work different hours. Fitness facilities open before 7 a.m.

So a blanket hour-of-operation requirement really is not appropriate. We are adjacent to Airport Road. I don't know what we're preventing, but the unintended consequences of blanket hours of operations in a PUD, to then have to come back through a public hearing process to be amended for as much as a 60-, 120-minute interval have no basis in the marketplace. We don't find those limitations on other commercial projects of similar size, and we don't think they're appropriate here.

Commissioner Strain, you requested some information on lighting, and we talked about this, because in the PUD it says that there's a limitation on lighting. There are three limitations. One is that lighting on the perimeter of the project is limited to 15 feet in height, and that needs to be more clearly defined.

The second limitation is that all fixtures have to be flat-panel fixtures, and that avoids the convex bulbing and the further spread of light. And these are techniques we've used on PUDs recently.

And the third one -- I drew a blank on the third one. But we were talking --

CHAIRMAN STRAIN: No, those were the two light issues that you've shown, and I suggested that we take a look at how we had regulated light in some other projects.

MR. HANCOCK: And those were the ones that -- when we look at Top Hat, for example, we had a section of the projects that was not lit at all because we had water management to the rear.

And so one thing I wanted to show you is to give you a relevant example is the library immediately to the south. This is a light fixture in the parking lot of the Collier County Public Library. It is approximately 25 feet in height, and it's difficult to see.

There's a blue piece of painter's tape right there that's about seven feet off the ground. So the height of the fixture is 25 feet.

It is a flat-panel fixture. It's not LED, but it is flat panel. It does not have cutoff shields. And, I'm sorry, it's located approximately 38 feet from the property line which adjoins the residential.

This is that same fixture, although it's a single fixture instead of a dual, and it is located eight feet off the property line, 25 feet in height, flat panel, no cutoff shields.

CHAIRMAN STRAIN: This is at the government center?

MR. HANCOCK: Yes, sir.

CHAIRMAN STRAIN: The government can do whatever it wants.

MR. HANCOCK: Yes, sir. I understand that, and I long for those days. But the reason I'm bringing this out is, in looking at this -- and I've been through the Emerald Lakes community on the back side of that

fence. It's not obtrusive in the evening. So what I want to do is say that these are flat-panel fixtures without cutoff shields. They are at 25 feet in height.

I think if we were to look at what's been put in the PUD, the one modification I would suggest is that any fixtures within 30 feet of a residential property line would be limited to 15 feet in height.

When you look at what the sight line would be from the homes -- the front door of a home, which is going to be 60 feet away from a wall and landscape area, if you have a 15-foot fixture in that 30 feet, it will not be visible. When you get out beyond 30 feet, as that vegetation grows to an 18- to 20-foot height, the 25-foot fixture will not be directly visible.

In addition, we have also increased the number of trees along the rear of that buffer as part of our PUD by 50 percent. So instead of adding one every 30 feet so that maturity will kind of grow together, just as it has in this picture right here, there will be 50 percent more trees. So the rate of obscuring the view is going to be faster and better.

I believe staff's recommendations are all aimed at compatibility. And I understand that we're grabbing for tools to try and get our arms around something, but I just want to point out very quickly, then I'll conclude, that this PUD has built into it a great number of compatibility elements that are well in excess of what the Land Development Code requires. For example, our required minimum building setback from the rear property line adjacent to the residential is 100 feet.

What I've just offered for fast food with drive-through would increase that, effectively, to 200 feet. If the fast food with drive-through has to be within 300 feet of Airport Road and we have a parcel that's 500 feet deep, we've now pulled that another 100 feet away. So that particular use, which I think staff has concern about, would be 200 feet from the rear property line.

We also have a 35 percent maximum building coverage on the site. The LDC has no maximum building coverage. We have no dumpsters or compactors within 100 feet, per the PUD.

We have a limitation on lighting, and I've suggested we refine that, that the lighting within 30 feet of a residential zoning be limited to 15 feet in height.

We have, as I mentioned, a 6-foot wall to the rear of the property between us and the residential with a Type C buffer, and we have added 50 percent more trees in that buffer in the PUD than required by code.

Building massing, which we've discussed briefly, is addressed in the LDC. And just so you know, as the building gets larger in the LDC, the massing articulation changes. Any buildings over 40,000 square feet has to have a 10-foot articulation in the wall and similar articulation in the roof line.

So the idea that there's a mass of building that is a wall back there is addressed in our Land Development Code, and it does increase with the size of the building. We certainly would be subject to that.

Capping the maximum size on the retail uses avoids the site being developed as a single superstore. And, quite candidly, it makes it very difficult to develop even if it were just two end users on the commercial side.

And the restriction on drive-through establishments is fairly significant when you look at similar zoned properties on arterial roadways. All of these are intended to address compatibility. And I believe they're sufficient, appropriate, and certainly I know there's one person here from Emerald Lakes who may wish to speak and address any other issues.

But, with that, I will conclude my comments and answer any questions as best I can.

CHAIRMAN STRAIN: Before we do, we first need to take a break. And as I announced in the beginning of the meeting, between 11:00 and 11:30 I wanted to get into the Walgreens -- or the -- we moved that forward on the agenda. So when we come back from break, we'll have to pause on your review and go into the Walgreens hearing.

I hope -- don't expect that to take too long, but more than likely after Walgreens we will be taking a break for lunch. Whenever we finish that one, we'll take an hour break for lunch.

And so the rest of your presentation and discussion probably have to occur after we get done with those two items.

Sorry for the interruption, but you'd be interrupted by lunch anyway, so --

MR. HANCOCK: Mr. Chair, Ms. Ebert, the disclosure. I just wanted to remind --

CHAIRMAN STRAIN: Thank you.

Diane, have you have any disclosures?

COMMISSIONER EBERT: No, only staff.

CHAIRMAN STRAIN: Okay. Well, let's take a break till 11 after 11:00. That's an easy one to remember. Then we'll come back, do Walgreens, then take lunch after that.

(A brief recess was had.)

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

When we started break, I was reminded or asked that there's a speaker here from the adjoining property at Buckley's who wanted to be able to speak before she had to leave, and so we're going to accommodate that request, and then we'll go right into the Walgreens.

So back to the original one we started with a few minutes ago, which was the Buckley's PUD and GMPA. I believe there's a lady here from Emerald Lakes. And, ma'am, if it's you, come on up and identify yourself for the record.

MS. RUSSO: It's me. Good morning. Phyllis Russo, president of Emerald Lakes Association. I appreciate your time. I'm going to make this very short and sweet.

We, I, support all the recommendations as written by Tim Hancock and Bruce Anderson. We've worked closely with them; we're comfortable with them, I've said this at the last meeting; support everything that they have recommended. That's bottom-lining it for everybody.

CHAIRMAN STRAIN: Okay. Just so we understand, because we -- when we vote on this, we've got to take into consideration staff's recommendations, which differ than what Mr. Hancock wants.

So you have no concerns about the hours of operation?

MS. RUSSO: No.

CHAIRMAN STRAIN: And the fast food limitation for 300 feet back from Radio Road -- or Airport Road works for you?

MS. RUSSO: That's correct.

CHAIRMAN STRAIN: And the size that -- a maximum size of 100,000 square feet works for you?

MS. RUSSO: That is correct.

CHAIRMAN STRAIN: Okay. Thank you very much.

Anybody else have any questions?

COMMISSIONER EBERT: Yes, I have a question for you. Will you be satisfied if this is 21 acres of commercial?

MS. RUSSO: I'm not sure.

COMMISSIONER EBERT: That's what I -- that's -- that was my comment, because they can do that. They can do 21 acres of all commercial.

MS. RUSSO: I don't think they'll do anything that we sit down and discuss and make it acceptable for us residents at Emerald Lakes. I'm sorry, but I don't believe that. We've worked closely with them.

CHAIRMAN STRAIN: Well, I'm not sure --

COMMISSIONER EBERT: I'm just -- what I guess I'm saying is, it's -- they can do either/or.

MS. RUSSO: Yes.

COMMISSIONER EBERT: So you will not be here, and if this is passed the way it is, it could end up being --

MS. RUSSO: It could. It could.

COMMISSIONER EBERT: Yeah, okay. That's all I wanted.

MS. RUSSO: But I trust that it's going to go the way it's best for everybody. That's all I can say at this point.

CHAIRMAN STRAIN: And I thought that the preference from Emerald Lakes was commercial over residential.

MS. RUSSO: Yes.

CHAIRMAN STRAIN: So I'm not sure why you would -- they wanted -- the residential was going to be multistory --

MS. RUSSO: Yes.

CHAIRMAN STRAIN: -- and I think the concern was looking down on their --

MS. RUSSO: We absolutely want the commercial. We do not want three-story residential or anything like that, that is correct.

CHAIRMAN STRAIN: That's what I thought was the direction.

MS. RUSSO: Sorry.

CHAIRMAN STRAIN: Okay. Thank you very much.

Does anybody else have anything?

(No response.)

CHAIRMAN STRAIN: We appreciate your time, ma'am. Thank you.

***Now we're going to move into the last item on today's agenda, which is PUDZ-A -- no, I'm sorry -- RZ-PL20130001302. It's the Walgreens Naples rezone located at Pine Ridge Road east of Airport-Pulling Road.

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

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

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

COMMISSIONER CHRZANOWSKI: Nothing.

CHAIRMAN STRAIN: Mike?

COMMISSIONER ROSEN: Nothing.

COMMISSIONER EBERT: Nothing.

CHAIRMAN STRAIN: Myself, I had met with Bruce, and I don't know if anybody else was in the meeting offhand other than staff. I can't remember if he brought somebody with him or not, but we talked about the various issues we'll bring up again today.

Karen?

COMMISSIONER HOMIAK: Nothing.

CHAIRMAN STRAIN: Brian?

COMMISSIONER DOYLE: Nothing.

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: None.

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

MR. ANDERSON: Thank you, Mr. Chairman.

My name is Bruce Anderson from the Roetzel & Andress law firm here on behalf of the co-applicants, the YMCA of the Palms and Southeast Investments, Inc.

I want to introduce to you the key players on this one. Here at my right is Mr. Dan O'Berski. He's a YMCA board member and the board coordinator for the YMCA on this project. Also with me today is Jason Cruise, the vice president of development for Southeast Investments.

I'm going to ask Mr. O'Berski to share with you the YMCA's rebuilding plans and expansion plans and why they are seeking this zoning change and selling this parcel.

So I'll turn it over to him. Thank you.

MR. O'BERSKI: Again, my name is Dan O'Berski, and I am on the board at YMCA and pleased to be a part of that organization.

As you-all, I assume, are aware, we had a true tragedy in the loss of the fire with the YMCA that has hindered what we've been able to do.

We believe that, ultimately, it's going to turn into a really great blessing for both the YMCA, its members, and the community as a part of the long-term strategy in facilitating both our operations and our mission, and a major portion of our mission lands with our children and families.

And all in all, on our 20-plus-acre site, we currently have and had a split children's facility and children's services, that a component of the children were in the main building, a component were in the Teddy Bear Museum and, simultaneously, with the 120-plus children that we serve, we have approximately two-for-one in versus a wait list. So we have close to 250 students that are on our wait list to get into the program.

So we have a desire as a top-rated facility and child service and as a mission to the community to continue to serve the children of this community.

The Teddy Bear Museum at the time was very intentional in acquiring that for the services for the children. As they've grown in both quality and service, it's not ideal to have two different facilities where we're moving back and forth.

The property itself was planned as a Teddy Bear Museum, and so it's not an efficient use of space either, so we have to have more teachers per children than is required, which causes a significant burden on cost and operations.

We want to expand our childcare facilities. And a long-term strategy is to do all of our rebuild and servicing without debt and to have a more -- and an improving financial position for the Y so that it can be here for a long, long time.

The sale of this property is a large part of that strategy. It will allow us to pay down our debt substantially and work towards a stabilized plan that comes in line with what we're doing with the rebuild.

What I've shown here is the realignment and the strategy that we're having for the rebuild. By the grace of God, we've been able to raise close to 75 percent of the funds required for this.

Hopefully you've seen we've been able to remove the gym. We're in for our permits, and we're hoping to be breaking ground and have this open soon, as soon as possible. But we also are not going to proceed in a debt fashion that could hinder long-term stability.

So as you can see, we're moving some of the operations on the fitness facility portion to the east versus the --

CHAIRMAN STRAIN: You'll have to use the walk-around mike, unfortunately, if you're going to move around, sorry. That picks you up so anybody watching on television can hear.

MR. O'BERSKI: Okay, great. So previously this was the main entry. And, I'm sorry, this is where the light sits and most of the entry and exit had occurred. That facility access, obviously, created a significant log jam because people would be coming in, dropping off, picking up and so forth.

Our primary entry is going to be moved down here, which facilitates more parking. This is the current plan that we have.

We're hoping that by the time we start construction there will be room for another gym to provide for more aftercare services and facilities for children, sports and so forth.

This area here is one portion that remains from the fire or after the -- this is a completely redone locker room, and these facilities are going to be for some of our partners and our administration.

Long-term strategy is to continue to come up with a single plant that we can serve the children in, and hopefully -- we're expecting to be able to build something that would facilitate close to 300 children versus the approximately 120 that we can serve currently.

Again, as a whole, this is the strategy, and the sale of this property is a large portion of the need that we have in order to facilitate debt reduction and stabilization of the Y.

CHAIRMAN STRAIN: Okay. Thank you.

Any questions related to the rezone portion of this?

COMMISSIONER CHRZANOWSKI: An unrelated question.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER CHRZANOWSKI: Is O'Berski Irish or Polish? You don't have to answer that.

MR. O'BERSKI: No, no. We're Polish all the way and came in a little confused, so we like to play with people.

CHAIRMAN STRAIN: Okay. Well, we've been totally off topic now, so thank you.

Is there any other questions of the -- this part of the presentation? Okay.

MR. O'BERSKI: Thank you.

CHAIRMAN STRAIN: Bruce, did you have something you wanted to tell us about the actual rezone? I understand the need for the Y, but that really isn't relevant to the rezone application, so --

MR. ANDERSON: Well, I wanted you to have the benefit of the background of --

CHAIRMAN STRAIN: I understand.

MR. ANDERSON: -- why this was occurring.

This property is 179-acre -- or 1.79 acres. It's on the west side of the Y, and the YMCA itself is zoned CF, community facility.

And on the east -- on the west side of the property is the Sports Authority, and it is zoned C3. As Mr. O'Berski shared with you, the proposed Walgreens site is the site of the former Teddy Bear Museum.

This property is located in the activity center at Pine Ridge Road and Airport. And the Growth Management Plan states that the full array of commercial uses are permitted in activity centers.

The property in question is currently zoned C1, and the request is to allow C4 zoning to permit a greater variety of uses.

It is anticipated that this property will be developed as a Walgreens.

In a meeting with Chairman Strain, he asked that we consider lowering the allowable building height to 50 feet, and my client is agreeable to doing that.

We believe this application is very straightforward, and we respectfully ask for a recommendation of approval.

CHAIRMAN STRAIN: Thank you.

MR. ANDERSON: Thank you.

CHAIRMAN STRAIN: Are there questions of the applicant? Mike?

COMMISSIONER ROSEN: Mr. Chair --

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER ROSEN: -- I have a fast question on the transportation side. I see on the aerial the Teddy Bear -- and I'm very familiar with the site with Sports Authority and Teddy Bear Museum. Will there be an interconnection of the parking lot where the Teddy Bear Museum was to the light, you know, where the existing light is?

MR. ANDERSON: Yes. Yes, there will be.

COMMISSIONER ROSEN: Okay. Thank you. That was my only question.

CHAIRMAN STRAIN: Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: Now I've got staff questions, so -- okay. With that, we'll go to staff report. Mike?

MR. SAWYER: For the record, Mike Sawyer, project manager for the petition.

You have a copy of our staff report revised April 17th as well as the draft ordinance, copy of the NIM meeting notes, and then the application.

I do note first off on Page 3 where the staff report notes surrounding zoning and land uses, land uses are all correct; however, to the west we relied on the official zoning map which indicates that the parcel for Sports Authority is C4. It's been pointed out that it was approved as C3. So I note that discrepancy.

We are currently, I believe, working on getting those zoning maps revised to reflect the actual --

CHAIRMAN STRAIN: Might have to -- we're waiting for a reading from the County Attorney's Office as to the findings in regards to that C3 use. Once Miriam gets an opinion on that from the County Attorney's Office, the maps will be changed.

MR. SAWYER: Other than that, we -- even given that we are not seeing any issues with the balance of the staff report that's before you, I do have the development standards if we need to look at the differences between C3 and C4.

With that, we are recommending approval of the petition, and I'll answer any questions if you have them.

CHAIRMAN STRAIN: Anybody have any questions of staff? Mike, in regards to the discovery of the C3 for the Sports Authority, your staff report under your planning and zoning review on Page 8 noted that it was finding it consistent, and part of the discussion was that it was C4 zoning next door. Does your position change at all because it's C3 now?

MR. SAWYER: I still don't see a major difference between the two. We were actually looking at this because the site is, for lack of a better term, self-limiting because of the size of it --

CHAIRMAN STRAIN: Right.

MR. SAWYER: -- and that there are some use differences clearly between C3 and C4, some of which are actually square footage related. Certainly, there is a height difference.

Above and beyond that, we are not seeing any compatibility issues.

CHAIRMAN STRAIN: Okay. And Page 11 of the staff report, No. 13, at the top of the page there's a sentence that says the proposed end use is a Walgreens pharmacy, which requires a C4 zoning district designation.

How did you arrive at that? I mean, C3 allows drugstores, and Conditional Use 17, where you're restricted by square footage, excepts out drugstores from that provision. So couldn't they have done this in a C3 zoning?

MR. SAWYER: That may actually be an error in the staff report. I apologize for that.

CHAIRMAN STRAIN: Okay. Well, I just -- either -- in that meeting that you weren't able to make, I meant to discuss that with you ahead of time.

MR. SAWYER: I apologize. I didn't make the meeting.

CHAIRMAN STRAIN: So I believe they could get in a C3 zoning because I -- and according to the conditional use, they don't have an except -- they're excepted out for square footages. So I guess my question, then, to Bruce is, why do you need C4 over C3? I think I know what your answer is, but I'd just like to hear it.

MR. ANDERSON: What is my answer?

CHAIRMAN STRAIN: I'll let you say it. Never ask a question you don't know the answer to, so --

MR. ANDERSON: Well, as I said, to allow a greater variety of uses.

CHAIRMAN STRAIN: But you're going to put a Walgreens there. This is called the Walgreens Naples rezone.

MR. ANDERSON: We did not title it that. That was how staff, you know, advertised it. That's why I wanted to be clear that it is planned for a Walgreens, but --

CHAIRMAN STRAIN: Okay.

MR. ANDERSON: That's all. The --

CHAIRMAN STRAIN: You've got community facility to the east.

MR. ANDERSON: Yes, sir.

CHAIRMAN STRAIN: You've got C1 to the back and C3 to the west. You'll be the only isolated C4 district in the whole piece. And C4 has some additional uses, but I believe most those uses are more intensive than you can fit on this little tiny piece. So I'm wondering what's wrong with C3.

MR. ANDERSON: I want to check here to make certain that the Walgreens at that -- the small liquor facilities that are usually part of the Walgreens -- they typically have a separate entrance -- that that would not be prohibited in C3.

CHAIRMAN STRAIN: Ray, do you know if it's -- since you're the zoning director.

MR. BELLOWS: No, there's no prohibition. It would be allowed.

CHAIRMAN STRAIN: Okay. The Walgreens, as a typical stand-alone like they have throughout the county with a liquor side of it and the medical side of it, there's no -- if they were to go and build this under a C3 zoning, would they be able to have all the potential that they are expecting?

MR. SAWYER: Mr. Chairman, if I might, I think part of the issue that I've got is simply the wording. And the way I put 13 together with my explanation, I believe what I actually meant to indicate was that C1 doesn't allow the Walgreens use and that the C4, in fact, does.

CHAIRMAN STRAIN: Okay.

MR. SAWYER: I didn't make it clear that C3 would also work. So, again, my apology.

CHAIRMAN STRAIN: Okay. I -- staff, you, apparently, then, didn't have any problems with all the myriad of uses in C4 going in this location.

MR. SAWYER: No. I think part of that certainly was because we were under the impression, incorrectly apparently now, that adjacent to it was already C4.

CHAIRMAN STRAIN: And the activity center, though, allows a full array, up through C5.

MR. SAWYER: Up to C5, correct.

CHAIRMAN STRAIN: Bruce, that's fine. We'll leave it C4. I don't think there's anything in C4 that is more intense than the C3 that you're going to be able to get away with on that parcel because of its size, parking, and setback requirements.

So, with that in mind -- but, see, you'll have to -- by going C4, you'll have to adhere to the C4 standards for setbacks and other things, which C3 I can't remember if the standards there are a little more lenient, giving you more buildable area or not. But you're going to be -- because C4, with its more intense uses, may have more intense setbacks. As long as you're okay with that, then I'm fine with it.

MR. ANDERSON: Yes, sir. Thank you.

CHAIRMAN STRAIN: Okay. Unless there's no objection, I'll withdraw my concern.

Okay. With that, is there anybody from the public that wishes to speak on this matter?

(No response.)

CHAIRMAN STRAIN: Hearing none, is there a motion from the Planning Commission? And I assume it would be subject to any staff recommendations but also a height limitation of 50 feet, if that's the motion maker's desire.

COMMISSIONER EBERT: I'll make the motion for RZ-PL20130001302 to move forward.

CHAIRMAN STRAIN: Would that include a height limitation?

COMMISSIONER EBERT: With staff -- yes, with the 50-foot regulation, which they agreed to.

CHAIRMAN STRAIN: Okay. Is there a second to the motion?

COMMISSIONER ROSEN: Second.

CHAIRMAN STRAIN: Seconded by Mr. Rosen. Discussion? All --

COMMISSIONER ROMAN: I had one question.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER ROMAN: I just want to make sure that the preserves that are already on that site are to remain. I just want to clarify that.

CHAIRMAN STRAIN: I don't think there's any -- is there any preserves on the 1.79 acres that are part of this PUD, or is it actually the piece behind it?

MR. SAWYER: We have checked the platting for this whole development, which also includes the Sports Authority portion as well as the roadway. There is an easement that does pull over onto this portion of the site, but that will have to be addressed at time of Site Development Plan --

CHAIRMAN STRAIN: Okay.

MR. SAWYER: -- as far as, you know, how much of that, if any, can be -- can be used.

CHAIRMAN STRAIN: Okay. So there's a preserve behind this?

MR. SAWYER: There is a preserve, yes.

CHAIRMAN STRAIN: That preserve that's shown on the tax assessor's maps as a separate parcel.

MR. SAWYER: Correct.

CHAIRMAN STRAIN: This is a 1.79 parcel in front of the parcel; is that a true statement?

MR. SAWYER: Correct.

CHAIRMAN STRAIN: Okay. That preserve behind it is not going to be touched?

MR. SAWYER: Correct.

COMMISSIONER ROMAN: And there won't be any impacts to it. That's what was kind of unclear in the staff report on Page 8 was the potential preserve impacts were not evaluated, and that's what caused my question.

MR. SAWYER: And I think that actually goes to that portion, that easement that comes onto this parcel --

COMMISSIONER ROMAN: Okay.

MR. SAWYER: -- that is actually shown as an easement.

CHAIRMAN STRAIN: And Summer's here. Maybe she can help correct it. She ran up here for a reason, and that's probably it.

Go ahead, Summer, if you don't mind trying to help us out here.

MS. ARAQUE: Summer Araque, natural resources department.

So if you look at the plat for this property, the preserve acreage for this subdivision goes onto this property in question that's being rezoned.

CHAIRMAN STRAIN: Okay.

MS. ARAQUE: So we have a big chunk of it on that parcel to the north of this, but that -- some

portion of that preserve does go onto this property, and they would need to do either an off-site preserve or not touch this in order to make up for that. So I've had discussions with Bruce on that.

CHAIRMAN STRAIN: So that gets more to Charlette's question.

COMMISSIONER ROMAN: Yeah. And that's important to me, and I think it might be important to the Y itself because of the quality of life with all the children in your facility and all the people there, but I'll leave that up to the applicant to see whether or not that's possible to be preserved in that spot or not.

MS. ARAQUE: Yeah. You can see one of the -- I think one of the site plans shows how those impacts could occur, and I had that discussion with Bruce. And my understanding -- I don't want to speak for them, but my understanding was that they were most likely going to be using the off-site preserve option.

They would have to compensate for all of that preserve in that subdivision, not that it would all be impacted, but they would need to compensate for that, because you cannot leave less than one acre of a preserve on a site.

So we've had that discussion, and they are aware; meaning Walgreens is aware of that.

COMMISSIONER ROMAN: And that's the essence of my question. Will that preserve --

MS. ARAQUE: Yes.

COMMISSIONER ROMAN: -- Bruce, be maintained on that site?

MR. ANDERSON: It may not be, that small portion. And like Summer said, we would have to mitigate for that. I mean, mitigate far more than the area we would be impacting.

And I'll ask Mr. O'Berski to address about the Y.

MR. O'BERSKI: Just with regard to our desire for the site plan and so forth, the buyers have worked hand in hand with us to identify an appropriate site plan that the Y is happy with, and the Y is continuing, actually, to expand our children involvement with the preserve that we have, both with --

COMMISSIONER ROMAN: I would think so.

MR. O'BERSKI: Yeah. So we're very happy with the site plan that they're working with, and we plan on continuing to work with them as they proceed.

COMMISSIONER ROMAN: What's your thought on the preserve itself, though? Just the small portion on that site, does that have an impact on you --

MR. O'BERSKI: No.

COMMISSIONER ROMAN: -- and what the children are using the preserve for?

MR. O'BERSKI: Not at all, no. Our focus is -- we have on -- I believe we are on 18.9 acres remaining, of which I believe close to nine of that is pond and cypress and preserve on our site. We're actually building a bridge in some of the -- to be able to work and be within that preserve on site. So we're not concerned with that.

CHAIRMAN STRAIN: Anything else, Charlette?

COMMISSIONER ROMAN: So the answer was that the portion that goes into this property may or may not be preserved; is that the answer, Bruce?

MR. ANDERSON: That is correct. They're going through the site plan process now.

COMMISSIONER ROMAN: Are you attempting to try to maintain as much of it as you can, or what are your thoughts on that?

MR. ANDERSON: I mean, we're trying to impact as least as possible. I mean, whatever they do, even if it's just, you know, a square foot, then they have to mitigate for a much larger area anyway, so -- but the bulk of the preserve area that is outside this property is left intact.

COMMISSIONER ROMAN: Okay. Thank you.

CHAIRMAN STRAIN: Okay. Well, we had a motion and a second. Any further discussion?

(No response.)

CHAIRMAN STRAIN: The motion was to approve -- recommendation of approval with the limitation of a 50-foot height limitation.

Any further discussion?

(No response.)

CHAIRMAN STRAIN: If none, then we'll call for the vote.

All those in favor, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER ROSEN: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

Thank you very much.

MR. ANDERSON: Thank you.

CHAIRMAN STRAIN: That was probably going to be the quickest item today on the agenda.

MR. BELLOWS: Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir.

MR. BELLOWS: There is no need to come back on the consent agenda for this item, right?

CHAIRMAN STRAIN: No, there is not. I didn't hear anybody ask for it, so it will be deemed no.

COMMISSIONER EBERT: Thank you. Thank you for reminding us.

CHAIRMAN STRAIN: Yeah, appreciate that, Ray. Thank you.

***Now we'll go back to the Buckley GMP PUD rezoning that we previously started on. We left off with Mr. Hancock's presentation.

Bruce, you'll need to take your conversation outside, if you don't mind.

Tim, I know -- I think you finished up. I just want to double-check to make sure if there's nothing you had wanted to add or before we see who's next or go into our questions.

MR. HANCOCK: Mr. Chairman, only for the record. We discussed at our meeting with staff taking a look at the conditional uses, and I didn't know if you wanted me to broach that issue with you or if you wanted to --

CHAIRMAN STRAIN: Oh, we can probably take it in order. I have a list of ones that you shouldn't use but, as a -- there's a bunch of conditional uses.

Since you are including all permitted and conditional uses, in taking a close look at some of those conditional uses like the homeless shelters and bowling centers and things like that, I'm sure the people behind didn't count on that kind of stuff.

MR. HANCOCK: And nor did we, and we're happy to have that conversation. I think some of those also may tie into when you look at how hours of operation apply to the uses in the C3 category, if you take drinking places out and if you take out coin-operated laundries, all of a sudden some of those operational-hour issues also tend to get set aside as well.

CHAIRMAN STRAIN: Yeah, I've got about -- quite a few of them on a list of they shouldn't apply.

MR. HANCOCK: Okay.

CHAIRMAN STRAIN: So we can get to that as we get through the documents we have to review here today.

Did you finish up, other than that, your presentation?

MR. HANCOCK: Yes, sir, doing my best to keep things short for me.

CHAIRMAN STRAIN: Okay. Is there anybody else on your team here that needs to speak today before we discuss things with you?

MR. HANCOCK: I will raise one issue that Mr. Sawyer discussed.

In the PUD on Page -- and this deals with the buffer. I raised -- the PUD has been amended to require 50 percent more trees in the rear landscape buffer. Mr. Sawyer raised a concern, and I think a simple clarification will address it, and that is this: A Type C buffer already has two rows of staggered canopy trees as a requirement. It's a pretty thick buffer by itself. And so if we were to add 50 percent more and they were canopy trees, it would create a crowded condition and not actually be a good growth opportunity.

It was our intent to supplement with trees, not necessarily canopy trees, in other words, palms and

things to kind of fill in those gaps and give it some variety.

So on Page 13 of 14 under Exhibit F, development commitments, that landscape buffer commitment is under Item 1 under landscape buffers. And I think if it read at the end, the minimum number of trees within the buffer shall be increased by 50 percent, comma, inclusive of palm trees or similar varieties, that takes us out of the issue of trying to shove canopy trees in where they won't grow in a successful manner.

And Mr. Sawyer appeared fine with that modification.

CHAIRMAN STRAIN: Okay. Thank you for that clarification.

COMMISSIONER CHRZANOWSKI: Question. My memory of that rear property line is that it's a row of very thick -- it's either areca or fishtail palms, maybe 30 feet tall, can't see through them at all. You're going to put your stuff up against that?

MR. HANCOCK: We're going to be behind the arecas. They are having some problems with the arecas and some sections of it dying off, and they're replacing it. So I think they're almost kind of counting on our buffer to give them -- while our buffer grows and matures, they then have the opportunity to replace theirs and still not have a visual issue.

COMMISSIONER CHRZANOWSKI: Okay.

CHAIRMAN STRAIN: And I'll remind the panel, this is an adoption hearing for the GMP portion and then a rezone for the PUD portion, and we're hearing both simultaneously, but we'll vote separately on them.

So with that in mind, does anybody have any questions from any of the large booklets of documentation that we've got on this project? It probably takes up half the books that you received.

COMMISSIONER ROSEN: Mr. Chairman?

COMMISSIONER EBERT: Go ahead.

COMMISSIONER ROSEN: Oh, I'm sorry.

COMMISSIONER EBERT: No, no, go ahead.

COMMISSIONER ROSEN: I'm unclear on the applicant's -- applicant's feelings towards the recommendations of staff on Item 1, 2, and 3. Could you -- could the applicant discuss that one more time, your position on the recommendation; I'm sorry.

MR. HANCOCK: We don't like them.

CHAIRMAN STRAIN: How much do you not like them?

MR. HANCOCK: But I will try and be a tad bit clearer. Hours of operation, I believe that's best addressed by what we deem to be compatible uses and incompatible uses, and Commissioner Strain has alluded to just, for example, removing drinking places. That addresses an issue of something that may be open late at night that would be incompatible. So I think by addressing the land uses, that's where we best achieve the compatibility.

The hours of operation, I think, are arbitrary and present difficulty when you start looking at certain uses that are reasonable even to operate beyond those hours.

Secondly, the cap on 50,000 square feet of individual retail commercial users is not acceptable to the petitioner. We would like to stay with the language that was agreed upon at the Growth Management Plan amendment transmittal and hearings at this body and the Board of County Commissioners of 100,000 square feet. As you heard from the neighbors, they are comfortable with that number as well. We find 50,000 square feet to be extremely limiting and overregulatory with no stated basis.

Thirdly, fast food restaurants prohibited; we would like to retain the allowance for one fast food restaurant with drive-through. Beyond that, other fast food restaurants would be allowed but they would not have drive-throughs. And, again, I cited examples, for like -- a Moe's, for example, would be a fast food restaurant.

And, again, we don't have any concerns exhibited from the neighbors with those types of uses.

CHAIRMAN STRAIN: Does that take care of --

COMMISSIONER ROSEN: Yes, thank you.

CHAIRMAN STRAIN: Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: And it's all the documents. I -- well, I'll move forward with mine, and then

if any of you get into -- hear issues that I'm bringing up, we can further dive into, that's fine.

And I want to -- I want to take it in somewhat of an order with the highest ranking to the lowest, and we'll start with the staff report for the GMP.

I originally had a question concerning the attempt for the applicant to remove the residential as a mixed use. I didn't see what it would hurt to leave it in. I have since learned that that was a commitment they made to the neighborhood behind it, and that seemed reasonable, then, from that perspective.

Did comprehensive staff have any issues with that?

MS. MOSCA: For the record, Michele Mosca, comprehensive planning staff.

Staff does not have an issue with that.

CHAIRMAN STRAIN: Okay.

On Page 2 of the Exhibit A to the staff report for the GMPA, I pointed out you have an error in the word -- in H, did you make a record of that previously?

MS. MOSCA: Yes, we did. Also, the applicant put it on the visualizer. We're in agreement with both H word -- changed the word "for" to "from."

CHAIRMAN STRAIN: Right.

MS. MOSCA: And then also the new revised M to add the words "with fuel pumps."

CHAIRMAN STRAIN: Right. And in the -- he was referring to the language in the PUD when he said that, and I wanted to make sure we correct the language in the PUD, because the way he restated it was that it would be convenience stores where the fuel pumps would be prohibited. Really, it's convenience stores and convenience stores with fuel pumps would be prohibited. So any form of convenience and convenience -- well, that's what it says in the GMP.

MS. MOSCA: Originally in the GMP staff recommendation, we had recommended the prohibition on convenience stores.

CHAIRMAN STRAIN: Correct.

MS. MOSCA: Subsequent to that, we had the meeting with the applicants, and we discussed convenience stores with fuel pumps.

So the convenience store is the primary use. The fuel pumps, obviously, are accessory to that.

Staff is comfortable if the applicant, based on the directive from the board to go ahead and transmit that subdistrict text -- if the applicant is going to include convenience stores, provided they don't have the gasoline service pumps.

CHAIRMAN STRAIN: Okay. So the clarification is, then, convenience stores are okay, but convenience stores with pumps are not okay.

MS. MOSCA: From a staff perspective, we'd prefer no convenience stores. But, again, based on discussions, if the intent was convenience stores with fuel pumps, staff will accept that language.

MR. WEEKS: Mr. Chairman, can I weigh in?

CHAIRMAN STRAIN: Yeah. You're going to help clarify what she said; you'd probably be used to that.

MR. WEEKS: Moving on. The SIC code classifies these differently. A convenience store without food pumps is considered a grocery store; with the fuel sales, it's categorized with gasoline service station. That was the way I looked it up in the SIC code. So that's the distinction in the code -- SIC code between those two uses.

As Michele said, I mean, we don't support the petition at all, if you remember from transmittal, but we believe this change to make the prohibition applicable to convenience stores with fuel pumps meets what the board's intent was in transmitting that language.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: That prohibited gas stations and convenience stores. We think that convenience stores with fuels pumps is what was intended by the board.

CHAIRMAN STRAIN: Okay. And this is the adoption hearing, and so most of my questions are already addressed at the transmittal for this project. But now I'm -- I've finished with Michele.

We can move into the PUDZ unless somebody else has questions.

(No response.)

CHAIRMAN STRAIN: Okay. We'll go right into the --

MR. WEEKS: Question, please. Did you want the staff presentations to wait till after this discussion and do both the plan amendment and rezone?

CHAIRMAN STRAIN: Yeah. These were supposed to be questions of the applicant at this point, because Tim just finished his presentation, and then I was going to -- the remainder will -- then usually staff comes up after that.

Michele, are you going to be here this afternoon anyway? Is there a need to get your presentation done before lunch so you can go -- do you have other things -- other places to go or --

MS. MOSCA: I do, but I will be here.

CHAIRMAN STRAIN: Okay. Then we're not going to rush through that. We'll go into the rezone application.

One of the things that I've noticed in the rezone application, Tim, is the pointing out that the GMPA encourages physical pedestrian integration of commercial and residential uses but the PUD does not require it.

Is there a reason you wouldn't want to put a pedestrian integration to the north and south or at least to the south, to the library and the -- I suggest we should have a full interconnection there, but apparently that has -- a citizen in front of the BCC was concerned about that for some reason. Can you clarify all that for us?

MR. HANCOCK: Yes, sir. To answer the first question, we show on the master plan currently in the PUD future pedestrian connections both north and south. To the north more problematic because I believe the property to the north has a small preserve on that property line. So the likelihood of that happening is not very good.

To the south, I think that's an open opportunity. And we show it on the master plan as an intent, so it would be addressed at the time of SDP or platting.

With respect to a vehicular connection to the south, that was something that came up at the board. The history on that is that there is a resident who represents -- indicates he represents a group of homeowners on Orange Blossom and raised a concern that vehicular connection to the library would put more trips on Orange Blossom.

I don't personally agree with that logic. I think if you're going to or from this site from Orange Blossom, you're going to go to or from the site from Orange Blossom whether you go through the library site or not.

However, the board requested that we remove the vehicular connection from the project to the library site. That really was the extent of it, sir. I don't have anything else I can expand on.

We are fine either way and leave it to this body to make whatever recommendation you feel is appropriate.

CHAIRMAN STRAIN: Okay. And the reason I'm bringing it up is we have requested, demanded, pushed, shoved private developers all over the county to require intersections. We do it as -- from the same language in the GMPA, and we turn around and, for the one reasonable interconnection to a government-owned site that would allow people to move from that site to the shopping center and back and forth -- and to be honest with you, we use that Orange Blossom quite frequently, my wife and I -- and to be into the library and then be able to drive right up to the place to the north would be real convenient.

I'm real puzzled as to how we can ask people in the future to restrict their properties when we're not even allowing it through one that's as obvious of a good thing as this.

And I understand that one resident from somewhere in the neighborhood -- down the road, which is a public road, and it's a connector road between Goodlette and Airport -- doesn't want people driving on that road, but that's what the road was put there for.

And if you don't go down that road from an interconnection to the library, you're just going to drive out on Airport, go down, take a right, and go back on the same road again.

So I'm real mystified as to why that seemed relevant. And maybe if we take a closer look at it from this board's recommendation, the BCC can take a second look at it and maybe find another solution.

MR. HANCOCK: And, sir, if I may, I think one additional element of that -- because I don't want to shortchange the transportation review. If we were to come in at SDP and show that connection and the

number of trips that would be projected to use that connection created a safety issue on the library's site, I believe transportation review staff would have the opportunity at that time to say, wait a second, we have a problem, this may not work; whereas, if it says we can't do it, that decision can never be made.

CHAIRMAN STRAIN: When you were at that meeting, was the issue of safety on that site brought up, or was it strictly the use of Orange Blossom?

MR. HANCOCK: My recollection was there was a comment about concern over safety, and it may have come from the dais. But I am -- I'm trying to remember that. I'm sorry. I have not reviewed the minutes, and --

CHAIRMAN STRAIN: I mean, if it's unsafe, we shouldn't be doing it, but I think transportation and others ought to weigh in on that and maybe provide that additional information for the record so it's clear.

MR. HANCOCK: And, again, until they know the use is coming in, they may not be able even to make that determination. So I think it's a question of volume and use, and that's something probably better made at the SDP or plat level.

CHAIRMAN STRAIN: And by the way, we are going to take our break in about five minutes. I just want to get as many questions as we can. Under --

COMMISSIONER CHRZANOWSKI: Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER CHRZANOWSKI: I would like to agree with what you just said about that interconnect. I live right around that corner. I use that site all the time, and I would like to see an interconnect there.

COMMISSIONER ROSEN: It just makes sense to me as well, that that interconnection be something that --

CHAIRMAN STRAIN: I think having -- like we get, we get a lot of comments on the fly, and you don't get all the information when it happens like that. That's the purpose. This is being heard as a transmittal and adoption. So maybe with the adoption review, if our recommendation includes taking a second look at that interconnection, transportation staff could provide additional information to the board for their consideration in regards to that in more detail, and that might be the way to look at it.

COMMISSIONER ROSEN: Mr. Chairman, that's -- and that was the purpose of my comment during the previous petitioner regarding the Sports Authority/Teddy Bear Museum connection with the YMCA as well, so I agree.

COMMISSIONER ROMAN: Exactly.

CHAIRMAN STRAIN: Okay. And, Tim, one question. I also notice that the maximum floor area ratio of .518 has been removed and is no longer practical due to the changes in the water management design.

I wasn't concerned about your floor area ratio as much as I am about -- you always had to have water management, so what -- how did one factor to the other all of a sudden?

MR. HANCOCK: The previous site plan, which was very building intensive, achieved that floor area ratio because they were using vaulting of stormwater underneath the parking surfaces. That practice is no longer something that is permitted on a project of this size and location; therefore, we would have a more traditional water management approach which, in essence, reduces the buildable area on the site.

That's why the floor area ratio's been removed. It's been replaced with a maximum building coverage. Again, not in the LDC, but something we wanted to put in there to avoid an overbuild situation.

CHAIRMAN STRAIN: Okay. And I think what I can do is -- so we'll break for lunch right now, and we'll come back at 1 o'clock and resume with your project, wrap that up, and then we'll go into the final one.

COMMISSIONER ROSEN: Mr. Chair?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER ROSEN: Before you break, just for the record, as I mentioned to you previously

--

CHAIRMAN STRAIN: You're leaving at noon?

COMMISSIONER ROSEN: -- yeah, I'm leaving at noon; however, the record's going to show I'm present at the meeting. And I just want to make sure that since I will not be here for this afternoon and the

petitioner that will be coming up this afternoon that I'm going to recuse myself on, I just want to put it for the record that I was going to recuse myself. I'm not sure how to do that.

CHAIRMAN STRAIN: Well, no. The record will show that you're not here, because when you come back we'll make -- once your seat's -- when there isn't a body in your seat, one of us will think of saying something.

COMMISSIONER ROSEN: Okay, good. I just want to make sure I'm covered.

CHAIRMAN STRAIN: Thank you.

COMMISSIONER ROSEN: Thank you very much. I appreciate that.

CHAIRMAN STRAIN: Thank you. And with that, we'll take a break till 1 o'clock and resume at that time.

(A luncheon recess was had, and Commissioner Rosen was absent for the remainder of the meeting.)

CHAIRMAN STRAIN: Okay. There we go. Welcome back, everybody, from lunch.

When you left, we were moving into the discussion or questions concerning the Buckley GMP and PUD rezone applications, and we will resume that as soon as Mr. Hancock can unpack his paperwork. It looks like he did. Okay, Tim.

I think I was asking -- oh, by the way, let the record show that Mr. Rosen had to leave for business elsewhere, and he will not be here this afternoon.

The -- my questions are going to center around the PUD, so we'll start with Exhibit A. And right on top of Exhibit A I have this note that says, review Heidi's language.

Now, the reason I now know that's here is Heidi made a note to me that the package we got didn't have all of her possible changes to it, and so she had some, so I figure we'll start with hers, if that's convenient for you, or do you want me to go on with mine first, then go back to yours?

MR. HANCOCK: Mr. Chairman?

CHAIRMAN STRAIN: Yes.

MR. HANCOCK: Actually, Mr. Anderson identified those two changes that were part of the last request for legal services. They were the ones he put up on the visualizer that were highlighted in yellow. There were two of them.

CHAIRMAN STRAIN: That's it?

MR. HANCOCK: Ms. Ashton, are those the only two -- those are the two I'm aware of. The one where it said "or nonresidential" and the other was a change to the master plan where we inverted the 700 and 1,200.

MS. ASHTON-CICKO: Yes, those were the two changes.

MR. HANCOCK: Those were the two Mr. Anderson put up, and we're very clear on those.

CHAIRMAN STRAIN: Okay, good. Then what we'll do is if, Heidi, you see anything as we go on, just interrupt me, and we'll put any other corrections you have, but as long as that's the only two.

MS. ASHTON-CICKO: Okay. Thank you.

CHAIRMAN STRAIN: On Exhibit A, and Page 1 of that exhibit, there's -- under principal uses, you had included essential services and water management facilities and related structures.

I know you cleared it up on one further down, but I didn't remember hearing you saying those No. 3 and 4 weren't needed because they're already required or allowed by the LDC, so we could take those two out.

MR. HANCOCK: Okay.

CHAIRMAN STRAIN: And, Kay, I guess you're -- or somebody's making notes from staff so I don't -- I'm not going to re-read all these in any kind of motion that's made.

Page 3 under Commercial C --

MR. HANCOCK: Mr. Chair, if I could back up. One other point you made was under B, temporary uses, to renumber that.

CHAIRMAN STRAIN: Yes.

MR. HANCOCK: Okay.

CHAIRMAN STRAIN: You're right. Oh, and I think you may have answered it previously, but just, again, temporary uses would be dictated by the LDC as far as how we define how temporary they are --

MR. HANCOCK: Yes.

CHAIRMAN STRAIN: -- the ones that are allowed and everything else, because you didn't mention -- you didn't have standards for those, so they'd fall back on the LDC.

MR. HANCOCK: Yes, sir.

CHAIRMAN STRAIN: Okay. On Page 3, commercial uses, this is where we get into the commercial uses. You're asking for all the allowable uses through C3 and the conditional uses. Have you had time to look at the conditional uses?

MR. HANCOCK: Yes, sir.

CHAIRMAN STRAIN: And any of those that you think you can live without, Tim?

MR. HANCOCK: Yes, sir. The coin-operated laundry.

CHAIRMAN STRAIN: And the number of that is?

MR. HANCOCK: Number -- it's actually number -- it's the second conditional use of C3 zoning.

CHAIRMAN STRAIN: Okay. I'm going to use them -- when we do the stipulations, I'm going to read them by number, so --

MR. HANCOCK: Let me go to my -- oh, thank you, Bruce.

Conditional Use No. 11, homeless shelters.

CHAIRMAN STRAIN: What about 3, 4, and 7? I mean, do you need bowling centers, coin-operated amusement devices, and drinking places? Because I thought you said you didn't need drinking places because you've got restaurants.

MR. HANCOCK: The short answer is no, but let me just -- let me be clear about this.

CHAIRMAN STRAIN: Okay.

MR. HANCOCK: Okay. So 3, bowling centers, we have no problem with deleting that; 4, coin-operated amusement devices, the only concern I have there is a facility like a Dave and Buster's that has a restaurant and a gaming component in it, whether that would be considered coin-operated amusement devices. I believe it would qualify under a different use than this, but I'm looking to Mr. Bellows to see if I'm ballpark on that.

MR. BELLOWS: Can you repeat the question?

MR. HANCOCK: What we're looking at is if we eliminated coin-operated amusement devices, I mean, those were the arcades that we went to as kids that don't exist anymore, but for something like a Dave and Buster's where there is a game component plus a restaurant. Would this apply to that?

MR. BELLOWS: No, it would not. Those are deemed accessory type things to those types of restaurants. The Chuck E. Cheese is what Kay was --

MS. ASHTON-CICKO: Are we on C3?

MR. HANCOCK: Yes. Like a Chuck E. Cheese, for example.

CHAIRMAN STRAIN: We're on Commercial C on Page 3, second -- or third paragraph where he references he's going to include all the conditional uses in this application. So now I'm questioning the conditional uses that are under the C3 zoning district.

MS. ASHTON-CICKO: Under C3.

CHAIRMAN STRAIN: Right.

MR. HANCOCK: So what we're going to do is we're going to -- a list of conditional uses that are not permitted as the PUD, I guess, is the list we're creating now.

CHAIRMAN STRAIN: Right, 2, 3, 4, 7, 11.

MR. HANCOCK: Two, three, four. Seven, drinking places, we are fine with that; 11, homeless shelters. While it appears elsewhere, I think it's a clarification that needs to be made.

If it's problematic, motion picture theaters, we're right down the street from one, but I don't see it being an issue.

CHAIRMAN STRAIN: I don't -- I mean, I don't know why anybody would care about -- they're all enclosed, so I didn't have an issue with it.

MR. HANCOCK: Yes. Twenty-one, soup kitchens.

CHAIRMAN STRAIN: Now, what about social services? I don't know what that includes, and sometimes it gets into pretty exotic stuff, so --

MR. HANCOCK: What I can do, sir, is, as there's continued dialogue, let me pull up on my phone that SIC code and make sure that it doesn't preclude things such as office type uses under social services. But if it's something like detox programs, you know, and that nature, certainly we'd be willing to exclude those from this location. I just need a little clarification on that SIC code.

CHAIRMAN STRAIN: Okay. So would you read those numbers off again, Tim, so I get them right.

MR. HANCOCK: Yes, sir. Under conditional uses of the C3, the following would be prohibited: No. 2, ancillary plants; No. 3, bowling centers; No. 4, coin-operated amusement devices, which Ms. Deselem would not include a Chuck E. Cheese. She's never been to a Dave and Buster's, but we'll work on that.

Number 7, drinking places; No. 11, homeless shelters; No. 21, soup kitchens; and No. 20, social services, and I will come back and clarify if that is problematic after I've had a little more time to look at the SIC code.

CHAIRMAN STRAIN: Great, thank you.

Okay. That gets us -- let me see where I'm at here. When we got into your -- down on the same page, when you previously -- like C2, it said SIC Group 5411, convenience stores only. You didn't mean convenience stores only now; you meant convenience store if they had fuel dispensing facilities, right?

MR. HANCOCK: Correct. So under -- on Page 3 of 16, under Item A2, it would read SIC Group 5411, convenience stores with fuel pumps only, and that also would read -- that same language would apply under Item A3 where it says SIC Group 5411, convenience stores with fuel pumps only.

CHAIRMAN STRAIN: Okay. Under the next page, which is Page 4, I believe you already corrected all this. B1, 2, 3, and 5 were not needed, so they won't be listed; is that correct?

MR. HANCOCK: One, two, three, and five, correct. There will only be two items remaining under B, accessory uses currently reading as 4 and 6, and they'll be renumbered.

CHAIRMAN STRAIN: Okay. And then we get to the standards table, which is on Page 5. I understand the changes from buildings to unit, and then your lake setback will be zero feet from the maintenance easement.

MR. HANCOCK: That's correct.

CHAIRMAN STRAIN: Okay.

MR. HANCOCK: And I'm sorry -- will read 20 feet or zero feet from the maintenance easement.

CHAIRMAN STRAIN: Well, how do you decide which one to use then?

MR. HANCOCK: Well, I can't think of a situation except when we have a bulkhead immediately adjacent to the building on the lake.

CHAIRMAN STRAIN: If you have a bulkhead and you have your -- you don't have a maintenance easement where the bulkhead is, so you'd be able to go right to the bulkhead, which is probably a reason why you'd put the bulkhead in, if you want some close-to-water dining or something.

MR. HANCOCK: And that's covered under Item 3 under Exhibit B, development standards. So I see 0 feet from the lake maintenance easement is fine.

CHAIRMAN STRAIN: Okay. Good. That covers all the situations.

We cleared up the issue with the underbuilding parking. There is not going to be any.

MR. HANCOCK: Correct.

CHAIRMAN STRAIN: I'm moving -- on the master plan, you're going to take out the required PUD setbacks, the development standards, and what else, planning notes?

MR. HANCOCK: And deviations.

CHAIRMAN STRAIN: And deviations.

MR. HANCOCK: Because they are contained in the document.

That would leave open space requirement and land-use summary, because the summary in itself does not call out the open space requirement individually. So those will be the two elements remaining on the master plan there.

CHAIRMAN STRAIN: Okay. And on Page 13, you just said, I believe previously, that No. 3, outdoor lighting, any lighting within 50 feet of residential property line outside the MPUD will be limited to 15 feet in height. Didn't you just say you wanted to go 30? Because you gave us 50. Why would we take 30

now?

MR. HANCOCK: Because I realized that 50 was extraneous. It was excessive. If you want to leave 50 in, that's okay. I just -- I looked at a real-world example of it, and 30 feet would be shielded either way. You wouldn't see it from the vegetation.

CHAIRMAN STRAIN: Okay. If you don't mind 50, I'd rather not change the document if we don't have to.

MR. HANCOCK: We can leave that. And the one suggestion I would make there is under Item 2 --

CHAIRMAN STRAIN: Oh, yeah.

MR. HANCOCK: -- I would say lighting within 30 feet of the perimeter of the project will utilize full cut-off shields. That -- when you look at the light spill of a fixture, if you're beyond 30 feet with a flat panel fixture, you don't have light spill that goes more than 15 feet.

CHAIRMAN STRAIN: Okay. But you're still going to have to do them all flat panel fixtures. So how are you going to get more light spill than that anyway?

MR. HANCOCK: This is specifically to determine which fixtures are required to have full cut-off shields. The ones on the perimeter of the project, having cut-off shields -- which, again, the ones at the library currently do not -- actually create more of a zero wall, if you will, for a spill effect. So what I'm saying is, flat panel everywhere. The ones on the perimeter of the project will have full cut-off shields.

And I'm giving a dimension because you mentioned that -- what does perimeter mean.

CHAIRMAN STRAIN: Yep.

MR. HANCOCK: So we're going to say within 30 feet of the property line we'll have full cut-off shields.

CHAIRMAN STRAIN: Under transportation, Items 2 and 3, so if we didn't say, No. 2, additional site and off-site improvements as required shall be addressed at the same time of site development plans permitting, that means you wouldn't have to address -- I mean, it's this extraneous language. I'm wondering, do we need 2 and do we need 3?

MR. HANCOCK: In my opinion, no, we do not need 2 because I've never had staff give me an excuse not to address off-site improvements.

And, again, No. 3 is actually in the Land Development Code anyway.

CHAIRMAN STRAIN: Right. So why don't we just drop 2 and 3. It's more information that only gets in the way and certainly can cause confusion down the road.

And that is the last issues I had on your PUD for now.

MR. HANCOCK: Mr. Chair, if I may.

CHAIRMAN STRAIN: Sure.

MR. HANCOCK: Prior to recommencing the hearing, Ms. Russo, who spoke previously, apparently she was concerned about her response to Ms. Ebert and her possible lack of clarity in that. And she went home and actually typed something up, handed it to me with her signature here, which I would like to enter into the record.

CHAIRMAN STRAIN: Yes. And she mentioned it to me. I suggested she give it to you for disbursement. But instead, why don't you just read it for the record and provide a copy to the court reporter.

MR. HANCOCK: I will. And I only have one copy, so that's probably the best way to do it.

MR. ANDERSON: I gave it to the court reporter.

MR. HANCOCK: Oh, the court reporter has it. Apparently we had two copies.

The letter reads as follows: I want to be clear on my position for the use of the Buckley property. As a representative of the residents of Emerald Lakes, we want the property --

CHAIRMAN STRAIN: Slow down, Tim. Terri's got to type as fast as you talk, and you're worse than me sometimes.

COMMISSIONER EBERT: That's hard to beat.

MR. HANCOCK: Thank you for the reminder. We want the -- that I'm worse than you, I meant.

As a representative of the residents of Emerald Lakes, we want the Buckley property to be built for commercial use.

I realized that my response was somewhat vague at first, and it shouldn't have been. The property

values of Emerald Lakes would be increased dramatically by seeing commercial buildings constructed on the Buckley property site.

The residents can walk to have a cup of coffee, do some banking, et cetera, as they do when they walk to Stonewood Restaurant, Pete's Pizza, mail something at the UPS store, or have an ice cream to (sic) the property Fountain Lakes that is situated on the other side of our community near Airport Road.

Convenience and location have been paramount to the success of our community, and we want that to continue.

When I left the session to make a doctor's appointment, I realized that the strength of my answers did not match my intent. That being said and, for the record, I repeat that we have the utmost confidence in the recommendations Tim Hancock from Stantec Engineering, and Bruce Anderson from Roetzel & Andress have proposed. They have worked closely with our community to make sure any concerns that we have are addressed and have done so with extreme diligence.

We want a commercial site built on the Buckley property. Thank you.

And I was clear in the discussion with Ms. Russo that she does understand that it can be 100 percent commercial, it could be 100 percent residential, it could be a mixture of the two. It has also been their preference, as they stated to us, they would rather see commercial there, but we've never been ambiguous about -- that it could be residential. The primary change being it just can't be both anymore on the same parcel.

But I wanted to read that into the record, and the court reporter does have a copy.

CHAIRMAN STRAIN: Okay. And I have one other question we probably should talk a little bit about, and that's this staff suggestion that we go to 50,000 square feet as the maximum-size building.

We have -- are you familiar with our architectural standards?

MR. HANCOCK: I am.

CHAIRMAN STRAIN: Since you were the originator of those.

MR. HANCOCK: They were much smaller when I created them.

CHAIRMAN STRAIN: Yeah. Well, they've many pages now. But that detail has provided a good opportunity to keep a style for Collier County that I think everybody in the end sees as better, although they may not recognize why. So I like the architectural standards we have. I think that for all the complaints we get, we end up getting a better product, and the county as a whole has a better image.

Your buildings, even though they could go up to 100,000 square feet, will be like all buildings in the county. They will fall into those architectural standards. Part of that, when you get to a larger building, is to have a sizable stepping forward and back articulation of the facades. And in this particular case, you've got all your Airport Road facade, and I'm not sure if the others are going to be any more primary, but you'll definitely have secondary.

So for that reason I don't see as much of a concern with the limitation on the size beyond what you've already expressed the supply. And maybe you can comment on that. I mean, your articulation of that facade is going to break it all up. You can't have a flat -- like the Toys R Us and Sports Authority that actually originated the need for the architectural standards. We can't do that anymore.

So from that purpose, 100,000-square-foot building might actually appear just like any other size building because of the way they could be joined together and have the different front and backs. Is that a fair statement from your perspective?

MR. HANCOCK: It is, and I think you've encapsulated somewhat of our position very clearly.

The other thing to remember is we're talking about retail buildings, unlike office buildings which routinely will go three, four, five stories or greater.

Retail generally -- and there may be some exceptions out there, and none come to mind immediately. But retail, generally, is at most a two-story building; 90 percent of the cases is a one-store building. And the two-stories are rare. I think of some furniture stores that have an upstairs, but most retail buildings are single-story buildings.

So with that understanding and with the application of the architectural standards and the landscaping code and the fact that we have shared some sight line style exhibits with the residents based on the maximum height of the building and their view angle and that they were comfortable with that, I think to bring that

number down to a number that, candidly, may make some people feel better about what's built there but in the end will only have the potential impact of restricting reasonable uses, such as a furniture store, which would be a good neighbor -- I think we've got enough regulations in place, and I think the 100,000 keeps us below that superstore level, which was the intent, and we're very comfortable with that. More than that, I think, becomes an undue restriction.

CHAIRMAN STRAIN: Okay. Thank you, Tim. I think that's all.

Does anybody else have any questions of the applicant?

Go ahead, Diane.

COMMISSIONER EBERT: Tim, I have some concerns with this project. It's probably what you removed from it. In reading the notes, you removed model sales facilities. You also have no residential builder involved, is one of your notes. You removed the flexibility to replace residential or commercial to make it either way, and your requirement to access all of the commercial building being internal was removed.

Those were kind of in the original, and now you can enter from, like, three different places on Airport. Is there going to be, like, a deceleration lane? Is there going to be something where they can go in with this? Can you explain that to me?

MR. HANCOCK: Yes, ma'am. In looking at the PUD master plan, which I believe is Page 10 of the PUD document, you will see on Airport-Pulling Road a primary central point of access. The aerial for the property, which is on Page 6 of 17 of your staff report. And I'm sorry, it's difficult to see here even if I put it on the visualizer. But that main entry point is there for a reason. It's because there's an existing directional median cut.

Based on the size of the project, if it were to be developed predominantly or fully commercial, a turn lane on Airport Road would be required as a decel into this site. It would be a right-in, and it would be a right-out or a northbound left-in. The turning movement we would not be allowed to have there, despite my client's best wishes, is a left-out.

COMMISSIONER EBERT: Left-in.

MR. HANCOCK: The people at Lakeside would like very much to have a traffic signal at this intersection, and we discussed it at the transmittal hearing with this body. We would like that, too. The problem is the spacing between Orange Blossom and the entrance which goes to Piper's Grove, to Emerald Lakes, and to Fountain Park is too close for that to be executed safely.

So the entrance will be pretty much -- we know what it's going to look like. And, yes, ma'am, the degree of development we're talking about would require a turn lane.

Even if it were all residential at that number, it is highly likely that it would trip a turn lane requirement. I live in a neighborhood with only 94 homes, and we have a turn lane, so --

COMMISSIONER EBERT: I know.

MR. HANCOCK: -- on Livingston Road. So, yes, a turn lane would be required.

The north and south access points, which we show as right-in and right-out only, those would be subject to permitting at the time of SDP or plat. We think they're good dispersal points. But, for example, depending on the relationship to the property to the north, that may or may not have a turn lane. That will be determined by transportation review staff at a later level, at a development order level.

COMMISSIONER EBERT: Okay. And the other thing is the -- you don't like the time on this where it closes at 11. How late would you like to see this open?

MR. HANCOCK: I don't see a reason, candidly, with the list of permitted uses, for there to be a time limitation on the project.

When you go through the list of permitted uses, I think those that could create an incompatibility because there is a nature or history of late-night operation have either been removed or restricted.

My concern is not what we know. You know, it's what we don't know. For example, a fitness facility. They open at 5 a.m. So I can easily say, well, the time restriction just won't apply to a fitness facility. What about a walk-in clinic?

COMMISSIONER EBERT: There's one down the street.

MR. HANCOCK: There's one down the street. And I think with Obama Care coming, there's going

to be more.

What are the things we don't know? The problem we have, Ms. Ebert, is that in these zoning documents hours of operation as a broad-based limitation without knowing what use it applies becomes cumbersome.

If you go to the north at the intersection of Vanderbilt Beach Road and Airport, there is the gallery shops -- or Galleria Shops there. I'll point out to you that there are no hours of operation limitation on that. It's a much larger project.

And as you go to the north and you pull out on that street, there are homes right across the street. So within Collier County, we don't have a history of limiting entire commercial PUDs to these types of hourly operations even if they are adjacent to residential. I think where it is appropriate is when you -- well, it's been a limited case, and I think this body's seen it on churches, for example, being concerned about, you know, the peace hours and then that type of thing.

So my concern is what we don't know. And I don't know who we're precluding with those hours of operation. If a retailer wants to go here but three to four times a year they have a Black Friday type sales that goes beyond those hours, they would be precluded by zoning. They can't even get an exception to it.

So it's a hurdle. And, candidly, the reason this property's still vacant is because there are just too many hurdles to develop the property as it's currently permitted. And so, in good conscience, I cannot suggest that we should accept that hurdle.

COMMISSIONER EBERT: Is -- I still am a little concerned because you have all residential, really, right around you. I am familiar with the area. You have Stan across the street. But you have Piper's Crossing, you have Emerald Lakes, and you have the ALF right next to you. I really consider that residential. And you cross the street from the ALF and you have a corner activity center with thousands of square feet in all that area.

My concern is that you're going to flip this. I don't know what you told your neighbors, but I just have a feeling it's -- and we're going to end up with an activity center in the middle of a block 500 feet from an activity center.

I really would kind of hate to see that happen. I just -- I am not in favor of strip malls, and this is -- this is what I'm thinking that is going to happen to this.

So I just want to let you know my feelings on this. The board can do as they wish on this.

MR. HANCOCK: Well, if I may, you raised two points that I think can -- I can offer some clarification. The second point you said was your concern was strip malls. The Growth Management Plan language for this project that you approved and transmitted limited the project to no more than 50 percent of the built commercial square footage may be in combined spaces. That was specifically written in so that this could not become one strip mall or one shopping center.

That was based on a concern Ms. Mosca raised about the space to the north that still has not fully recovered, end-line retail. We don't want to compete with that. And, frankly, if we were competing with that, there's not much of a market at this stage because of some of that vacant space in the area. So we anticipate this being an aggregation of multiple commercial buildings if it goes the commercial route.

So it is prohibited from being one strip center. So hopefully that can give you some peace on that item.

The second item I think that is critical here is that looking at the impacts to the residences, currently the amount of square footage we're talking about is zoned and permitted. They already could have this amount of commercial square footage.

What changes is the style and character, the old, what I'll call, entertainment district approach that this was modeled after, something more like a 5th Avenue or a Mercato on a smaller scale. What the residents made clear to us is they see a far greater incompatibility with restaurant row and a Main Street and an entertainment style district occurring in this location versus a Kohl's or a Dick's Sporting Goods or -- there's a shop I became aware of called Christmas Tree shops. Never seen them before in my life. Apparently they're likes a Michael's crafts, but they're larger.

We had very specific discussions with the residents saying, look, these are the types of businesses that can go in here at this square footage limitation. Are you okay with that? The answer was yes. Because

they know what they have now, and they see this as an improvement.

I hope that gives you some comfort. I don't know that I can answer all of your concerns.

COMMISSIONER EBERT: Well, I did see earlier today where it looked like the Greek Orthodox Church was here. But being stuff went on so long, they left. I would have liked to hear their comments, because it is pretty much of a residential, you know, neighborhood the way it is now, and that's --

MR. HANCOCK: My guess is they were concerned about parking during the festival, which this site has been used for some years.

And, like I say, I lived in Lakeside for some years. To call this area predominantly residential, there's a lot of residential; there's a lot of nonresidential. In addition to the library to the south, you have the Italian American Club, which has got commercial zoning on it. You've got five acres to the south of that with commercial zoning on it. This is really more of a hybrid area.

But, again, I don't think I can resolve all of your concerns, but I wanted to at least address those that I think we have taken an effort to accommodate those concerns to the degree we can in the current PUD document.

COMMISSIONER EBERT: Okay. Thank you.

CHAIRMAN STRAIN: Thank you, Tim.

Anybody else have any questions of Tim at this time? Go ahead, Charlette.

COMMISSIONER ROMAN: Yes, I have a question.

How did we decide to handle the interconnections?

MR. HANCOCK: I think that's a little bit of an open book. I did jot down some language, if --

CHAIRMAN STRAIN: Well, it is, and I -- we haven't -- we're still going to hear staff report and everything, so I was going to discuss it towards the end, but we might as well discuss it now.

I asked -- or John Podczerwinsky and I talked at lunchtime, and he indicated that staff would have no way of evaluating or would not generally evaluate the internal life safety issues of a project such as the library project. That's not what they do. They look at the roads. So to try to understand what the issues may be there, I'm not sure how we would approach that.

I also pulled up the library site plan and zoning atlas to see if they had any requirement to tie in, and they do not. They are a conditional use, not a PUD. So there was no requirement to tie in, which puts them in the same category as most other projects in the county that don't have the accommodation or the necessity by ordinance to tie in.

So based on that, it does change it a little bit. If it's the -- it's property owned by parks and rec, and if they don't want a tie-in for safety reasons, I don't believe they're going to get one. It does -- it seems to make logical sense to have one there, but if the board has already determined one's not to go there, I'm not sure, with the conditions I have found, there's a way to tactfully make that happen.

MR. HANCOCK: I want to be clear that we as the petitioner are not particularly driven one way or the other on this issue. More to the point that Commissioner Strain just indicated, I recall now, after attending an event where there was -- the library parking area was being used for that event, where the bus dropped you off on Airport Road to get from the sidewalk on Airport Road to where your car was. If you walked behind the library, I don't believe there are sidewalks back there. It's an access drive aisle only.

CHAIRMAN STRAIN: It is.

MR. HANCOCK: So even if we're to put a pedestrian connection there, we're going to be dumping people off into drive aisle where there is no sidewalk.

I was on the site this morning, and as you get between the library building and the Clerk's Office, again, to the rear of the property, there's no pedestrian -- and there was no reason to install one. I'm not saying anybody missed something, but -- so I think we need to encourage. And we are happy to provide a pedestrian connection where and if it makes safe and practical sense, but I certainly don't want to preclude the fact that when -- for us to put a sidewalk over to the library and dump people out onto a drive aisle could be more problematic than having them at least go out to the sidewalk within the right-of-way where access internal to the site is planned. So not just from a vehicular, but even from a pedestrian standpoint, it may be problematic.

CHAIRMAN STRAIN: And I tend to agree after doing the research at lunchtime. So as much as I

think it would be a good thing to have, I don't know how we can get there at this point.

MR. HANCOCK: And, candidly, I wanted it because it made sense to me to connect commercial and institutional uses. It just makes sense, but it has to be programmed from the start.

CHAIRMAN STRAIN: There is a parking lot on the Airport Road side of the library building, and it is a two-way parking lot. So the connection, if made, would have to go into there, but that would route the traffic all around the front of the library instead of the back which, again, may be a problem.

So, unfortunately, the design of that south building, the library building, may not accommodate it as easily as we had hoped or I had hoped, at least.

So I don't know what to do to encourage it. I don't know how we can at this point. May not be a practical solution.

MR. HANCOCK: I think if we indicate that it's encouraged where practical. We have used that kind of language, you know, with staff in the past where, you know, that's worked out fairly well in the past on other projects.

COMMISSIONER ROMAN: It just seems like a missed opportunity to me, but I know all the complicated aspects that have been surfaced today regarding the issue, but it just seems a missed opportunity in so many ways to connect and not make all the traffic go back out on Airport-Pulling.

MR. HANCOCK: I cannot disagree with you, but I'm afraid the existing conditions do make it problematic.

CHAIRMAN STRAIN: I don't know what to do with it at this point. I like the idea of the interconnects because -- I mean, I would use it; otherwise, you're just going to go back out on Airport and go back down and make a right on Orange Blossom, and that seems the wrong way to go.

You know, they've got "the pedestrian connections are encouraged to all perimeter projects" in the language, but that doesn't help the vehicle part of it. Maybe it will come back up for discussion in front of the board, they'll find a way to do it between now and then, but I don't know if it's anything we should be recommending because I don't know how to get there.

MR. HANCOCK: I've failed in my desire to even create a one-way connection from the library to the commercial site to try and open some of that up, because, really, that's the one that's most problematic. If someone's on the library site and they want to go to this site, they've got to go out onto Orange Blossom, to the light, make a left, turn left in.

But, you know, you can put all the one-way signs up you want in the world; nobody really has to follow them.

COMMISSIONER ROMAN: And the other thing is, depending on what kind of businesses, if this does go commercial, there are going to be folks that go to the library that are going to want to go and frequent those businesses, and they're going to do exactly what you just described.

CHAIRMAN STRAIN: Ironically, when I asked the question of why it was taken out, and I heard there was apparently a person that complained from a neighborhood down to the west, I didn't know if there was any review associated with that. It was just, hey, I don't like this here, and my neighborhood doesn't like it, so take it out. They would be probably one of the people benefiting the most, because anybody that would turn into the library to come into the commercial area through that instead of going and queuing up that light, left-hand turn lane, can only make their access to Airport Road easier, not worse.

And if they think they're going to stop traffic on Orange Blossom, it isn't going to have any impact on it at all, because the people going to Orange Blossom would still just go out on Airport to go to Orange Blossom.

So I'm not sure what the gain was by the neighborhood thinking it was a bad thing for them, but that wasn't discussed by this board, and I don't think anybody from the neighborhood is here. We'll certainly ask, and we'll go from there. I don't know what else to do at this point.

Anybody else have any questions of Tim?

(No response.)

CHAIRMAN STRAIN: If not, let's go to staff report.

MS. DESELEM: Good afternoon. For the record, Kay Deselem with the zoning department.

You do have the staff report in front of you, revised 4/7/14. And I won't belabor the issues. I will

jump right to where we're in disagreement, pointing to Page 9 of 17 of the staff report and noting that one of the things that Tim said in his presentation was that they're also concerned about what we don't know, and that's exactly where staff is.

We've got a bubble plan in front of us, and we just don't know. We have no idea what's going to go where, how the buildings are going to be oriented, what's going to be front, what's going to be back, and so it kind of leaves us open. We just don't know. We feel that the -- it leaves the neighborhood vulnerable to that.

And as far as the conditions that are listed on Page 16, I would have to disagree with Tim when he says that PUDs do not normally have hours of operation limitations.

Two things -- two different projects come to mind. The Golden Gate Estates shopping center and the Brooks Village, and I'm sure there's others. Those are just the two that do come to mind.

And I know in the Golden Gate shopping center it was due to abutting residential uses and concerns of the residents that lived in the area. And I think it's appropriate here as well.

Now, I think the language might be improved as far as how it's written. It might include some limitations just to being open to the public, whereas, that would allow employees to be in the building and working if they so desired, and it would be limited to commercial uses.

Now, whether you would want to further limit that and separate commercial or, I'm sorry, office from retail, that might be appropriate as well, because I think it's usually the retail that has more impact on a neighborhood.

But I think 7 o'clock in the morning to 11 p.m., in my professional opinion, is appropriate. That's more of the time when people are up and about. They might have small children they've put to bed but, by and large, people are up and about those hours.

I do understand that some of the limitations that have been agreed to today as far as the uses do help that situation. Remember when staff was writing this, there were still those uses in here.

As far as the square footage limitation, he said that our -- Tim, being he, had said that our particular number was arbitrary. Well, I've not seen anything in what I've looked at to prove that 100,000 square feet was any less arbitrary than 50-.

I was trying to come up with something between what was allowed in the original document, the GMP document, of 15,000 square feet and something between that and 100,000 square feet. And I thought, with a shopping center of this size, that 50- was a reasonable limitation, not knowing where, again, anything's going to be or how it's going to be oriented. We just have that bubble to look at.

The Condition No. 3, some of the things I've heard today that Tim said I think can change staff's position on that. I think we can agree to the one fast food restaurant with a drive-through if it's limited to within 300 feet of Airport -- I believe that was what he offered -- and then any other fast food establishments would not be permitted to have a drive-through.

So I think we've come to at least a little bit of an agreement, but I welcome any questions that you might have, and I'll try my best to answer them.

CHAIRMAN STRAIN: Okay. Anybody? Stan.

COMMISSIONER CHRZANOWSKI: Yeah. Can you make it so that the drive-through can open earlier? When I hit McDonald's at 6 o'clock, I'm never the first car there; I'm fifth, sixth. You know, people get up early, and they hit that because they're going out somewhere.

MS. DESELEM: That's a good point.

COMMISSIONER CHRZANOWSKI: And it's not -- that noise is not going to wake me up as much as the Publix in the other direction that gets their food deliveries. And when my windows are open in the winter, that's what I hear, so -- and that's four or five in the morning.

MS. DESELEM: We were concerned about the noise from the drive-through, the old, "Do you want fries with that?" kind of thing. But that seems like it might be appropriate if it's limited to that one fast food restaurant. Maybe a 6 o'clock hour might be appropriate. I don't know when McDonald's opens. Some are 24 hour, I believe.

COMMISSIONER CHRZANOWSKI: Yeah, I think so.

COMMISSIONER ROMAN: I have a question, Kay. Would, like, a Starbucks with a drive-through be considered a fast food?

MS. DESELEM: I believe so. I'll look to Ray to clarify that, but I believe so. Is that considered a fast food establishment?

MR. BELLOWS: Which one?

MS. DESELEM: Starbucks.

MR. BELLOWS: I don't believe they're classified the same way. Starbucks is more of a cafe drinking place. I think it's not true fast food in that regard. They're different SIC codes, I believe.

COMMISSIONER ROMAN: So as this is written or as proposed to be written, then that allowed for a fast food with a drive-through and, say, if they got a business such as Starbucks that wanted to have a drive-through for coffee, that both would be permitted on this commercial property?

MR. BELLOWS: I think we need to double-check the SIC codes. I think they're different, but I'd have to check again.

MS. DESELEM: We're working on it, too, so --

CHAIRMAN STRAIN: Do we have a definition for fast food?

MS. DESELEM: I think we do.

CHAIRMAN STRAIN: I don't recall one. Because, I mean, Publix could be fast food, because they serve sandwiches ready to go. That's pretty fast. I mean, so --

MS. DESELEM: Well, but that's the accessory use to Publix. That the not general.

CHAIRMAN STRAIN: But where's the definition to separate them out?

MS. DESELEM: Did you find something?

MR. HANCOCK: We have a definition in the code, if that's --

MS. DESELEM: I thought we did.

CHAIRMAN STRAIN: Okay. I don't remember one, but --

MS. DESELEM: Yeah. As far as SIC codes, I'm sure that the version that we use, which is about 20 years old, doesn't anticipate Starbucks.

CHAIRMAN STRAIN: No, it doesn't anticipate electronic stores, it doesn't anticipate automotive vehicles. It's pretty old.

COMMISSIONER HOMIAK: Horse and buggy?

CHAIRMAN STRAIN: Oh, it's terrible. It's an '87 code that's never been updated.

MR. HANCOCK: Tim Hancock, for the record.

LDC Section 1.08.02, under definitions, restaurant/fast food -- I'm trying so hard to speak slowly -- reads as follows: An establishment where food prepared served to the customers in a ready-to-consume state for consumption either within the restaurant building, outside the building but on the same premises, or off the premises and having any combination of two or more of the following characteristics.

Now, we can define some stuff here, can't we?

A, a limited menu, usually posted on a sign rather than printed on individual sheets or booklets; B, self-service rather than table service by restaurant employees; C, disposable containers and utensils; D, a kitchen area in excess of 50 percent of the total floor area or; E, a cafeteria or delicatessen shall not be deemed a fast food restaurant for the purposes of this Land Development Code. I just realized my house is a fast food restaurant.

But to answer the question -- so, for example, when we think of fast food, our mind goes to McDonald's, Burger King, Wendy's, et cetera. Boston Market, Pollo Tropical, these still qualify under this definition as fast food restaurants with a drive-through. A Starbucks or a Dunkin Donuts is a coffee shop which is under eating places. So it would be a separate business with a drive-through.

That's why we capped the total number of drive-throughs at four, because there are some that -- a pharmacy can have a drive-through; a bank can have a drive-through. So that's the reason for the differentiation of fast food is -- but you could technically have a fast food restaurant, Pollo Tropical, and next to it could be a Dunkin Donuts.

COMMISSIONER ROMAN: And my point of the question was we're focusing on a drive-through only as it relates to fast food being 300 feet from Airport-Pulling, and what I was trying to determine is, if you would have other drive-throughs on that property, would they be 300 feet from Airport-Pulling, or would they be somewhere else on the property?

MR. HANCOCK: There are some other drive-throughs that are not as dependent on being adjacent to being arterial. For example, Suncoast Federal Credit Union. You know, they have drive-throughs in the two locations I can think of that are actually behind the building. You don't even see them from the roadway. Some pharmacies -- and even some groceries stores now will have drive-throughs pharmacy lanes next to the building, so it could be in the back or on the side.

So that -- I think the one that is most concerning and I think -- I agree with staff on this from a drive-through component -- hours of operation and volume alone is fast food. And That's the one where we chose to restrict it.

The others, even a Starbucks, you know, high volume but, you know, it's not typically a 24-hour operation. So the fast food is the area where I chose to focus.

CHAIRMAN STRAIN: Okay. And this is staff's report.

MR. HANCOCK: I'm sorry.

CHAIRMAN STRAIN: I appreciate your help, but we really want to get staff before we give you any more airtime.

MS. DESELEM: Yeah. He did jump up to respond, more or less, to the question.

Yeah, Mike Bosi clarified that a coffee shop is, indeed, an eating place, which is under SIC Code 5812, so that clarifies that that is not a fast food restaurant.

CHAIRMAN STRAIN: Okay. Are you -- does that mean you're finished with your staff report?

MS. DESELEM: Yes. I'm ready to respond to any questions, which is what I was doing.

CHAIRMAN STRAIN: Anybody have any other questions of Kay?

Did you have something, Diane? Go ahead.

COMMISSIONER EBERT: Well, I just really agree with you, Kay, that we don't know, and it's a bubble plan. I just don't have a good feeling with this. And we all have -- I think 100,000 square feet -- going from 15- to 100- is a huge jump. So I see where you picked out the 50- on that. I can go along with the drive-through. That doesn't bother me.

MS. DESELEM: We would have been willing to entertain some specific exceptions to that from the applicant had they proposed any, but up to this time they haven't.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: So if the applicant wanted to build a building, he had -- he would have to break it up into whatever sizes were the allowable maximum. Say he built a 70,000-square-foot building, he'd have to have at least two tenants or more in that building; is that right?

MS. DESELEM: Yes.

CHAIRMAN STRAIN: Fifty -- by your standard.

MS. DESELEM: Yes.

CHAIRMAN STRAIN: Fifty and then 20,000 or 25,000.

MS. DESELEM: Yes.

CHAIRMAN STRAIN: Okay. If he wanted to build a 100,000-square-foot building, by his standard, he could put one tenant in it.

MS. DESELEM: That's correct.

CHAIRMAN STRAIN: If he wanted to build a 162,000-square-foot building, he'd have -- he could have any number of tenants he wanted.

But my point is, this whole property could be built as one building. What do we care how it's used?

MS. DESELEM: It's a matter of the orientation and the sizing and the impact that that could possibly have on the neighbors.

CHAIRMAN STRAIN: It's going to be that way --

MS. DESELEM: Three stories high. He says in his presentation that most retail businesses are one story high, but at no time did he offer to limit the retail uses in the project to one story. He's still asking for three-story structures.

CHAIRMAN STRAIN: But there's not going to be any living quarters. You're suggesting he's going to potentially do the three stories of retail?

MS. DESELEM: That's potentially what he could do, yes.

CHAIRMAN STRAIN: Okay. And that retail would be set back 100 feet from the neighbors to the east, which is the only residential tract.

MS. DESELEM: That's correct.

CHAIRMAN STRAIN: Okay. The point about the larger building, our architectural standards are still going to apply, whether it's a little building or a bigger building. And I'm not sure there's a big difference in the way it appears from the outside versus the square footage one tenant uses over another.

So you had something else you wanted to add?

MS. DESELEM: Yes, if I may. She was kind enough to -- she, being Michele, was kind enough to provide to me the urban designation, urban mixed-use district, Buckley mixed-use subdistrict -- that's a lot to say. And what it actually calls for -- and I'm quoting -- the activity centers to the north and south provide for large-scale commercial uses while this subdistrict is intended to promote convenience and intermediate commercial development to serve existing and future residential development in the immediate area.

And that's where staff's looking at. And I think anything larger than 50 square -- 50,000 foot would start drawing in people from around the area, and that's clearly not the intent of that subdistrict for Buckley.

CHAIRMAN STRAIN: Okay. I mean, I drive by there to get to Lowe's and Costco and places like that. So if this was considered neighborhood commercial, I wouldn't be able to stop there because I'm not from that area?

MS. DESELEM: Oh, they might let you stop.

CHAIRMAN STRAIN: See, that's the difference. I don't think that the size of the building is going to make any difference who drives there. They're going to go there because it's going to serve what they want to buy. And you're in an area that's already quite congested. You're right, you've got activity centers north and south. It's in the urban area. It's got all the services, and it's got a road that has the capacity.

Personally, I don't see where it makes a difference whether it's 50,000 or 100,000 square feet for the building, so -- anyway, that's my thought on it. Thank you.

MS. DESELEM: Understood.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Thank you, Kay.

Are there any speakers from the public registered, Ray?

MR. BELLOWS: No one has registered.

CHAIRMAN STRAIN: Anybody from the public want to comment on this petition?

(No response.)

CHAIRMAN STRAIN: Okay. Is there anything else from staff?

(No response.)

CHAIRMAN STRAIN: I saw you were anxious with a bunch of paperwork, so I figured I'll give you the chance.

MS. MOSCA: Again, for the record, Michele Mosca with comprehensive planning staff.

No, I just actually wanted to provide that subdistrict text for Kay consistent with her recommendation of 50,000 square feet cap on those buildings.

What I do -- I just want to quickly put on the record that comprehensive planning staff is not supportive of this amendment. Staff's opinion is that the data and analysis that was originally provided with the application does not warrant or support what they're proposing.

I also want, just for those who were not on the Planning Commission previously, to understand how this particular subdistrict originated.

It was touted as a pedestrian scale, mixed-use development. There were limitations on the square feet. The maximum retail that they could have on the site -- and I have to check my numbers -- was 92,225 square feet. So what the application is doing -- the amendment allows for the combination, the combining of the office square-foot limit and the retail square-foot limit to allow up to 162,750 square feet.

So there is a big difference there. It's not just a matter of a switch from retail to a different style of development, and I wanted to make sure I put that on the record.

CHAIRMAN STRAIN: Okay. Thank you.

With that, does the applicant wish to have any final concluding remarks or rebuttal?

MR. ANDERSON: Mr. Hancock and I both have something to say.

CHAIRMAN STRAIN: Okay.

MR. ANDERSON: First of all, for just a little bit of a history lesson. Back when the Buckley mixed-use subdistrict was first approved, the homeowners' association in Emerald Lakes sued the county because they didn't like what had been proposed. They lost, and I think a compromise may have been worked out.

But they were here today, spoke fully in support of this application, and they're the most closely affected people of anybody, and they want this to go in. We worked very closely with them to make sure that their concerns were addressed. And, you know, these discussions about compatibility and things like that, I mean, those are important, and they've been factored into consideration with a lot of the restrictions that are in there.

Now, Kay referred to this as a shopping center. And I've got to remind everyone, again, there's a limitation on how much of the building can be in one building. It's 55 percent -- 50 percent. So you can't have a true strip shopping center there with that kind of a limitation.

And the most -- under worst-case scenario for a commercial building, you could have one that's 100,000 square feet and another that's 62,000 square feet; otherwise, you know, they could be any number of buildings.

And if we've learned anything from the recession it's that we need to maintain some flexibility to respond to the changes in the market. And we would just ask you to factor that in, the fact that, you know, we have neighborhood support for what's proposed and have agreed to significant development restrictions.

And I'll let Tim address a couple other things. Thank you.

CHAIRMAN STRAIN: And, Bruce, I've got some suggestions trying to seek a compromise for -- and as you guys finish up, I'll ask you both to comment on these from your applicant's viewpoint.

You were going to make some concluding remarks, Tim?

MR. HANCOCK: This is a page out of the ITE, Institute of Transportation Engineering Transportation Manual. This is a furniture store. The yellow line is 100,000 square feet.

COMMISSIONER ROMAN: Zoom out maybe.

MR. HANCOCK: Most of them are all under 100,000 square feet, and they have a certain trip generation that is similar among that grouping. There are a few outliers beyond 100,000.

But the reason this exhibit's important to me is that, according to staff's interpretation of what intermediate commercial is, that dot is intermediate commercial; that dot is not.

There's no evidence in the record to say that a 55,000-square-foot furniture store is incompatible. And, in fact, the only evidence we have is this, which shows a grouping under 100,000. And when you get well over 100,000, the dynamics change. That's why we have the 100,000 cap.

There are other examples. I won't bore you with them, but they apply to department stores, home improvement stores, and so forth, and they all follow a similar trend. And I think it's important to understand the 100,000 is significant for a reason.

CHAIRMAN STRAIN: Okay. Anybody have any final questions?

(No response.)

CHAIRMAN STRAIN: Tim, I've been listening to some of the other Planning Commission members and, of course, staff and their arguments, and one of the things that Michele correctly pointed out is that you've talked about the retail. And while you suggested that it -- retail is customarily single story, you've never committed to that. Is there a reason?

MR. HANCOCK: Other than a two-story furniture store, which I have personal experience with --

CHAIRMAN STRAIN: Would you -- and here's a suggestion to get this to a compromising position. The people behind the facility were more concerned about residential because it was going to go on top and be higher and possibly, potentially, looking down at their houses, which I don't blame them. It's a --

Based on the size of your project and everything, is there any reason you couldn't limit your height to two stories, which would be, basically -- you're at 45 -- three stories, 45 feet, so you'd be two stories, 35 feet.

MR. HANCOCK: You mean throughout the entire project?

CHAIRMAN STRAIN: For the retail.

MR. HANCOCK: For retail.

CHAIRMAN STRAIN: I mean, office, lockup, things like that, is not a problem, but the ones where you'd have people viewing to the back and milling around on an upper floor, do you really need an upper floor for those purposes?

MR. HANCOCK: If I may. Mr. Bellows, one of the things we had is -- again, we had a fitness facility, a national fitness chain approach us about this site at one point. They're not under contract, so I don't want to speak about them as an absolute reality. But they were a three-story facility. I personally have never experienced a three-story fitness facility in my life or seen one, but obviously they exist.

CHAIRMAN STRAIN: They're not retail, are they?

MR. HANCOCK: They're not. And so there's this big volume of information out there called "You don't know what you don't know." And my gut reaction is to say I don't have a problem with a two-story limitation on retail because I haven't seen three-story retail in town.

CHAIRMAN STRAIN: I never have either, and that's why I'm wondering. Maybe we're worried about something that you don't need or isn't practically going to happen, so why don't we just say that and be done with it.

MR. HANCOCK: What I am willing -- unfortunately, the client could not be here today.

I do not see a difficulty with limiting retail only to two stories but letting all other uses apply to the development standards table as presented here today. I will reserve the right to be extremely corrected by my client between now and the next hearing if that's not the case.

CHAIRMAN STRAIN: Well, we're going to -- you're going to have to come back for consent. So that next hearing will be the 15th of May.

MR. HANCOCK: If that -- it's not the neighborhoods that are worried about three-story retail; it's the review staff. So if that makes everybody happy, I am happy to go back to my client and say, this is what we agree to. And if he, you know, skins me alive, well, we'll come back and talk about it at consent.

CHAIRMAN STRAIN: Then I need to ask the county attorney a question. If we vote today and we stipulate a limitation for retail to two stories, does that preclude us from opening it back up to vote on it again at consent?

MS. ASHTON-CICKO: Yes. You wouldn't open it up again at consent.

CHAIRMAN STRAIN: Okay. Well, that poses a problem for the dilemma that Tim just posed to us. Yes.

MR. ANDERSON: Mr. Chairman, you could continue the hearing.

CHAIRMAN STRAIN: I don't mind doing that, but you usually scream bloody murder.

MR. ANDERSON: Continue the hearing and consent -- continue the hearing and consent all at the same time if there's just this one little -- one or two issues that we need to confer with our client.

CHAIRMAN STRAIN: If you guys don't mind that, I think that would be a real good solution to get us past that point.

MR. ANDERSON: We could do both at the next hearing.

CHAIRMAN STRAIN: I have no problem with that.

MR. ANDERSON: Thank you.

CHAIRMAN STRAIN: As long as the rest of the board doesn't.

So let's finish the issues that we have, then.

You were going to check one of the conditional uses, No. 20. Did you confirm that? Do you want to do that by consent?

MR. HANCOCK: Yes. We -- I would, because on my phone, even with these wonderful reading glasses, it was not terribly easy to navigate, so --

CHAIRMAN STRAIN: Okay.

MR. HANCOCK: But, yes, Issue No. -- or Conditional Use No. 20, to remove -- yes, I'd like to address that at consent, since that's the direction it appears we're going to take.

CHAIRMAN STRAIN: Okay. And you've already agreed there will be no underground -- underbuilding parking, right?

MR. HANCOCK: That is correct.

CHAIRMAN STRAIN: Lake setbacks will be measured from the ME, and they'll be 0 feet from the ME?

MR. HANCOCK: Correct.

CHAIRMAN STRAIN: We're going to remove a lot of data that's in the document that isn't needed and from the master plan, and there's a lot of cleanup language. We'll see all that at consent.

Fast food restaurants. We're not going to have any fast food restaurants that -- outside the 300-foot distance from Airport Road. You explained that some of the restaurants you wanted to use and wanted to have drive-through for weren't fast food. Do you have a problem with limiting your fast food drive-throughs to one fast food drive-through restaurant?

MR. HANCOCK: No, sir, but I need to request a clarification.

We are happy limiting fast food restaurants with drive-through to one only. If we're not allowed to have any other fast food restaurants, that means a stand-alone --

CHAIRMAN STRAIN: Well, I was only going at the drive-throughs. You can have another fast food restaurant. It just can't be a drive-through.

MR. HANCOCK: Yes. I -- yes. One only one fast food restaurant with a drive-through.

CHAIRMAN STRAIN: Okay. And that drive-through, do you have a limitation on the fast food restaurant that would be the drive-through for the hours of 6 a.m. to 11 p.m.?

Stan's got to get his coffee on his way to canoeing in the morning, and I wanted to make sure it opened early enough so he could do that.

MR. HANCOCK: Again, I'm going to have to look at those hours of operation with my client and their real estate consultant to see if that presents a problem.

CHAIRMAN STRAIN: Okay. Then the last thing I have made note of, other than the discussions we've had today, you're going to put in 50 percent more trees inclusive of -- I mean, similar to palm trees and other varieties and they'd be added to the rear buffer along the residential portion of the project.

MR. HANCOCK: That's correct.

CHAIRMAN STRAIN: Okay. Those are the bigger notes that I made. We made a lot of changes to the small stuff throughout the document that I'm assuming staff made notes of and we will pick up when it comes back for final vote and consent.

So with that, does anybody else on the Planning Commission have any other issues? Charlette.

COMMISSIONER ROMAN: Yes. Mr. Chair, does that mean that we're not including the hour-of-operation restriction recommended by staff in our consideration? I know you singled out the fast food restaurant for Tim to consider, but does that mean that the hours of operation for all the commercial, 7 a.m. to 11 p.m., that we're not including?

CHAIRMAN STRAIN: Well, it's up to whoever makes the motion. My intent here was to throw some issues on the table to try to address the concerns I've heard from various Planning Commission members, because I don't know if there's a need to restrict all businesses on this property. I mean, there are some businesses that don't -- aren't offensive. I don't care if they're open 24 --

COMMISSIONER ROMAN: And that's my point. I think it would be overly restrictive to just blanket hours of operation on commercial businesses on this property, and that was my concern. That's why I asked the question, because you just -- you know, this -- the business may need to open at five or, you know -- I could see where, if we wanted to limit it, we could say no 24-hour operations on the property. But to stipulate a specific hour of operation, I think, is overly restrictive.

CHAIRMAN STRAIN: Right. Like the fitness center that may or may not be there, they open at earlier hours.

COMMISSIONER ROMAN: Sure.

CHAIRMAN STRAIN: And I think those are good things to open at an earlier hour. The more people that use them the better.

COMMISSIONER ROMAN: Yeah. And there's some that are 24 hours, as you know.

CHAIRMAN STRAIN: And I'd hate to see us get into the whole project.

There is a project, as Kay correctly pointed out, that I'm familiar with out at Golden Gate Estates that

was justifiably restricted, because if you live in the Estates you know that you don't have the white noise background that you have in the urban area. You don't have traffic on roads 24 hours a day. It's quieter. And anything out there travels blocks.

I hear a church five or six blocks away every time they have cars coming in or people speaking. You don't hear that in the urban area. So there is a difference the way the noise is buffered and drowned out in the urban area.

So I'm not sure the comparison to an Estates neighborhood is a good one for a 24-hour setting. But that's why we did that in Golden Gate Estates.

COMMISSIONER EBERT: They're spoiled.

CHAIRMAN STRAIN: Yeah.

COMMISSIONER EBERT: And we don't want Stan canoeing like a bear in the morning. We need him alert.

COMMISSIONER CHRZANOWSKI: I don't do coffee. It just keeps me awake all day.

CHAIRMAN STRAIN: Well, whatever you do -- whatever you need at 6 o'clock at the fast food restaurant.

Well, I think with those things on the table and considerations by this panel and you, by the time we get back for consent we can rehear both the GMP and this consent issue -- and then the PUD when it comes -- on a continued basis to May 15th.

Does that work for the applicant? So you guys are requesting a continuation to May 15th?

MR. HANCOCK: Yes. And we will make the requested changes in the PUD document and provide you -- staff with a strikethrough underline of those changes so you can see them all specifically in the document.

CHAIRMAN STRAIN: Yes.

MR. HANCOCK: And then if any of these suggestions today are objectionable to the applicant we will deal specifically with those at time of consent to make the best use of your time.

CHAIRMAN STRAIN: Right. And, you know, you need to weigh in on the comments you've heard from the various members of the planning commission, because the best way to go forward is with as strong of a consensus as you can, as you know well.

Heidi, did you have something?

MS. ASHTON-CICKO: Would you like to take a vote on the GMP amendment?

CHAIRMAN STRAIN: Let me --

MS. ASHTON-CICKO: Or can --

MR. HANCOCK: None of these suggested changes to the PUD really have an impact one way or the other on the GMP amendment.

CHAIRMAN STRAIN: Yeah, they don't. We could finish with that one.

It's -- yeah, I'm looking at it right now. There's nothing here with the exception of the -- we had two corrections, one is grammatical, one is further clarifying convenience stores with gas pumps, and there is one here, your Type C landscape buffer, the doubling of that, but that can be handled in the PUD. That doesn't need to be in the GMP. And --

MR. HANCOCK: Correct, because what we're proposing is over and above what is required in the Type C. So the GMP language does not preclude that.

CHAIRMAN STRAIN: I don't see here why we couldn't do the GMP language now.

COMMISSIONER HOMIAK: This also says no vehicular interconnection.

CHAIRMAN STRAIN: Right. Go ahead. David?

MR. WEEKS: Since it's been a while, David Weeks, comprehensive planning staff for the county.

I have one question. The -- what was placed on the visualizer for the plan amendment identifying the three changes, I saw something that looks like a fourth change but it was not in red, and that was a new Paragraph P regarding lake setbacks.

CHAIRMAN STRAIN: And Ms. Homiak just had a question about interconnections, right?

MR. WEEKS: If you don't mind, just to finish, because that is a Paragraph P, but the Paragraph P of what was approved for transmittal is that prohibition on a vehicular interconnection to the property to the

south. So that vehicular prohibition is missing and replaced by this -- I just want to get clarification.

MR. HANCOCK: In technical terms, that's what we call a screwup.

MR. WEEKS: Okay.

MR. HANCOCK: Actually, I'm looking at that language, and I'm wondering where it came from. So obviously there was a whole different document.

CHAIRMAN STRAIN: I would rather avoid the confusion of having two documents come separately and then approving one now and finding we've done something later on. Why don't we just get clean resubmittals of both languages, both documents, and then we're starting with a clean start -- strikethrough start, at least, at the next meeting. I think that would be better for everybody's understanding.

COMMISSIONER EBERT: Thank you, yes.

COMMISSIONER ROMAN: I think so, Mr. Chair. I think definitely.

CHAIRMAN STRAIN: And, Karen, did you have something else you wanted to bring up?

COMMISSIONER HOMIAK: No.

COMMISSIONER CHRZANOWSKI: Okay.

MR. BELLOWS: Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir.

MR. BELLOWS: I would like also to -- since we're going to continue the item to discuss with the applicant the possibility of a prohibition of outdoor entertainment or music as opposed to more restrictive hours of operation, just to have that discussion. We'll bring that back.

CHAIRMAN STRAIN: I think that's a good idea. I mean, I never -- I appreciate you bringing it up, because my assumption was that these were going to be enclosed buildings, and we could have --

MR. BELLOWS: Like Stevie Tomato's.

CHAIRMAN STRAIN: I know. You're right. So I think, Tim, that's something to seriously consider, and we will make sure that's on a point of discussion for next meeting.

MR. HANCOCK: Okay.

CHAIRMAN STRAIN: Okay. With that, I -- we need to have two separate motions, one for the GMPA amendment for continuing to the May 15th meeting and one for the rezone for continuing to the May 15th meeting.

COMMISSIONER EBERT: I make that motion, if they will accept this, to continue it.

CHAIRMAN STRAIN: You made a motion to continue the GMP portion of this --

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: -- issue to the May 15th meeting?

COMMISSIONER EBERT: Correct.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER HOMIAK: Second.

COMMISSIONER ROMAN: I'll second.

CHAIRMAN STRAIN: Okay. Made by Ms. Homiak.

Discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

And by the way, that will be a time-certain for 9 o'clock in the morning; you'll be first up. The next one would be the PUD rezone.

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: A similar motion?

COMMISSIONER EBERT: Yes, to also --

COMMISSIONER ROMAN: I'll second.

CHAIRMAN STRAIN: Motion made to continue to May 15th, seconded by Charlette.
Discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

MR. HANCOCK: And that would be time-certain at 9:03?

CHAIRMAN STRAIN: No, 9 o'clock, 9 o'clock. We'll see you guys then.

Now, let's change --

COMMISSIONER HOMIAK: No, he meant it would only take three minutes.

COMMISSIONER ROMAN: Can we take a break here?

CHAIRMAN STRAIN: No, it will take longer than three minutes.

COMMISSIONER ROMAN: How about a break?

CHAIRMAN STRAIN: That's fine. We'll take a 10-minute break and come back at 2:21.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay. If everyone will please take their seats, we'll move on to our final two issues today, as long as I can bring them up. There they are. We have two items we'll discuss simultaneously and vote on separately.

***The first one is an adoption hearing for the GMP amendment for the Olde Florida Golf Club property. It's PL20130000365/CP-2013-4, and it has a companion rezone, PUDZ-PL201300001374. Both of these have different titles, but I think they're the same thing, and hopefully that will be part of the explanation we get.

So with that, anybody wishing to testify on behalf of this item, please rise to be sworn in by the court reporter.

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

CHAIRMAN STRAIN: Disclosures from the Planning Commission members.

COMMISSIONER CHRZANOWSKI: None.

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: I talked with Ms. Jenkins and with staff.

CHAIRMAN STRAIN: Okay. And I met with the applicant's representatives once or twice. I don't even know how many times now, it's been so long. I have received an email from Jeffrey Cone, and I think there was one other email in there from somewhere, if I remember correctly. I passed it on to everybody, so it's on record.

Okay. Karen?

COMMISSIONER HOMIAK: And I spoke to Mr. Yovanovich.

COMMISSIONER DOYLE: I spoke to Mr. Yovanovich as well.

CHAIRMAN STRAIN: Okay.

COMMISSIONER ROMAN: I spoke with Nicole Johnson, Conservancy of Southwest Florida.

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Yes, that's the other thing. That's the other thing; very good. I spoke to

Nicole and got an email from her, too.

COMMISSIONER CHRZANOWSKI: Mark, if I could amend what I just said, I did speak to Mr. Yovanovich. He's got so many things going today, I confused which project I spoke to you about.

CHAIRMAN STRAIN: Okay. And this is -- this project -- I've been on this Planning Commission now for quite a few years, and this one's like a piece of Scotch tape, you just can't get it off your finger when it sticks to it. I don't know how many times you've been before us changing the routine on this project, but let's try it again today.

MR. YOVANOVICH: Okay. Good afternoon. For the record, Rich Yovanovich, and this is just my first time, so --

I have two petitions in front of you today, and I have two different -- I have two consulting teams. You've heard the first petition, which is the Comp Plan amendment for the portion of the property which is the Olde Florida Golf Club, and I have on for you an aerial.

Basically, the Olde Florida property is this 554 acres to the east. This is Golf Club of the Everglades.

The first -- so that petition you already heard at transmittal, and that was to change the designation from neutral to receiving. And I believe you all recommended unanimously to go forward with that change.

With me are Bill Barton, Jeff Perry, To Trettis, and Ray Piacente, all with -- Mr. Barton used to be with the predecessor to Stantec -- but with Stantec to address any comments or concerns you may have regarding that.

I wasn't planning on going into a lot of detail since it was unanimously recommended to change from neutral to receiving.

And at the time we went through that process, we told you we would be back at the adoption hearing with a companion PUD petition which with me today on that petition are Bill Barton, Mike Hunnican (phonetic) with Pulte; Anita Jenkins and Josh Evans with J.R. Evans Engineering, and Shane Johnson from Passarella. And the common denominator here, besides Mr. Barton, is Jeff Perry with Stantec to address traffic concerns.

What we're here to do is to do a PUD that actually incorporates all of the property on the visualizer, both the Olde Florida Golf Club property as well as the Golf Club of the Everglades property plus this 20-acre parcel that is part of the application.

The PUD encompasses approximately 835.7 acres of which 281.7 of those acres, the Golf Club of the Everglades property plus the McKlenan (phonetic) property, are already designated receiving.

Under today's Comp Plan, those 281.7 acres could be developed at a density of one unit per acre for a total of 282 units.

The Olde Florida Golf Club property, as I previously mentioned, is approximately 554 acres. Its current density under neutral would be 111 dwelling units but going to receiving, assuming it's approved, would allow for 554 units on that property. For an overall total possible density on the property of 835.7, 836 units.

The PUD is requesting 750 dwelling units, a little lower than the maximum that could be allowed on the property.

And I think it's important to understand as we're going through this -- through the petition is that under today's Growth Management Plan, with the neutral and receiving lands, you could develop up to 393 dwelling units on the property today without the Growth Management Plan amendment.

So it's not 750 new units that are being proposed; 393 of them are already allowed under the Growth Management Plan. It's the delta, really, that the Growth Management Plan amendment for Olde Florida is generating for the property.

The PUD allows for a mixture of residential uses, and I'll go through the PUD in a little greater detail in the master plan. And it allows for two golf courses to remain. The way the PUD is structured -- let me put the master plan up now.

The way the PUD is structured is basically the Olde Florida Golf Club property will stay exactly as it is today, except it could have up to four units that would serve members on that property, and then what is crosshatched, this portion of the property here, would be a residential development of up to 746 residential dwelling units together with an 18-hole golf course. So you'll still have the two golf courses that exist today

and up to 750 dwelling units on the entirety of the property.

If we maximize the density to the full 750 units, we would need to acquire 583 TDRs because, based upon the one unit per five acres that could be generated from the property, we could only get 167 base units. So the remainder will have to be acquired through TDRs.

The property owner -- current property owner doesn't own sending lands, so they're in the market to buy TDRs. This isn't one of the projects that we talked about earlier where they control both. It's actually a project that will be acquiring TDRs.

The staff report at Page 9 contains an error regarding the amount of jurisdictional wetlands on the property. It says we have 69.71 acres of jurisdictional wetlands, and the correct number is 32.73 acres.

Earlier this week I met with Mr. Strain, Heidi, and Kay to go over the PUD, and there were some, I think, clarifications that came from that meeting, and I think the most productive way to go through that is for me to take you page by page through the strikethroughs and underlines based upon those discussions.

I think I got them all, Mr. Strain and Heidi and Kay, and if I miss anything, I know you'll let me know.

There are actually no changes to Page 1. That's the list of permitted uses in the PUD.

Page 2 is a change to the principal uses that are allowed on Tract G, which is the Olde Florida portion of the property. Okay. That's where we can have the four units for the members.

And there was a concern about what close proximity meant, so we struck that language and got a little more specific. Basically, that says that it has to be on the west side of the clubhouse. And I'll put the master plan back up to show you where that means. It basically says the cabins are going to -- that the residential units are going to have to be here. That's the west side of the clubhouse. So hopefully that language gives enough specificity as to where those four residential units can go.

CHAIRMAN STRAIN: And let's try to discuss these as we go through so we haven't got to go back over it all again.

MR. YOVANOVICH: Got it.

CHAIRMAN STRAIN: It says the tract -- it refers to tract -- these units should be located in close proximity to the existing clubhouse facilities and west of the easternmost clubhouse building. Clubhouse buildings are shown on Exhibit C.

MR. YOVANOVICH: Tract G --

CHAIRMAN STRAIN: Is that Exhibit C, first of all?

MR. YOVANOVICH: Yes, this is Exhibit C.

CHAIRMAN STRAIN: Okay. Tract G?

MR. YOVANOVICH: Tract G is the Olde Florida Golf Club property.

CHAIRMAN STRAIN: Gotcha.

MR. YOVANOVICH: That's the clubhouse we're referring to, so the four units have to be in this area right here.

CHAIRMAN STRAIN: Okay. So by dropping that language that we talked about --

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: -- that just limits it to that area?

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: Okay. And I don't think we have any changes to Page 3.

CHAIRMAN STRAIN: Yes, we do.

MR. YOVANOVICH: We do?

CHAIRMAN STRAIN: 4B.

MR. YOVANOVICH: Yes, we do; you're right. Unlike Mr. Hancock, I'm trying to adjust to bifocals. And he has -- under B we wanted to clarify. There was a question Mr. Strain and others asked regarding how would the golf club -- the golf cart pathways impact preserves and, basically, the existing golf cart pathways will remain where they are so there will not be any additional impacts to the preserve. So that's why we clarified it to say "existing."

CHAIRMAN STRAIN: Okay. Your master plan that you had on here, could you put that back up.

Maybe I'm not reading everything correctly, so you can help me.

Then this only applies to the eastern golf course because the western golf course you're rerouting apparently the whole golf course and going to change all the --

MR. YOVANOVICH: It applies to both. It applies to both, but only the existing cart paths can stay in the preserves. So the question -- the concern was, are we going to build new cart paths in preserves, and if we're building new cart paths in the preserve, will we be reducing the acreage of the preserve?

CHAIRMAN STRAIN: Right.

MR. YOVANOVICH: So by limiting it to just the existing cart paths that are going through the preserves, there will not be the risk that will be damaging native preservation.

CHAIRMAN STRAIN: So this -- B, then, is -- put that -- if you can that language -- it just says existing -- okay. Limited to existing --

MR. YOVANOVICH: You're right, you're right. I'm in Tract -- yeah, Tract P is on both.

COMMISSIONER EBERT: Tract G?

MR. YOVANOVICH: P, as in preserve.

CHAIRMAN STRAIN: Yeah, he's right. It's in P, okay.

MR. YOVANOVICH: Okay?

CHAIRMAN STRAIN: Yep.

MR. YOVANOVICH: All right.

CHAIRMAN STRAIN: Now, the next one's more complicated.

MR. YOVANOVICH: And I -- do you have another copy? Because I won't be able to read it from -- thank you. I got nothing.

Okay. This is -- maybe we should start with the next page first because that's the footnotes, because that will help with the table.

There were -- ignore that strikethrough. It stays.

Anyway, we had some questions regarding the footnotes that we went through at our meeting. In No. 2, there's a modification to where we measure the setback. We had originally -- we changed it to be consistent with a later footnote where we'll measure the setback and go down to zero to the lake maintenance easement, and then we added a comma because it was supposed to be golf course, comma, lake, and it be -- we had measured to top of bank, but we modified that to the lake maintenance easement and for open space, and then we made it clear that that zero setback for open space doesn't apply to preserves because we have got a preserve setback of -- and I'll -- it's actually going to be 30 feet instead of the 25. That's in the table, but I'll take you through that later.

So we want to make it clear that you couldn't go to zero next to a preserve, which is also considered open space.

CHAIRMAN STRAIN: No, it made it clear you couldn't go to zero.

MR. YOVANOVICH: You cannot. What'd I say?

CHAIRMAN STRAIN: I thought you said you could go to zero.

MR. YOVANOVICH: No, could not. You're listening.

CHAIRMAN STRAIN: Once in a while.

MR. YOVANOVICH: Footnote No. 5 created more confusion, and since we're not going to have any allies, we just decided to delete Footnote No. 5, which creates some renumbering. So former 7, new 6.

We were asked for corner lots to -- since you can have a side setback, I think it was down to six feet. At our meeting it felt that a minimum setback of 10 feet would be better, so that footnote was revised to address a setback of a minimum of 10 feet near the side of the -- the less -- I forget -- what's the exact wording? I can't read it --

CHAIRMAN STRAIN: Corner lot.

MR. YOVANOVICH: -- the non-primary road. Thank you.

And then we get down to -- that's really the only change. Eleven's going to stay in because we do have two setbacks that relate to multifamily that we'll talk about when we go back to the table.

It will be -- yeah, we'll have to fix the numbering when we come back at consent, but we'll make sure that and the table correspond to the numbering, based upon what we're showing you today.

CHAIRMAN STRAIN: Before you leave the footnotes, let me make sure I understand all the corrections. Number one, my reference was to the details that the measurement wasn't from the right-of-way. So are you leaving 1 like it is and removing those detail pages?

MR. YOVANOVICH: Yes. We're going to get to that.

CHAIRMAN STRAIN: Okay. Number 2 you corrected. Number 5 we took care -- well, No. 5, the only question was what if we didn't have a paved alleyway, like we don't have in a lot of cases?

MR. YOVANOVICH: That's correct. And we didn't want to get into that -- since we're not having a

--

CHAIRMAN STRAIN: Oh, that's the one you dropped, okay, I'm sorry.

And then 8, accessory pool -- accessory pool enclosure/screen lanai setback may be reduced to zero feet when attached to a common privacy wall, but that's only going to end up applying to duplexes and townhouses.

MR. YOVANOVICH: When we get to the table.

CHAIRMAN STRAIN: Right. Well, I'm just trying to go through my notes so it's taken care of.

MR. YOVANOVICH: Yeah.

CHAIRMAN STRAIN: Number 9 is -- I thought it contradicted Footnote No. 2.

MR. YOVANOVICH: Right. And that's why we went to lake maintenance easement, correct, is 9 had lake maintenance easement as the zero.

CHAIRMAN STRAIN: And No. 10, that is -- what are you -- we already addressed this issue, I believe, in the LDC. You can intrude what appurtenances into setbacks. What is this doing?

MR. YOVANOVICH: We mentioned that, and we couldn't find it in the LDC. We're not intending -- I don't think we're intending to make any changes from what the LDC already provides, but we were unable to find it in the LDC.

CHAIRMAN STRAIN: Well, then it's a deviation.

MR. YOVANOVICH: So, during a break, if someone can send us to that section, we'll look at it and

--

CHAIRMAN STRAIN: Well, it's a footnote to one of the standards tables, and it talks about all the exemptions from setback requirements.

MR. BELLOWS: Yeah. We'll send them the section number.

CHAIRMAN STRAIN: Okay. Because if it isn't in the LDC and you're trying --

MR. YOVANOVICH: Then we have to ask for a deviation.

MR. BELLOWS: No. It is in the LDC.

CHAIRMAN STRAIN: That's what I thought, okay.

MR. YOVANOVICH: I know that there's something in the LDC. I just don't know what it says and want to make sure that we're not asking for anything different.

MR. BELLOWS: It allows for bay windows or chimneys or roof overhangs, stairways, and to encroach into various yards.

CHAIRMAN STRAIN: David?

MR. WEEKS: Mr. Chairman, just for the record, because we're looking at a strikethrough/underline document, you are making reference to item numbers, and I believe you were referring to the existing item numbers.

CHAIRMAN STRAIN: I always refer to what I have in my packet.

MR. WEEKS: Okay.

CHAIRMAN STRAIN: Yes. That's -- all my references will always be to that, because stuff that comes in afterwards, I can't review it and then use it. So that's what I was referring to.

MR. WEEKS: Thank you.

COMMISSIONER EBERT: I have a question.

CHAIRMAN STRAIN: Okay.

COMMISSIONER EBERT: Mark, on this No. 9 --

CHAIRMAN STRAIN: You don't like your mike today, do you?

COMMISSIONER EBERT: No, no. On No. 9, is the lake maintenance easement still 20 feet?

CHAIRMAN STRAIN: From control elevation in all lakes, yes.

MR. YOVANOVICH: Yes.

COMMISSIONER EBERT: So it has to be set back 20 feet from the -- well, it says reduced to zero feet.

CHAIRMAN STRAIN: Well, it's zero feet up to the maintenance easement, but the ME is 20 feet back from control elevation. So they already have a built-in 20-foot setback.

COMMISSIONER EBERT: Twenty foot, okay. That's what I had a question on. Thank you.

CHAIRMAN STRAIN: Okay. Now with that we can go to the --

MR. YOVANOVICH: Now we get to the easy one.

CHAIRMAN STRAIN: Yeah.

MR. YOVANOVICH: Okay. I probably should zoom in a little bit unless you-all can see it. Well, maybe not. Okay.

We tried to show all of this by strikethrough and underline. So let's work top down. Minimum lot area, that was an adjustment, I believe, made based on conversations with Ms. Ebert and between you and Anita going from 2,800 square feet to 4,000 square feet; is that correct?

COMMISSIONER EBERT: It's a little better.

MR. YOVANOVICH: When we go down to where it used to say minimum site depth -- you with me? That goes away, and we've replaced that with one of the comments that says we really don't have a clear setback from the PUD boundaries. So we've inserted clear setbacks from the PUD boundaries, and that's what we've replaced in that line.

And we've put 15 feet for, basically, single-family types of uses. For multifamily, we're proposing 30 feet except if you go greater than two stories, the footnote that I -- stay as Footnote No. 11, which will get renumbered, requires that it be 300 feet.

So that's where -- and then we had a 65-foot setback, and that really deals with the existing clubhouse for Golf Club of the Everglades so that's -- that's what that column relates to.

We -- going down to the front yard and rear yard setbacks, those numbers really are dealing with basically renumbering and creating the changes. Then we go down to side yard setback under -- it used to have a Footnote No. 7, which was for the corner lots -- whoops. Is that right?

COMMISSIONER EBERT: Yes.

MR. YOVANOVICH: Yes. So that would now be -- that's going to be the 10 feet instead of the six feet. That's why that footnote would just apply there.

CHAIRMAN STRAIN: And then your No. 8 footnote has to -- it applies to the duplexes and the townhouses, because that's where you'd have the common wall for your accessories?

MR. YOVANOVICH: Right. And I missed -- was that there? Is that the new 8? Yep. We have that there. It's going to be the new No. 7.

When we -- trust me on the renumbering. You'll see we moved -- we struck the 7 on the side on side yards -- trust me. You can trust me.

CHAIRMAN STRAIN: Oh, yeah.

MR. YOVANOVICH: All right, so -- it's not good when even I can't not laugh.

So on the side yard setback for principal, we struck the 7 and limited it solely to the duplex and townhomes, if you work your way across.

And for the preserve back, instead of 25 and 10, we're at 30 and 15, which is consistent with our fire mitigation plan. And I think that's everything on that table.

CHAIRMAN STRAIN: Yes. Yes, it is, at least all the notes that I had.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: So I think you've gotten through the table and the footnotes.

MR. YOVANOVICH: Then we have the master plan. Then we go through the -- and that's a four-page series of documents. Mr. Strain --

CHAIRMAN STRAIN: Stay on the master plan. You've got your -- I know John Podczerwinsky approved three entrances onto Douglas and two onto Vanderbilt Beach extension, but I'd like to make sure the record gets that corrected to what you're really going to use. Remember the arrows?

MR. YOVANOVICH: Yeah, I do, and we didn't make any changes to those. I thought you were going to talk to John and make sure he had looked at that --

CHAIRMAN STRAIN: Well, I am --

MR. YOVANOVICH: -- but I will --

CHAIRMAN STRAIN: It's one of those things that we were so busy since -- I mean, you came in, what, Tuesday? And I didn't get a chance to talk to him yesterday because I was wrapped up in --

MR. YOVANOVICH: Let me put the aerial back up and show you. Yeah, we're going to still use them. Yes, we're going to still use them.

CHAIRMAN STRAIN: Well, I'd like to understand how --

MR. YOVANOVICH: You have -- this one serves the clubhouse, the existing clubhouse, and it will stay.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: Because we'll have members that are not residents.

CHAIRMAN STRAIN: Right.

MR. YOVANOVICH: And so these two accesses really serve the clubhouse and the maintenance facility -- and the court area, okay, so those are staying.

Then you have another one further up, which is for the maintenance facility, and that's staying to serve the maintenance facility, and then you'll have the main entrance here. That will actually be serving the residential community.

CHAIRMAN STRAIN: Okay. Then on --

MR. YOVANOVICH: So those three -- those four accesses we just -- we talked about the other day, Mr. Strain, will be staying for the purposes that they currently serve.

CHAIRMAN STRAIN: Well, we're going to -- what about the main road? Where is it going to connect? Because it doesn't show a connection.

MR. YOVANOVICH: Here.

CHAIRMAN STRAIN: Right.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: I was assuming that's where it was going, but there's no arrow. But that's -- you're going to make a correction to show --

MR. YOVANOVICH: We'll put an arrow.

CHAIRMAN STRAIN: Well, otherwise, John's not going to let you connect.

MR. YOVANOVICH: We'll make sure we have the arrows.

CHAIRMAN STRAIN: Thank you.

MR. YOVANOVICH: But the other existing arrows are staying as well.

CHAIRMAN STRAIN: Okay. And at some point when we get to staff report, I'm going to be asking John to verify he counted on those entrances, the various turn lanes or other requirements, if there are any, what they will be, so we'll do that, though, when staff gets up. Okay.

MR. YOVANOVICH: You got it.

These are the typical cross-sections. What we did is -- and the question was, are any of these -- this data down here regarding, you know, the six inches of limerock base, the question became was this -- are these deviations from the code. They're not, so that information's really not needed. This is really just to show you the reduced right-of-way width cross-section from the 60 to the 50 feet.

CHAIRMAN STRAIN: Okay. And remember the questions from the Douglas Street section; the property line there is in the middle.

MR. YOVANOVICH: Correct. And the sidewalk will be on our property.

CHAIRMAN STRAIN: But it will be dedicated --

MR. YOVANOVICH: And we have -- later on we have a provision that requires us to dedicate whatever Douglas Street right-of-way doesn't currently exist, and we'll do that at first plat.

CHAIRMAN STRAIN: And that will include the sidewalk?

MR. YOVANOVICH: Yeah. It will be road right-of-way -- it will be a road right-of-way dedication.

CHAIRMAN STRAIN: The sidewalk that you are showing that does extend into property that you've already supposedly dedicated, the sidewalk is on that dedicated portion of that easement, not off the easement onto your private property.

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: I want the sidewalk to follow --

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: -- the dedicated portion.

MR. YOVANOVICH: I got it, yes. It's going to be -- it will be in the dedicated road right-of-way.

CHAIRMAN STRAIN: Okay. Because you could restrict the public otherwise, and that's what I'm concerned about.

MR. YOVANOVICH: I understand. That's not what we're doing.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: We've made sure that we have revision dates on all of the pages. And then, finally, we all agreed that Page 4 of 4 would go away.

CHAIRMAN STRAIN: Back up. That little detail up on the upper left-hand corner, that shows the sidewalk directly on top of the curb, which means there's no freeboard between -- or safe area between the sidewalk and the curb. And I asked that you -- somebody check that, and when we get to staff comments, Stacy's here, so she'll be coming up and commenting on your sidewalks, I hope, unless she doesn't want to, which I'd still ask her to come up anyway.

But I want to make sure we've created a safe space -- as is customary. In cases where it's squeezed and can't be done, then we have to make exceptions. But is this an exception, or is there a reason you can't leave some distance?

MR. YOVANOVICH: And that's for this area right here, right?

CHAIRMAN STRAIN: Correct.

MR. YOVANOVICH: I'm going to let Josh Evans --

MR. EVANS: Hello. Josh Evans, for the record. There's an existing ditch there we're still trying to accommodate. The only reason that we squished it up next to the F curb is that we're space limited; otherwise, we'd prefer to have the space between the curb and the sidewalk.

CHAIRMAN STRAIN: How deep is your ditch?

MR. EVANS: I don't recall exactly how deep it is, but --

CHAIRMAN STRAIN: Can you bring a topo back by consent?

MR. EVANS: Sure.

CHAIRMAN STRAIN: We'll have to delay the vote then because of that.

MR. EVANS: No.

CHAIRMAN STRAIN: Yeah. It's an important factor. The people out there have to have a safe sidewalk to get to where they've got to go, and to put a sidewalk directly on top of a curb is not the best thing in the world.

So do you have anything -- do you have any engineering topo with you or anything at all that you could --

MR. EVANS: Yes. I have the ERP plan. I could get that out and take a look at it.

CHAIRMAN STRAIN: Would you mind? That will be -- we can continue on while you find that. That would be helpful to see.

If it's a shallow ditch and just a cut swale, it's not a problem for you to move it. If it's a deep ditch and it's got a lot of width to it, then that's another problem.

I was waiting for you to find it, yeah, then we can put it on the overhead, and we can see for ourselves how hard that ditch would be to deal with.

MR. EVANS: This section --

CHAIRMAN STRAIN: Well, that's only -- you're 12.77 to the bottom of the ditch.

MR. EVANS: Right.

CHAIRMAN STRAIN: And you're 13.2 to your road. I mean, that's not even a foot. So you can't re-cut that swale and move it over?

MR. EVANS: Oh, we definitely could.

CHAIRMAN STRAIN: Okay. Thank you.

MR. EVANS: We would just have to -- you know, re-grade it and --

CHAIRMAN STRAIN: With a box blade and -- I mean, it's not that big of an effort for a project the size you've got going on there.

MR. EVANS: Okay. I think it's okay that we can agree to two feet between the sidewalk. We've just got to re-grade that swale.

CHAIRMAN STRAIN: It's not a big swale. Thank you. That's what I was trying to find out.

MR. EVANS: Yep, thank you.

CHAIRMAN STRAIN: Okay. Now, Richard, the next page was 4 of 4. You were going to delete that entire detail.

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: Thank you. It has too much discrepancies from the standards table, so that's a good thing.

MR. YOVANOVICH: And then I think -- jumping ahead. We didn't have any changes to the legal description. We didn't have any changes to the Exhibit E, list of deviations. Exhibit F --

CHAIRMAN STRAIN: Exhibit F --

MR. YOVANOVICH: -- I think we're going to have to deal with staff on that one, because I think they may have some requested changes.

CHAIRMAN STRAIN: There is a -- I talked to Kris Van Lengen with utilities, and there's going to be a change needed to 2A.

MR. YOVANOVICH: Yes, and I think I have that language. We're going to be more specific. In concept, basically, we're agreeing to stub out a water line -- right, Kris -- to a certain location that can ultimately be connected to Mockingbird Crossing.

CHAIRMAN STRAIN: Right. And you've agreed to that.

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: Okay. Because you'll add that language in?

MR. YOVANOVICH: We'll add that language in. Thank you, Mr. Strain.

COMMISSIONER EBERT: Where is that?

CHAIRMAN STRAIN: The northwest, okay.

MR. YOVANOVICH: And here's the language we're proposing for the right-of-way for Douglas. And we'll do it at the -- timing-wise, we'll have to add that -- we'll do it at the first plat.

CHAIRMAN STRAIN: If I'm not mistaken, that's the same-size easement that appears on the other side of the street, too.

MR. YOVANOVICH: Yeah, I think there's 30's on either side.

CHAIRMAN STRAIN: Yeah.

MR. YOVANOVICH: I think that is the last specific change we need to discuss. I do know that there was a memo flying around about the fire mitigation plan and getting a little bit more specific.

I think there's some -- and I wasn't -- quite honestly, I wasn't sure if that was the final version that we got on Tuesday that you handed to me, because there was some discussion about there might be further revisions to not only the fire mitigation but also Paragraph A, which I think dealt with planning, 3A. And we didn't get anything further.

CHAIRMAN STRAIN: Who's dealing -- because I -- the fire mitigation wasn't my issue, but somebody was dealing with it.

MR. YOVANOVICH: Well, Corby had -- if you'll -- in the staff report, staff is recommending that we come up with a very specific list of plants in the PUD. What we had proposed was let's go to a resource book that tells us what kind of plants to use and how you -- what the spacing would be required, because if that resource book changes or there's more plants that come along or if plants come off the list, I don't really want to come back and say, I want to use this plant instead. And, oh, guess what? I've got to go amend the PUD. I didn't think we needed to get that specific in the PUD document to identify the specific planting materials that can be used around the house or in the 30-foot area.

So we had gone back and said, hey, we've got a manual, we've got a textbook, basically, a resource book that we would agree to use. I don't know that that ever was agreed to. And then there was a whole host of additional revisions that came about regarding --

CHAIRMAN STRAIN: Where are those? Do I have them? I mean, because I don't remember seeing them. If we don't have them, they're not being considered by this board, so what's the issue?

MR. YOVANOVICH: I'm just saying that I -- I'm not prepared today to agree to -- there was a memo that was handed to me --

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: -- at our meeting.

CHAIRMAN STRAIN: I know, but -- I remember that happening, but as I --

MR. YOVANOVICH: I just --

CHAIRMAN STRAIN: -- recall saying, if it's not been given to this board, it's not a consideration of ours. And if it should have been given to us, it should have been in the packet at the time frames in which staff produced the packet, so --

MR. YOVANOVICH: I appreciate that. I just didn't want -- I didn't want anybody to think I ignored the memo.

CHAIRMAN STRAIN: Nope.

As far as the issue of the fire prevention being addressed in this document, are you comfortable with the way it's addressed currently, or is there some objection?

MR. YOVANOVICH: Yeah. We were fine with the language that's in front of you.

CHAIRMAN STRAIN: Okay. And that's fine. It's ironic that we have a fire prevention requirement of your project, but you're surrounded by the Estates and multitudes of other projects that have no such need for such plans. It doesn't make quite a lot of sense, but I understand how it happened to get there.

Diane?

COMMISSIONER EBERT: Yes. Rich, this is a requirement for the lands that you're using. I think it's a great requirement, and you have to deal with the state --

MR. YOVANOVICH: We did.

COMMISSIONER EBERT: -- and with the forestry department on this particular thing. I think it's a great selling point for this community. I think every development with large preserves should be fire wise, and that's what this really is. It is a fire-wise community, and the forestry department is 110 percent for this.

MR. YOVANOVICH: No -- and we did. The code required us to do a fire mitigation plan, which we met with Dan Summers at the county and the right people at the state, came up with the plan, and we've submitted it to the county. So it's there. The plan's there.

CHAIRMAN STRAIN: Right. And it's consistent with what is in our packet.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: Well, that's what I'm concerned about.

David, John, Heidi, who's carrying on conversations that they would like to share with us? No?

Okay, David.

MR. WEEKS: I'll start. First of all, I'll -- acknowledging that you don't have this information in the packet, and if this petition is voted on today, then, of course, staff will just bring this up at the time of the board's hearing fully understanding that it's difficult for you to have stuff presented to you on the fly, and I think you have a policy of not accepting that.

We've been working back and forth with the applicant past the time -- I believe still with the applicant, past the time that the staff report was due. I know, internally, we've been working on the language further specifically to the wildfire prevention and mitigation implementation in the PUD, which is Exhibit F of the PUD under No. 4, emergency management.

I think it's fair to characterize the changes that staff has been working on in two ways. One is for clarity -- rewording, wordsmithing for clarity, and I'll say legal format since Heidi helped with some of it.

Secondly, changing some "should" language to "shall." The Wildfire Prevention Mitigation Plan is something -- as was just mentioned, it's something that the applicant is required by the Future Land Use Element and the LDC within the receiving lands to work with county emergency management and the

Forestry Service to prepare that plan and have it approved.

But that plan, in and of itself, is not a regulatory document. And as such, it does not have regulatory language. It doesn't say, you shall do this. It will say things like "we encourage" or "you should" and so forth.

So to implement that, the staff position is we need to put it into a regulatory format. So, whereas, the applicant's language will say so and so types of plants should be used, staff would say shall be used.

And I will say that we agree with the applicant. We're sensitive to the notion of an explicit list of plants that could change over time, and the language we have proposed came from them. We might have tweaked it some, but it makes reference to a document from the Florida Forestry Service.

So, therefore, that document, as it might be modified, would be applicable to this project.

CHAIRMAN STRAIN: If the LDC is supposed to implement the policies and objectives of the GMP, why don't we just -- so that everybody can fairly be apprised of what we're expecting of them, instead of seemingly redo it almost on a case-by-case basis, put the program's demands or needs and implement the language into the LDC for those areas that require it.

Why are we, every time it comes up, having to go back and forth with this? Why don't we just make it part of the Land Development Code if that's the -- if that's the direction we seem to indicate in our GMP.

MR. WEEKS: Certainly, some parts of it could, such as the plant -- list of plant species. Certainly, that could be, but some of these are project specific. For example --

CHAIRMAN STRAIN: The 30-foot setback, for example, is that standard?

MR. WEEKS: From preserve.

CHAIRMAN STRAIN: Yeah.

MR. WEEKS: So far it has been. My concern would be to -- I'm thinking if we put specific regulations into the LDC and said that's all there's going to be, that we are bypassing, then, the State of Florida's review -- the Forestry Service review which might identify a circumstance which we have not accommodated in the LDC. We're not the experts. We at the staff are just looking at it from the standpoint of what has been agreed upon by the Forestry Service, we implement.

CHAIRMAN STRAIN: Well, what dominates, the Forestry Services policies or standards or our Land Development Code and ordinances?

MR. WEEKS: Well, ultimately, it's going to be Collier County's. Because only the County Commission -- I mean, the County Commission ultimately makes that final decision. And that wildfire plan is a plan, but it's not a regulatory document. So only the board adopts the regulation.

CHAIRMAN STRAIN: But you're trying to now make it a regulatory document so that it can be incorporated into this PUD.

MR. WEEKS: Correct.

CHAIRMAN STRAIN: What I'm suggesting is that everybody that's in this same bind for properties that this is applicable to, why don't we just incorporate that into the PUD in some format. For those standards that do apply, whatever the Forestry Service wants to add to it, that would have to be on a volunteer basis, like it is mostly now, because it's non-regulatory.

I mean, it's something to consider. I think if -- the more we develop east of 951 and the more of this we get into, we're going to be reinventing the wheel, almost, at every application, and I don't think that needs to be done that way, and I'd rather not surprise the landowners with things they don't know about and can't read about.

Anyway, it's a consideration.

MR. WEEKS: I think it is, especially when it comes to trying to implement these wildfire plans for non-zoning petitions, that is, for example, a plat. A zoning document is not being approved. And so the more we would have -- I mean, I agree with the concept, as much as possible, put it into the LDC.

CHAIRMAN STRAIN: Just one of many things that still has to be done.

MR. WEEKS: I would say -- I want to make one comment; I want to make sure it's clear. The preparation of the plan is something required both in the GMP and the LDC. That's not a surprise to the applicant, or should not be.

But the specifics of the implementation, that could be -- potentially could be a surprise to them.

They might think, well, I've got my plan, I'm done, and the staff perspective is, well, that plan is meaningless if we don't implement it.

CHAIRMAN STRAIN: Right. And therein lies the problem.

MR. WEEKS: Right. And their perspective, typically, is, well, again, the permissive language as opposed to mandatory.

CHAIRMAN STRAIN: Okay. Anybody have any other questions of Richard before we go to the staff?

MR. YOVANOVICH: Um --

CHAIRMAN STRAIN: Yes, sir.

MR. YOVANOVICH: I hesitate to do this, but I'm going to do it anyway. There was a -- we also met with some local residents to talk about the project.

CHAIRMAN STRAIN: And I have some questions from one that we're going to walk through piece by piece, but I was going to have staff come at them first, but you're more than welcome to.

MR. YOVANOVICH: Okay. I'll -- let me do it this way, because I'd rather throw it out on the table as to how we get to where we are.

One of the concerns that Mr. Cone had and -- is he still here? There he is -- was sidewalks on Douglas as well as sidewalks on Vanderbilt Beach Road. And he wrote you an email.

And just so you know, we obviously have the sidewalk on Douglas, and Douglas is going to be a private road. It is a private road.

We'll put the sidewalk in on our property, and we're going to be maintaining Douglas as part of our project even though it serves more than just our project. We've got that commitment. And so we've addressed -- we believe we've addressed his concern about sidewalks for Douglas.

The next comment came about the desire for a sidewalk/pedestrian, whatever, path, whatever you want to call it, basically from where Douglas Street ends, which is on our western boundary of the property.

The request was made that this project extend a sidewalk from Douglas all the way to where the sidewalk currently ends at St. Monica's, I think it is, or -- it's a Catholic church.

COMMISSIONER CHRZANOWSKI: St. Agnes.

MR. YOVANOVICH: St. Agnes, thank you.

CHAIRMAN STRAIN: It's the one I listen to from my house five blocks away. Yes, I know which church you're talking about.

MR. YOVANOVICH: Okay. We thought that was a little aggressive, a little -- and, actually, staff in one of the earlier comments said they wanted us to do that, and we responded we don't think that that's fair, but we're willing to work. We're willing to work with the county on coming up with a solution, and it really didn't go any further than that. And as you can see in your staff report, there's no requirement for us to build a sidewalk from Douglas all the way to where it currently ends at St. Agnes.

But we are willing to participate in a program that hopefully will get Mr. Cone and others what they want, which is a continuous sidewalk. And we're willing, on the south side of Vanderbilt Beach Road, to extend the pedestrian path to Massey Street, which is basically the halfway point.

It's kind of small, but -- and it actually doesn't pick up. But Massey Street actually goes to the eastern boundary or Vanderbilt Country Club, which is, essentially, right here, okay.

The Vanderbilt Country Club PUD required Vanderbilt Country Club to pay in lieu for a sidewalk either at -- I think it was -- I got the exact language here, but they were either supposed to do it at their first right-of-way permit or anytime otherwise deemed appropriate by the county.

I don't know if they have made that payment in lieu yet. Let's assume they have. If they've made the payment in lieu, there's money there for the county to build a sidewalk in front of Vanderbilt Country Club. If they haven't paid, they can go ask Vanderbilt Country Club to pay what they're obligated to pay.

And then the next owner of the property immediately to the west of the Vanderbilt Country Club is Collier County. They have a water plant there. So I would think that Collier County ought to build that extension.

So there is a mechanism for there to be a pathway all the way out, and we're willing to go above and beyond the minimum required.

I wanted to throw that on the table, because we think that that's a fair solution to the neighbors' concerns and that we're willing to participate in a solution.

So I know you were going to ask staff about some of that stuff, but I wanted to make sure I threw that out there early, because maybe it could shorten some conversations regarding addressing concerns that were raised.

I will also point out that there's not a lot of homes currently in that area using Vanderbilt Country Club, basically, from Douglas west. And I've got an aerial. And I -- my best count of the homes that are in that area, including this home right here in the corner, is there's a total of 10 homes. So I think that what we're proposing is more than fair to serve the residents.

That -- this bigger piece right here, this is all rural fringe mixed-use district receiving lands. My guess is that some day is going to be bought and developed, and that developer would have an obligation to put in a sidewalk when that happens. But we're willing to work with the county and the residents to have something in place sooner.

CHAIRMAN STRAIN: Okay. Well, I'm going to -- we have staff specifically here who deal with the pathways. We're going to get an update from them on what's needed and how the pieces fit together, so we'll probably have more comment after that happens.

MR. YOVANOVICH: But I just wanted to get that out there.

CHAIRMAN STRAIN: Okay.

COMMISSIONER CHRZANOWSKI: Rich, did you say the north side or the south side of Vanderbilt?

MR. YOVANOVICH: South. Yeah, there's a ditch on the north side that we don't want to have to deal with.

COMMISSIONER CHRZANOWSKI: Okay. So they have to cross the street to get to the sidewalk?

MR. YOVANOVICH: And there'll be a stop sign there, so that shouldn't be a problem.

CHAIRMAN STRAIN: Well, I wouldn't come to any conclusions yet, and I want staff -- that's why I asked staff to be here today. And I figured this was the direction he was going to go, so I figured I'll have staff here to see if there's a better way.

COMMISSIONER EBERT: Can't outsmart the fox.

CHAIRMAN STRAIN: Anybody else have any questions of the applicant while Rich is up there?

COMMISSIONER DOYLE: I have one. Just -- Rich, what's the distance between where you're willing to go to and to where the requested sidewalk is?

MR. YOVANOVICH: I think it's a half a mile, what we're willing to go, and it's a little over a half a mile to -- another half a mile to connect the dots, when you're talking about the Vanderbilt Country Club property and what the county owns for --

COMMISSIONER DOYLE: So at this time there's no pedestrian walkway for about a mile?

MR. YOVANOVICH: A mile, maybe a little bit more than a mile. Yeah, mile -- between a mile and a mile and a half, my understanding.

COMMISSIONER DOYLE: Okay.

CHAIRMAN STRAIN: Okay. And you're asking for up to 750 units, right?

MR. YOVANOVICH: No, I'm asking for an additional 260.

CHAIRMAN STRAIN: What's the total number of units you could build on your property?

MR. YOVANOVICH: Today?

CHAIRMAN STRAIN: No. What you're asking for.

MR. YOVANOVICH: Seven fifty.

CHAIRMAN STRAIN: Okay. So you're asking for up to 750 units?

MR. YOVANOVICH: No, I don't think that's what we're asking for.

CHAIRMAN STRAIN: Well, with 750 units, it does have an impact for a need for a sidewalk for sure, so we'll have to figure out what Stacy's going to hopefully tell us all about when she gets up here.

Thank you, sir.

Does staff want to make a presentation? Well, how about the staff presentation?

MR. WEEKS: I'll go first with the Comp Plan amendment. Staff recommends approval.

CHAIRMAN STRAIN: Okay. That's the hardest one you've had today, David.

COMMISSIONER ROMAN: I have a question, David. I seem to have forgotten the information.

What is the preservation requirement on neutral lands, and what would it be -- on receiving lands it's 40 percent, as I recall.

MR. WEEKS: One moment, please. You're correct that it's 40 percent for receiving, 60 percent for neutral, but I think there may be a second limitation. For example, a certain percent but not to exceed a certain amount. I want to verify that.

CHAIRMAN STRAIN: While he's -- while you're looking that up --

MR. WEEKS: And I don't have it with me.

COMMISSIONER ROMAN: That's okay. You answered the question I had. Thank you.

CHAIRMAN STRAIN: Okay. Kay?

MS. DESELEM: Somebody suggested I should go as fast as he did with his.

But for the record, Kay Deselem with zoning. You do have the copy of the staff report dated last revised on 4/18/14.

And we are recommending approval of the application with the caveat that we work through the issues with GMP people, the comp planning people, and we are recommending denial of Deviation No. 1, seeking to have a sidewalk on one side.

We are recommending approval of the other two deviations. And if we can work out issues with comp planning regarding their position on the wildfire issues, then staff would recommend that it be found consistent with the Growth Management Plan and recommend approval.

CHAIRMAN STRAIN: Okay.

MS. DESELEM: Other than that, I'm available for questions. We also have Kris Van Lengen, John Podz, Stacy Revay, and Summer Araque here if you have questions for their area of expertise.

CHAIRMAN STRAIN: Anybody have any questions of Kay?

(No response.)

CHAIRMAN STRAIN: Okay. Kay, I -- Stacy would be the person I'd like to talk to next, if she doesn't mind coming up.

MS. REVAY: Good afternoon. Stacy Revay, for the record, pathways reviewer.

CHAIRMAN STRAIN: And I don't think everybody here probably has seen you before us before, nor your expertise. You handled the sidewalks and collections for sidewalks and determining if projects need sidewalks and all those good things for Collier County.

So could you tell us all about the sidewalks for this project both internal, Douglas, and Vanderbilt and connections to 951 so that we get a full picture of what's there, what's anticipated, and what -- where the missing pieces are.

MS. REVAY: I can speak to the sidewalks internal to the development. The deviation is seeking -- the development is seeking a deviation from LDC Section 6.06.02, which requires sidewalks on both sides of the roads internal to the development, and staff does not support this deviation.

The GMP also, Policy 7, I believe, encourages smart growth policies, walkability, pedestrian flow, those sort of things. So to suggest that we approve the deviation would go against the Land Development Code.

Also, on Vanderbilt Beach Road there's currently a multi-use pathway that ends at -- it's on the north side of the road, so I believe putting it on the south side of the road could cause some kind of conflict as time goes on. People are going to want that connectivity all the way to the church. Also I believe that there's a Publix or some kind of a shopping something around there.

CHAIRMAN STRAIN: It was a Sweetbay. There's a Winn-Dixie shopping center there now.

MS. REVAY: I'm sorry, excuse me -- Winn Dixie there, so -- I know we've gotten numerous emails from people in that community who are concerned about the connectivity from one point to the next.

If the board approves the deviation for the sidewalk on one side, I would encourage you to allow a 10-foot or wider multi-use path on only one side of the road, because this is 750 units, possibly. That's going to be creating a lot more pedestrian, possibly bicycle activity, and we don't know if there's going to be kids

living there or -- you know, we don't know what kind of families might move into this development, but there -- it's room for a lot of people to be walking and biking in this development.

CHAIRMAN STRAIN: Let's talk about the internal piece first.

MS. REVAY: Okay.

CHAIRMAN STRAIN: They submitted a justification to Deviation No. 1. The justification rationale said the following: Buyers within the developer's multiple communities throughout Southwest Florida have shown the majority prefer the option of no sidewalk in front of their home.

Did they provide you with any data showing the total number of buyers and their homes and showing that 50 -- greater than 50 percent have that preference?

MS. REVAY: Staff does not have any information or any studies or information that shows anything of that sort.

CHAIRMAN STRAIN: Okay. So they didn't -- they provided no justification, then, in documentation form --

MS. REVAY: Correct, and --

CHAIRMAN STRAIN: -- for their justification?

MS. REVAY: If you look at -- I think this is Page 2, so -- Exhibit C, it shows the cross-section for AA or A asterisk -- asterisk dash A asterisk. It shows that there's plenty of room for sidewalks on both sides. So that's another -- another reason I would not recommend approving the deviation. There's plenty of room, and the justification doesn't show us that we should approve the deviation.

CHAIRMAN STRAIN: Okay. Now let's move outside to -- let's start with Douglas. They're proposing a sidewalk along Douglas to connect to a sidewalk that now is not going to be connectible on the north side of Vanderbilt Beach Road as opposed to being on the south side of Vanderbilt Beach Road. Are you familiar with the area from your perspective? I mean --

MS. REVAY: Mildly.

CHAIRMAN STRAIN: Okay. Do you -- there's -- there, apparently, is a swale along the north side

--

MS. REVAY: There is.

CHAIRMAN STRAIN: -- that they don't want to disturb. Is it undoable to put a sidewalk there, in your opinion?

MS. REVAY: In my opinion, no, that's not undoable.

CHAIRMAN STRAIN: Okay. Because moving it -- and the sidewalks that would go along the Vanderbilt Beach Country Club side and the sidewalks that may or may not exist by the church -- I don't know if there's any there or not. I should but -- I pass it every day. I just can't remember right now. Are they on the north side or would they be on the north side or would they be -- they'd be on the north side?

MS. REVAY: It's on the north side, sir.

CHAIRMAN STRAIN: So everybody else is putting them on the north side.

MS. REVAY: (Nods head.)

CHAIRMAN STRAIN: And we get to some point, we'd have to go across that roadway, which is -- I mean, I drive that. It's fun because there's no police out there, and there's hardly any way to stop anybody from going 60 miles an hour.

MS. REVAY: And it will get faster as the road widens.

CHAIRMAN STRAIN: Oh, I agree. So we'd have to cross somewhere, you know, back down on the south side, then cross somewhere else to get back to the north side. I'm not sure why that's reasonable. Now -- and the south side seems to be a problem right from the get-go.

I think that's all the questions on -- oh, money. They're providing it down to Massey. And I know you -- I sit in preapps with you, and you collect money from everybody, faithfully. Everybody gets hit.

Is there enough money somewhere? Will we know the county can cover the costs or force developments that have the commitments to cover the costs for the sidewalk from Massey to connect to wherever it has to go?

I thought I asked you that a couple months ago, and I thought you said there was, but I can't remember right now.

MS. REVAY: I guess it would depend on when you would want the sidewalk to be built.

CHAIRMAN STRAIN: Before they get their first -- well, I don't know. At some point. It's not -- I guess it's not really contingent on their project. But when they put the sidewalk in, we would need to connect to it.

MS. REVAY: If they were to put their piece in -- right. And so what you're saying is if they were to put their piece of sidewalk in, whether they went to just their property line or all the way to Massey, and if we picked up at Massey and then continued onto the church --

CHAIRMAN STRAIN: Right.

MS. REVAY: -- there may be funding available in the future --

CHAIRMAN STRAIN: Well, but we've got to --

MS. REVAY: -- to complete it.

CHAIRMAN STRAIN: -- put the piece in there the county owns. The church, then -- it sounds like the church already put a piece in.

MS. REVAY: Right. And I think --

CHAIRMAN STRAIN: So then the Vanderbilt Beach Country Club, if their assessment is right -- and I haven't read the language yet, but they're committed to put a piece in, or they've already paid in lieu of.

MS. REVAY: And that's where I'm going to defer to John.

But I did want to say, before I leave -- is that the piece that Collier County would need to put in on their property, I believe is just about a quarter of a mile. So I believe we would have some sort of funding that would --

CHAIRMAN STRAIN: I think the issue has been raised strongly by citizens. I know that some have spoken even to their commissioners, so it's going to have to be resolved either at our level or at the next level up. So I'd rather just package it up as best we can to the commissioners to explain to them how it's going to fit together. So the more we can put down now, the better off we'll understand it. So thank you.

COMMISSIONER EBERT: Before Stacy leaves -- can I talk to you a minute on this, Stacy?

MS. REVAY: Sure.

COMMISSIONER EBERT: On the inside of the community -- and I'll be very honest with you, I am very much for these pathways because putting in a 5-foot sidewalk does nothing. Runners will not run on cement. They'll run in the street. Bikers will not go -- well, they just don't. And it's always sidewalk, slash, bike path.

The multi-use path, I would rather see a 10-foot -- bituminous, even in the community -- pathway so everyone can use it and stay out of the -- I mean, I'm just very in favor of it.

And if you will even notice on Immokalee Road -- and the county is going to get more stern with this deviation within the communities, all the developments. They're going to start saying, no more sidewalk on one side. And I think it's good because people living in these communities are more active now, and they prefer these pathways. You can go out in front of Immokalee Road and just see it out there. You can see it in the communities. So -- but I understand the county is going to start cracking down on this; is this right, Stacy?

MS. REVAY: If there's a constrained right-of-way and there's an absolute reason to have the sidewalk only on one side, then it makes sense. When there's enough room and enough space to have a 5-foot or 6-foot-wide sidewalk, or even on Vanderbilt Beach Road, you know, having a sidewalk back of curb where there should be a 2-foot, maybe even 3-foot planter strip or utility strip, as we might call it. It makes good sense to continue that, to continue that direction and encourage the use of these -- of the pedestrian infrastructure.

And any APA or planning magazine or safe routes to school or any of those websites or organizations, good planning requires sidewalks on both sides of the road.

And with new developments coming in, it should be a requirement that they abide by.

COMMISSIONER EBERT: Thank you.

CHAIRMAN STRAIN: Okay. John, maybe you can help us out. What is the -- just out of curiosity, because the cars on Vanderbilt Beach Road -- I mean, I mentioned earlier how fast -- it is -- that is a fast road. I drive the end of it, but they're flying down that road. What is the speed limit on that road?

MR. PODCZERWINSKY: Oh, you've tasked me with a question I can't exactly give you data for.

UNIDENTIFIED SPEAKER: Forty-five.

MR. PODCZERWINSKY: Yeah, the speed limit should be 45.

CHAIRMAN STRAIN: Is it? Well, I don't think -- very few people are driving 45 on that road.

MR. PODCZERWINSKY: Are you asking about the average speed travel or just the posted speed?

CHAIRMAN STRAIN: Well, if you know what the average speed travel is, it's got to be higher than that.

MR. PODCZERWINSKY: That's why I --

CHAIRMAN STRAIN: And that's what concerns me for location of the sidewalk close to the curb as well as having crosswalks to get to the sidewalk. It's going to be difficult to expect people to stop when an area is as isolated as this.

MR. PODCZERWINSKY: In addition, the recent direction that we've gotten from our traffic operations department is that mid-block crossings are outright discouraged. They don't like to accept them -- they don't want to maintain them, and they feel that it's an unsafe scenario when they propose them, you know, when it's proposed by either the county or a private developer. So we try to avoid them at all costs, so -- that's about the mid-block crossings, if it's --

COMMISSIONER CHRZANOWSKI: How would you set up a mid-block crossing? Just a --

MR. PODCZERWINSKY: On a 45-mile-an-hour road, yeah, it would typically be piano keys.

COMMISSIONER CHRZANOWSKI: -- piano keys or what? No stop sign, no nothing?

MR. PODCZERWINSKY: Correct, no stop sign.

COMMISSIONER CHRZANOWSKI: Why bother?

MR. PODCZERWINSKY: Right.

CHAIRMAN STRAIN: I mean, there's no lights out there either. I mean, the place is pretty --

MR. PODCZERWINSKY: Correct.

CHAIRMAN STRAIN: I mean, it's almost a racetrack in parts, but -- okay.

As far as traffic patterns -- and you've seen the ingresses and egresses they need in the project. Did you count on that many when you reviewed this?

MR. PODCZERWINSKY: I can't recall exactly how many I counted on, and here's why. Both Douglas Street in today's current condition and the extension of Vanderbilt Beach Road along their property frontage are privately held. So whatever they would like to propose for their private access points they can propose within their development.

Those private roads, they're allowed to have a little more leeway than they are on a public road. We won't govern that for access management.

CHAIRMAN STRAIN: How about from Vanderbilt Beach Road onto Douglas; can that have a left turn lane, or is that something you can't control?

MR. PODCZERWINSKY: That is something we can control, and that would be based on traffic warrants.

CHAIRMAN STRAIN: Okay. Well, traffic warrants or traffic study?

MR. PODCZERWINSKY: Yes.

CHAIRMAN STRAIN: Well, you've got one. You don't have the other. So based on the traffic study, do you need a left-hand turn lane onto Douglas?

MR. PODCZERWINSKY: I'll put it this way. If the traffic shows that the warrants are met for the left turn lane there, yes, it would be required. And that's something we would handle at the time of plat.

CHAIRMAN STRAIN: Okay.

MR. PODCZERWINSKY: Yep. Now, I do want to bring to the panel's attention that Vanderbilt Beach extension is planned, and it's in our five-year CIE right now, for future roadway widening. What's in the Capital Improvements Element today is simply planned for right-of-way acquisition, 50,000 per year for the next five years.

We don't have any design or construction plans in place at the moment that are going to be implemented. So those will be -- those will be beyond the five-year plan if and when they're implemented. So right now is just acquisition of the right-of-way.

COMMISSIONER CHRZANOWSKI: John, if anybody builds a sidewalk in front of somebody

else's property, when that person comes in, the sidewalk is there, do you collect money from them?

MR. PODCZERWINSKY: No, we do not. Let's say, for example, the county was to construct a sidewalk in front of someone else's property, we do not retroactively pursue payment from that development or from that landowner for that sidewalk that's been installed. We typically only require payment in lieu when there is an active project that shows a sidewalk is going to be installed at that property frontage or when the developer has -- or the property owner has a responsibility through the Land Development Code to provide sidewalks and perhaps they can't -- or perhaps it's beneficial to them not to -- beneficial to the county for them not to.

COMMISSIONER CHRZANOWSKI: So if this owner were to build a sidewalk in front of other people's property on the way down, he would never be reimbursed for that, and the other person would never have to pay any money or build a sidewalk?

MR. PODCZERWINSKY: It's an interesting question, but as far as the rules are applied, I don't believe that they would be reimbursed for that.

COMMISSIONER CHRZANOWSKI: Okay.

CHAIRMAN STRAIN: John, the TIS, do you know if it was primarily for multifamily or single-family, or how was that laid out; do you know?

MR. PODCZERWINSKY: If I recall correctly, it was looked at as single-family.

CHAIRMAN STRAIN: Okay. So this will be primarily single-family buildings, which means you're going to be looking at 2.4 persons per household based upon county standards, so you're going to have 1,800 people in that development.

MR. PODCZERWINSKY: Okay.

CHAIRMAN STRAIN: Well, 750 times 2.4 is 1,800.

MR. PODCZERWINSKY: Okay.

CHAIRMAN STRAIN: So that would mean you're going to have -- I mean, the sidewalks are obviously going to be necessary, and having those people that want to walk or bike down to the Sweetbay or -- which is now Winn-Dixie. I just can't see them crossing Vanderbilt Beach Road back and forth to get onto the sidewalk system. That all should be on the north side of the road.

MR. PODCZERWINSKY: This is the reason that staff has requested the sidewalks to be installed so that it provides connectivity to the development.

CHAIRMAN STRAIN: How do you time the sidewalks?

MR. PODCZERWINSKY: How do we time them?

CHAIRMAN STRAIN: Yes.

MR. PODCZERWINSKY: In terms of?

CHAIRMAN STRAIN: If it's acknowledged that the sidewalks are going to be required, at what point are they required?

MR. PODCZERWINSKY: Well, in this case when warrants on the roadway -- overall, the roadway, are met and I don't have that data in front of me at the moment. But when you reach a certain level of background traffic, that's when roadway improvements are required.

We've already reached those levels to put us into the planning process to widen this roadway. As you know, Vanderbilt Beach Road, the widening process and the extension process of this roadway has been delayed per board action and per staff action. It's been indefinitely delayed. That's why we're only in the right-of-way acquisition process.

But the need is acknowledged for this roadway to be widened and extended in the future, and that will include sidewalks when the county does make it to that project in our queue.

So we feel at this point the warrants are met for that, but we don't have the funding to provide or the political ability to provide that roadway and that sidewalk at this time.

CHAIRMAN STRAIN: Well, somehow I'm not getting to where I need to go.

MR. PODCZERWINSKY: Okay.

CHAIRMAN STRAIN: I'm trying to figure out what it's going to take to get sidewalks to connect to the point that's shown here by the church, which is to the west of that water plant.

MR. PODCZERWINSKY: Correct.

CHAIRMAN STRAIN: I believe the water plant sidewalks are going to be put in whenever the county feels it needs to, which I'm assuming could be pushed politically once the sidewalks go to that point from the east. Then from the east it looks like we can get sidewalks in to Massey. Now it's the point from Massey to this treatment plant.

Do you recall -- I don't think Stacy was here when the Vanderbilt Beach Country Club was permitted; I don't know if you were. But do you recall what the requirements are or how that's being put together?

MR. PODCZERWINSKY: I do, actually. It was before my time, but Mr. Van Lengen is very helpful, in the back, and helped us look this up in the CTS system, the Commitment Tracking System.

And under Vanderbilt Beach Country Club, the PUD for that project, I believe, it's Letter B in their transportation commitments, it does say that they shall provide a sidewalk along their frontage.

I then checked with Laurie Beard in our commitment tracking -- you know, she's our PUD monitoring person, and she said that, in her opinion, what has happened was that the county has agreed at some point to accept -- in lieu of the sidewalk construction itself, we've agreed to accept additional right-of-way that's been provided where that sidewalk and roadway will be widened.

So I'm not privy at this point to the details of that transaction, but that's what I'm told has occurred.

CHAIRMAN STRAIN: So it's kind of a responsibility, then, to put it where the Vanderbilt Country Club was supposed to?

MR. PODCZERWINSKY: Correct.

CHAIRMAN STRAIN: So the county's going to cover it from Massey to the church.

MR. PODCZERWINSKY: I believe so, yes.

CHAIRMAN STRAIN: Do we know how large of a sidewalk is there at the church level now?

MR. PODCZERWINSKY: At this point, no. But I would assume if it's compliant with the LDC, it should be 6 feet wide.

CHAIRMAN STRAIN: Okay. Well, then what would be reasonable, then, is that the applicant puts the sidewalk in from their project to Massey Street 6 feet wide on the north side of Vanderbilt Beach Road, then the county would pick it up the rest of the way to make the connection to the church, it would seem.

MR. PODCZERWINSKY: I believe so, yes. We would pick it up during the Vanderbilt Beach extension widening. If we could accelerate it faster than that to provide the sidewalk today, I can't give you an answer for --

CHAIRMAN STRAIN: Well, that's a policy decision the board can decide on.

MR. PODCZERWINSKY: Exactly.

CHAIRMAN STRAIN: But at least the board will know what the conditions are they have to deal with.

MR. PODCZERWINSKY: Yes.

CHAIRMAN STRAIN: That's what I'm trying to get to.

MR. PODCZERWINSKY: That's correct.

CHAIRMAN STRAIN: Okay. Anybody? Stan.

COMMISSIONER CHRZANOWSKI: John, what's your experience with discontinuous sidewalks, gaps in sidewalks?

MR. PODCZERWINSKY: When the sidewalk ends, I tend to trip and fall in the grass, but --

COMMISSIONER CHRZANOWSKI: Yeah. So whatever goes in had better all go in at the same time?

MR. PODCZERWINSKY: That would be the recommendation. We try and make sure that the -- that the -- when there's a capital project or a project sponsored by a developer, we try to make sure that the timing of those projects coincides. The county certainly doesn't like to see a private developer spend money and install a walk that will just get ripped out at a point in the future, maybe five or 10 years down the road or less when we go to construct that roadway ourselves.

So we do try and make sure to coordinate those plans. Again, we don't like to duplicate effort, and we don't like to see money wasted on either side.

So -- but in this case, since we have an indefinite schedule for Vanderbilt Country -- or, I'm sorry, for

Vanderbilt Beach extension, then I really -- I'm at a loss to make sure that our schedule is -- you know, is compatible with theirs.

So the developer, obviously, would like to move forward, I'm sure, before our schedule would move forward in the future.

COMMISSIONER CHRZANOWSKI: Yeah. But if you guys don't put your sidewalk in, their putting their sidewalk in is kind of worthless.

MR. PODCZERWINSKY: Understood.

COMMISSIONER CHRZANOWSKI: Okay.

CHAIRMAN STRAIN: Okay. I don't have anything else of John. Does anybody else?

COMMISSIONER EBERT: Not of John.

CHAIRMAN STRAIN: Thanks, John.

Stacy, a 6-foot sidewalk would be consistent with the church, then, from your understanding, and the 6-foot sidewalk would meet the requirements that you would normally have requested in this area?

MS. REVAY: Yes.

CHAIRMAN STRAIN: Okay. That's all I wanted to make sure. Thank you.

COMMISSIONER EBERT: I have a question for Richard.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: Richard, could I please ask you some questions?

MR. YOVANOVICH: Of course.

COMMISSIONER EBERT: You're -- I'm looking at the Douglas Street, and I see one, two -- okay, three, even though there isn't an arrow, for the entrances there.

MR. YOVANOVICH: Yes, ma'am.

COMMISSIONER EBERT: Okay. I see the maintenance, I see the loop road, and I see the other one on the existing golf course. So you've come up with an extra one here. You've come up with four?

MR. YOVANOVICH: There's one along Vanderbilt Beach Road.

COMMISSIONER EBERT: Yeah, but that's not Douglas.

MR. YOVANOVICH: No. I said there were four in that area.

COMMISSIONER EBERT: Oh, okay.

MR. YOVANOVICH: Three of them on Douglas, then --

COMMISSIONER EBERT: Okay. And then the two on Vanderbilt, okay. Going into that, there is a sign deviation. And I went to the -- Diana and tried to get this. And you're asking for deviations. How many signs are you really asking for? Because you automatically get two on your road going in, and you automatically get two on Vanderbilt Beach.

MR. YOVANOVICH: We're asking for two additional ground signs.

COMMISSIONER EBERT: And where do you want to put those?

MR. YOVANOVICH: Deviation No. 3, correct?

COMMISSIONER EBERT: Uh-huh.

MR. YOVANOVICH: And on the master plan, here's where Deviation 3 would be, here and here.

COMMISSIONER EBERT: You automatically get one on the three over there, on that entrance. You can have one that goes into Everglades, and if you want to divide it, it can go into Olde Florida.

MS. JENKINS: Anita Jenkins with J.R. Evans. I'll help. What the code allows for are entry signs at your primary entryways.

COMMISSIONER EBERT: Yes.

MS. JENKINS: So our primary entryways are the loop road, and so the entrances to the golf course clubhouse facilities are not really considered the signage for the PUD for the community.

So what we're asking for -- two signs at the entryways, one on Douglas, one on VBR, and then signage at the corner there of Douglas and Vanderbilt, so -- just to help with way finding so they could see, you know, go on up the road, go on down the road.

COMMISSIONER EBERT: Okay. So you get your two, so you really -- you want two at this corner of Douglas and Vanderbilt?

MS. JENKINS: Yeah. And we say two because there may be, like, some type of fencing or wall

along the perimeter there, so they may have a sign along Douglas there on the wall, for instance, and a sign on the wall at Vanderbilt there.

COMMISSIONER EBERT: Okay.

MS. JENKINS: Potentially.

COMMISSIONER EBERT: And then the one on Vanderbilt, when you enter there, one will say Olde Florida and one will say Golf -- or Everglades?

MS. JENKINS: Right.

COMMISSIONER EBERT: Okay. That -- I just was trying to understand. As long as you're there, Anita, I'm going to ask you some questions.

MS. JENKINS: Sure.

COMMISSIONER EBERT: When I called you on this, because it looked like two different PUDs to me, they are going to put up a fence, you told me, from the northern boundary all the way around to the southern boundary. I think I have it highlighted here, but that will be a fence within the -- on the residential golf course side?

MS. JENKINS: Yes, ma'am.

COMMISSIONER EBERT: And that is to keep the -- I don't know if it's to fence the people in or fence the animals out.

And you originally had 260 acres. You got 20 acres -- you added 20 acres in December, so you have the 280, and you purchased 228; is that correct? And so you have 508 acres on this side?

MS. JENKINS: On that side, correct.

COMMISSIONER EBERT: Okay. And on the Olde Florida, that leaves them 328 acres.

MS. JENKINS: Approximately.

COMMISSIONER EBERT: Okay. They're going to keep two separate golf courses.

MS. JENKINS: Yes, ma'am.

COMMISSIONER EBERT: Neither one is bundled; is that correct?

MS. JENKINS: Correct.

COMMISSIONER EBERT: But I also noticed in the notes when you originally came in in July on comp planning that you want to do 750 now, but in the plan you can do 833; in fact, you can do 836. It was 833 because you didn't have the 20 acres or something.

My concern is Everglades cannot stand on its own as far as preserve and as far as open area. Taking in the preserves -- taking in the preserve on the 508 acres, you would have to have -- for your 25 percent, you'd have to have 127 acres, and at this point you show that you have 37.9 and then the 503, so you have 32.92. So that's all the acreage you have as far as preserves.

On the Olde Florida site is where all the preserves are. They have, what, 130 -- 138 acres?

My concern is -- and you can always amend a PUD. They're going to come along and amend this PUD; I just know it. And they're going to want the other 90 units or 85 units. So they sell the golf course. You can sell that to anyone, right? And these homes, then, these other homes would go on -- it shows, like, 164 acres, which is the golf course on that side; is that correct?

MS. JENKINS: There's only four homes proposed for the golf course.

COMMISSIONER EBERT: I understand there are only four homes proposed now, but in the PUD it already is kind of saying you can amend the PUD, and in here it says there was 833 possible, and you want to retain the TDR credits. So I'm saying in my mind, okay, they're going to retain the TDR credits, that's what you're asking for, and you'll -- they'll come back at a later date.

MS. JENKINS: I'm not sure I'm following you about coming back for a later date. We do have to attain TDRs to be able to develop over 167 units on the property.

COMMISSIONER EBERT: Correct, correct.

CHAIRMAN STRAIN: But they weren't retaining them not to use them. They're retaining them to use them for what they're currently asking for. If they have to come back even for one unit more in the future, they've got to go back through this entire process all over again. So -- and they could come back -- anybody in this county could come back on any land they own for anything they want at any time, so that's not a basis for reviewing.

COMMISSIONER EBERT: That's correct, but they're -- but at this -- and you're right, Mark, but they're using all the acreage as far as preserves on the Olde Florida site. And it makes sense, because they're not using them, so you've got 138 acres here. I'm just saying, Everglades could not stand on its own on the 508 acres.

Rich, what it looks like is like almost two separate PUDs, and I understand you're going to think I'm crazy, but you need one to support the other.

MR. YOVANOVICH: That is absolutely no different than every other PUD in Collier County. Let's look at -- if you go to Pelican, probably one of the very first PUDs that, unfortunately, also is a DRI, but you have -- that entire property works together. This is no different. This entire property works together.

The preserves -- if you look at Golf Club of the Everglades, it's pretty easy to see, there are no preserve left.

COMMISSIONER EBERT: There are none, no.

MR. YOVANOVICH: There are no preserves.

So the entirety of property, they do rely on each other. So if we were to come forward later with an amendment, I still have to meet the preserve requirements for the entirety of the project. I still have to meet the open space requirements for the entirety of the project.

So there's going to be a limited ability to -- I'd have to come back and convince four out of five of you to give me more density. I'm assuming I'd have to get rid of one of the two golf courses because I don't know where else you'd fit it, because the preserves are the preserves. They're not going to change. And I'm going to go through a public hearing process, and I'm still going to have to meet the open space requirements that apply to the rural fringe mixed-use district; I'm going to have to meet all those requirements as I come back through the process.

But, yes, absolutely this project works together.

COMMISSIONER EBERT: Okay. I just -- when I was looking at this, I was thinking something different, because they have 328 acres on that side.

As long as you are standing up there, I have a question as far as -- and I know you changed it in the PUD to put 40 feet wide because, you're right, I said to Anita, 2,800 square feet, my house is bigger than that. And I don't have a big house, I can tell you that.

But when you have a 35-foot property wide and 65 deep and you have 6-foot setbacks, so you take off 12 feet, that's 23 feet. I just could not see a single-family home. But what I also did was I went and pulled some PUDs from right around you -- and I'm only going to do the single-family, because I know that, you know, you're doing other ones, too.

Vanderbilt Country Club for single-family dwellings, minimum lot size is 7,200 square feet. And Twin Eagles south, minimum lot is 6,815. They're all either 47, 52, and 67 by 145 deep.

Tuscany Cove is 6,000 square feet, 60-foot wide for their single-family detached, and the smallest was 4,500 with Bent Creek and 1,000 square foot.

So I just -- you're not -- it's really tight in there, and I just wanted to say it's -- if you bring it up a little bit, that helps.

MS. JENKINS: And after our conversation, I did go back and talk to Polte, the client, and their smallest product is a 40-foot width, so that's where the 4,000 came from. So if they put their smallest product type in there, it would be 4,000 square foot.

COMMISSIONER EBERT: Lot width is 40 feet.

MS. JENKINS: Yes.

COMMISSIONER EBERT: On their smallest. Okay. Thank you.

CHAIRMAN STRAIN: Okay. Does anybody else have questions of any staff member? Go ahead, Charlette.

COMMISSIONER ROMAN: Yes. I have a question for Rich.

Currently, if I understand this correctly, the property is neutral lands in the rural fringe; is that right?

MR. YOVANOVICH: Part of it.

COMMISSIONER ROMAN: Part of it. Could you outline what part of it?

MR. YOVANOVICH: Absolutely. Down the line, this (indicating).

COMMISSIONER ROMAN: Okay. So currently the neutral lands wouldn't be eligible for any transfer of TDR credits into the property? That's why you want to group these together as a PUD to be receiving lands in order to have the density credits transferred in; is that correct?

MR. YOVANOVICH: Well, the bottom-line answer is yes, but I can go back through the entire presentation as to what this neutral land looks like from a species and wetlands standpoint compared to -- you know what, let me do that.

COMMISSIONER ROMAN: Well, you know, Rich, I don't think you have to because I --

MR. YOVANOVICH: We're totally surrounded -- we're totally surrounded by receiving land. Everything around us is receiving lands.

COMMISSIONER ROMAN: And also in talking with staff, I understand that they did it from an aerial perspective, and it's not necessarily in the quality of the habitat.

MR. YOVANOVICH: Right.

COMMISSIONER ROMAN: But that's part of you being able to get the TDR credits that's necessary for the project density that you're looking to do.

MR. YOVANOVICH: Right. And when I said, if you were to look at today, before the Comp Plan changes, we have 281 acres of receiving lands, we would be allowed to go up to, as a matter of right, 200 -- actually it's 281.7 -- I think I get to round up to 282 -- for density on the receiving lands. I have 54 acres of neutral lands. You divide that by five, that comes to 111. So I would be able to do 394 units under the current provisions in the Growth Management Plan.

I think that we have more than shown that this land, this land that I'm referring to, the Olde Florida portion of the project, meets all of the characteristics of receiving lands and, frankly, is surrounded by receiving lands. And we've not had an environmental group or staff disagree with characterizing this land as receiving land.

So with that comes the ability to bring in TDRs which, again, in order for the sending lands program to be successful, you need receiving lands.

So we are providing a benefit to ourselves as well as a benefit to the overall program by having lands that are receiving lands that we'll go out and buy TDRs from sending land. So we will buy, in order to max -- if we go to the maximum density -- and I don't know where my notebook went, but it's well north of 500 units of TDRs for this project.

COMMISSIONER ROMAN: And neutral lands have, as David mentioned, a higher threshold for preservation requirements than receiving lands, so that's another tradeoff here.

But what I do think was positive is the fact that you agreed to certain provisions in the PUD to help facilitate that wildlife corridor. And I appreciated that partnering in terms of the size of the fence, what type of fence, and that kind of thing.

The one question that I have is in the Olde Florida Golf Course itself. I've been out there; I've played golf out there. And it's beautiful habitat out in the Golf Course of the Everglades and that whole area. You consider at this point that golf course, Olde Florida Golf Course, part of the habitat that's adjacent to that wildlife corridor; is that why you put the existing cart paths and maintenance roads to stay as-is?

MR. YOVANOVICH: Correct.

COMMISSIONER ROMAN: Okay. Thank you.

MR. YOVANOVICH: Essentially, the Golf Club of the Everglades -- I'm sorry -- Olde Florida property is a wildlife corridor.

COMMISSIONER ROMAN: Yes.

MR. YOVANOVICH: And it is -- by leaving that as it is, I think everybody, from the environmental perspective, has said that this is a good project.

COMMISSIONER ROMAN: And the transit fence now, or the better-quality fence where the wildlife can move through, is a positive step, I think. And then moving the houses over to the other side of the golf course facility as well that you mentioned, those four houses.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: Okay. Does anybody else have any questions of anybody on staff?
(No response.)

CHAIRMAN STRAIN: Okay. With that, we will go to the public speakers.
Are there any registered speakers first? Is there anybody here wishing to speak on this item?
(No response.)

CHAIRMAN STRAIN: Okay. Rich, you don't have anything to rebut.

MR. YOVANOVICH: Nobody's talking from the public?

CHAIRMAN STRAIN: No.

MR. YOVANOVICH: Oh.

COMMISSIONER EBERT: What about the deviations?

MR. YOVANOVICH: Well, I would like to --

CHAIRMAN STRAIN: We're going to have a lot of discussion, so --

MR. YOVANOVICH: Well, I don't have any public to rebut.

CHAIRMAN STRAIN: No. But I tell you what, we need to have a serious discussion about these sidewalks. What you're proposing is not going to work, so somehow --

MR. YOVANOVICH: Which -- you've got to help me. Can I deal with one type of sidewalk at a time?

CHAIRMAN STRAIN: Sure. Let's start with -- the most important is the external, from my perspective. If someone buys into that community, and they -- well, first of all, you've already committed to having sidewalks on both sides of all the roads shown on the master plan; do you agree?

MR. YOVANOVICH: On the master plan?

CHAIRMAN STRAIN: Yes.

MR. YOVANOVICH: Internal?

CHAIRMAN STRAIN: Yes.

MR. YOVANOVICH: Let me -- hang on.

CHAIRMAN STRAIN: Put that one up. You've got cross-sections AA on all those roads. And my assumption is --

MR. YOVANOVICH: No, that is not correct. If you look at the cross-section, it says we can put it on one side. It fits. There's no question it fits. Okay. We can fit two sidewalks in the road, right?

CHAIRMAN STRAIN: No. Then let's back up then. If you're going to go rely upon that cross-section that you've got there as being allowed to be put on one side, then that contradicts -- Stacy's -- is Stacy till here?

John, you need to fill in for Stacy. You don't look like her, but you can fill in for her.

MR. PODCZERWINSKY: Again, John Podczerwinsky, for the record. I know I'm not as attractive as Stacy, but I'll do my best. If I put a nice smile on my face, it might help.

CHAIRMAN STRAIN: I asked earlier if the cross-section on Page 2 of the graphic description, which is after the master plan, is consistent with the LDC, because I thought why do we have it in here if it needs to be a deviation. I was told it's consistent with the LDC, okay.

And then Stacy says the LDC requires to have sidewalks on both sides of the road. Now we're finding out that because of this graphic it apparently is not consistent with the LDC and it doesn't require sidewalks on both sides of the road. So where are we at?

MR. PODCZERWINSKY: No. It's actually the deviation that is not consistent with the LDC.

CHAIRMAN STRAIN: It is not?

MR. PODCZERWINSKY: Correct.

MR. YOVANOVICH: The deviation.

MR. PODCZERWINSKY: And, basically, what the LDC calls for -- and I'm going to paraphrase it for a moment. The LDC says you may have two 5-foot sidewalks, one on each side, within your private development or, as an option, you can provide one single 10-foot-wide pathway in lieu of those two 5-foot sidewalks. The deviation that they're seeking is to do a single 5-foot sidewalk on one side of the roadway.

MR. YOVANOVICH: Or -- let me -- Mr. Strain, I think you and I may have -- this road to here and all the way over here, sidewalks on both sides.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: The other roads we're asking for the ability to do one sidewalk 5 feet in

width.

CHAIRMAN STRAIN: Okay. The other roads. Where are the other roads?

MR. YOVANOVICH: Let me do this. Let me put up our ERP plan, okay. Where'd it go? I have a picture of Josh and his family I'd like to show you first. Go with the sympathy factor and move on.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: This is the ERP plan. Now, I think we have all on many occasions and many projects on cul-de-sacs, have said, do you really need a sidewalk on both sides of the street on a cul-de-sac. And I would like to quote Ms. Ebert when she said that these 5-foot sidewalks, nobody uses them. Correct?

COMMISSIONER EBERT: That's correct. They don't. Inside the community, they do not.

MR. YOVANOVICH: Exactly. And my point is, I can't imagine on any of these streets, if I had a front door that fronts a 10-foot-wide pedestrian path -- you're not selling that to anybody. I can't imagine I'd be the one who would buy that lot with a 10-foot-wide sidewalk pedestrian path running trail.

So I have an option of going down to five feet on each side of the -- we're not talking about the major roads. We agree the major thoroughfare/road, whatever you want to call it, in the project will have one on both sides.

It's the more neighborhood-type roads we're saying you don't need more than a sidewalk on either side.

And I will -- you know, I know we talk about how great sidewalks, theoretically, are, but I will tell you, all of Olde Naples, you don't have any sidewalks. People walk in Olde Naples, people ride bicycles in Olde Naples, and they get along fine in Olde Naples without sidewalks. We're not saying we want no sidewalks. We said we want one sidewalk.

I live in Pine Ridge, and there are some streets in Pine Ridge where you can really get up a head of steam. We have no sidewalks on the south side; we have no streetlights. People are out there walking all the time.

If you want to move into a community that has walks on both sides of the street that you've already said aren't really used, you can go to another competitor's community, or wherever you want to go. We're saying that we believe it's unnecessary to have sidewalks on both sides. Most people like to have a sidewalk. They just don't want it to be in their front yard. They don't mind walking across the street on a small local street to walk across the street to get to the sidewalk, which will eventually get you to our major roadways that will get you to the sidewalk on Douglas, that will get you to the sidewalk on Vanderbilt Beach Road. We're not saying we want an unsafe walkable community. We're saying it's unnecessary on the smaller streets to have a sidewalk on each side.

COMMISSIONER EBERT: Rich, I guess what I'm saying, inside the community the only ones who really use the sidewalk are the ones who are going to go out and walk the dog. Your bikers do not use the sidewalk, and we're getting more and more people riding their bikes.

And on your sidewalk, you have slash bike. If you want to put -- and they have it in the Quarry. If you want to put a bike lane in the street, that's fine with me, you know, but it just seems like every deviation, the developer is trying to do less and less.

And I understand, and I have -- I'll be honest with you, I have gone to transportation because pathways/roadways are very important. And you've got the street so narrow inside these communities, you have -- you only have 20 foot -- you only have 20 foot of bituminous plus the valley gutters. You have to almost stop.

And on yours it shows 20 feet. If somebody's passing, I mean -- that means nobody can be in the street except the two cars, and that never works out inside a community.

So that's why I'm saying that. If you'd be willing to put a bike path -- I don't know how John feels about it, but --

CHAIRMAN STRAIN: Well, before we go that far, maybe what we could end up doing is, you've got two different road systems to the extent they're shown on your master plan versus this plan. The master plan that's in your PUD shows a -- more or less the collector portion of road system. It doesn't -- it eliminates

--

MR. YOVANOVICH: It doesn't show all the spurs off to the small neighborhoods.

CHAIRMAN STRAIN: All the small neighborhood cul-de-sacs.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: What's shown on the master plan, if it had sidewalks on both sides, that would meet, at least, some standards for the inside of the property. It doesn't add much to it, but it gives you the ability not to put them on the cul-de-sac, which is inconsistent with what staff wants, but at least you're halfway there.

MR. YOVANOVICH: And, Mr. Strain, we don't have a problem with, on the roads that are on the master plan, a sidewalk on each side.

CHAIRMAN STRAIN: Okay. That gets us to a first possible compromise, but the real hard part's going to be the next, and that's the road -- the sidewalk system that needs to go along Vanderbilt Beach Road. It makes no sense putting it on the south side of the road, putting the people through that dangerous -- perhaps, dangerous, and I think it is, crossing that would have to go across Vanderbilt to get to the sidewalk only to go back over to the north side again to pick it up where it is currently terminated, or where it would go to maybe at Massey Street.

So we need to put the sidewalk along the north side. It needs to match the width of what's already started, and it needs to have at least a 2-foot clearance.

So what are your -- I know you're going to object to it, but you need to consider it, so --

MR. YOVANOVICH: Mr. Strain, let me -- there's one thing I don't know, and maybe John does know. Is that a public right-of-way from Douglas to the west, and is there right-of-way -- is that swale on the north side of the road, which is probably going to be a significant expense to address?

CHAIRMAN STRAIN: Well --

MR. YOVANOVICH: Is it -- one, does the county have the rights and, two, it's a significant expense to deal with that swale.

CHAIRMAN STRAIN: Let's find out. John?

MR. PODCZERWINSKY: My understanding is that from the -- it would be from Douglas Street to the west that that is public right-of-way for Vanderbilt Beach Road. Also, my understanding is that we have or are in the process of acquiring right-of-way to make that roadway footprint wide enough for the future six-lane road, six-lane/four-lane. I have to double-check my lanage on that, but it's --

MR. YOVANOVICH: I'm sure Mr. Strain knows what it is.

CHAIRMAN STRAIN: I know what it is now.

MR. PODCZERWINSKY: In any case, the right-of-way is the county's right-of-way. And I'm going to step outside the box a little bit here and say that since we know that what we're asking the developer to install is not likely going to be a long-term permanent answer, permanent solution, there may be -- and I'll have to double-check this with our road and bridge department -- there may be an allowance where we could go with a lesser standard on the construction materials used. It may not need to be concrete. The sidewalk may not need -- may not need to meet the same roadway grade conditions that the county would have to meet.

There are a few exceptions to the typical rule that the county follows that the developer may be able to do that would be to a lesser standard than we would typically follow and would be a cost savings to them.

At this point we haven't had an opportunity to really sit down to a table and discuss that, but I'm sure that county staff would be open to discussing that, if that's the direction that the panel would like to take.

CHAIRMAN STRAIN: Okay. And how would you tie the creation of the sidewalk that would have to be put in by the applicant to a time of the project? Now, you're looking at 750 units times 2.4 is 1,800 people. You've got some existing, although small numbers in nature, but you still have the existing people on Douglas, and I'm not as concerned about what's in front of their project, because people in the project could use a sidewalk going down Douglas to get to Vanderbilt.

But from Douglas westward to Massey, the timing of that piece -- because once the timing of that piece is worked out with the applicant, more than likely the county's going to have a lot of pressure to complete the rest. And I know we have a very active commissioner in that district, and I'm sure it's something he would be looking at as well.

So with that in mind, we could, theoretically, see a sidewalk in at a reasonable amount of time,

depending on how the trigger would be for the internal -- for triggering the one from Douglas to Massey.

MR. PODCZERWINSKY: I hesitate to say yes because I don't know of any money that's specifically set aside for that at this point.

As I said, with Vanderbilt Country Club, my understanding is that we've accepted right-of-way that we would have had to purchase.

CHAIRMAN STRAIN: But we've collected --

MR. PODCZERWINSKY: In lieu of -- correct.

CHAIRMAN STRAIN: -- money. So one way or another, we have the money. Now it's just a matter of saying, the time has come. It's needed. We need to put it in because the connections are there.

MR. PODCZERWINSKY: I'd have to discuss that with my management and see if that's the direction they wish to go with their budget.

CHAIRMAN STRAIN: Well, the word "management" means a lot in that case. And hopefully they're managing, so -- okay.

MR. PODCZERWINSKY: Yes.

CHAIRMAN STRAIN: But timing, how do you -- how do you judge a need on a 750-unit project for that formation of the sidewalk?

MR. PODCZERWINSKY: With sidewalks, it's not so much the warrant is or isn't met with sidewalks. It is that either it does or does not exist, and either there's a need for pedestrian service or not.

And, basically, it depends on the nature of the roadway design, whether it's a rural or urban roadway. An urban roadway would require sidewalks. A rural roadway doesn't always require them.

CHAIRMAN STRAIN: Okay. But we've already acknowledged that we need a sidewalk to go from Douglas to Massey.

MR. PODCZERWINSKY: Correct.

CHAIRMAN STRAIN: So let's say the requirement part of it's already been acknowledged.

MR. PODCZERWINSKY: Okay.

CHAIRMAN STRAIN: Timing of that piece.

Richard, you look puzzled. I mean, that's --

MR. YOVANOVICH: Yeah, I really am. Are we building the sidewalk for my alleged -- my theoretical 1,800 people that are living in this community that are -- that are actually -- we really believe those 1,800 people are going to get on their bicycle or they're going to walk or they're going to run from the community all the way to 951? Because if we're building it for our community, I'm not sure we need to do that.

Is that creating the need for the sidewalk? Is my community creating the need for the sidewalk to go from --

CHAIRMAN STRAIN: Eighteen hundred people, yes. I think there's a need there. Well over -- what, maybe 10 houses in the area now? Yes. You don't think there's a need, because of 1,800 people, for the safety factor that that would provide for those people that may want to walk or bike down to that intersection, which isn't that far away?

MR. YOVANOVICH: Honestly, I would love to -- and can I ask a question of John?

CHAIRMAN STRAIN: I don't care. Go ahead.

MR. YOVANOVICH: Does the county do any studies of the actual use of the sidewalks?

CHAIRMAN STRAIN: Well, if you want to start talking studies, where's the study to justify the deviation for the sidewalks --

MR. YOVANOVICH: Mark, I think it's a fair --

CHAIRMAN STRAIN: -- to begin with?

MR. YOVANOVICH: Mark, is it not a fair question to ask -- you know, we're building all these sidewalks. And is there -- are they really being used? We're willing to pay our fair share. We're willing to go above and beyond --

CHAIRMAN STRAIN: If they're there, they're used.

MR. YOVANOVICH: What?

CHAIRMAN STRAIN: If you put it in, they're generally used. I would love to see sidewalks in my

neighborhood, but there's no developer around or nobody around generating the traffic needed for them. We don't have 1,800 people living at the end of my street. Thank God, we don't.

MR. WEEKS: May I?

CHAIRMAN STRAIN: David? What's that mean?

MR. WEEKS: Break.

CHAIRMAN STRAIN: Yes. Let's take a break. We'll come back at, what, 11 minutes, at 4:20.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay. Let's get back to the meeting. It's been a long day.

And during the break Mr. Yovanovich has come back and offered to build bike lanes and sidewalks all the way out to Vanderbilt Beach on both sides of the road. So I was real nice to him.

But, in reality, he cut that proposal back a bit and has a suggestion that we should consider.

So, Richard, do you want to --

MR. YOVANOVICH: You know, since we're going to have a little levity, I just want to put you in the right --

CHAIRMAN STRAIN: I was dead serious, by the way.

MR. YOVANOVICH: I know you were. I want to put you in -- so am I. I want to put you in the right mental perspective. So this is what children and you have done to me, Mr. Strain. That's --

CHAIRMAN STRAIN: Who is that?

MR. YOVANOVICH: I used to look like that.

CHAIRMAN STRAIN: Holy cow.

MR. YOVANOVICH: So I just want to put that in the right perspective.

COMMISSIONER CHRZANOWSKI: I think that's Norm Trebilcock.

MR. YOVANOVICH: What's that?

COMMISSIONER CHRZANOWSKI: It looked like Norm Trebilcock.

MR. YOVANOVICH: Ooh. Wow.

Here's what we think is a fair proposal, keeping in mind -- no, I'm not going to go there. We think that we are willing at the earlier of the county having the permits to construct the sidewalk or our 375th unit, which is halfway through the project, to pay, based upon the county's then in effect payment in lieu schedule for sidewalks, which is roughly -- I think it's \$8 and something cents a square foot -- it's roughly \$140,000 to build the -- from Douglas to Massey. We'll pay that money to the county. They can design, permit, and construct the sidewalk, because it's really key on them -- it's key to them doing St. -- from St. Agnes east.

Anyway, so when they're ready to go, we'll give them the money. They can build out all the way. Or if they're not ready to go, we'll give it to -- we'll give them the 140,000 and change at our 375th unit.

CHAIRMAN STRAIN: So if they're ready to go, you said you would build it --

MR. YOVANOVICH: Nope.

CHAIRMAN STRAIN: -- all the way -- then you would put the money up.

MR. YOVANOVICH: They build it. We'll put up the money.

CHAIRMAN STRAIN: You would contribute the money the earlier of the county having the permits for the sidewalk in the area between Massey and Douglas or your 375th unit?

MR. YOVANOVICH: They would get the permit, actually, from where it ends right now, St. Agnes all the way to Douglas.

CHAIRMAN STRAIN: Okay. So when it's permitted from St. Agnes to Douglas Street --

MR. YOVANOVICH: We'll give them, roughly, I think it's 140,000-ish.

CHAIRMAN STRAIN: Whatever the payment in lieu of is by the LDC at that time, which is a current standard we use today anyway.

MR. YOVANOVICH: Right, right.

CHAIRMAN STRAIN: Okay.

John?

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: Now, from a process viewpoint, what is he -- where is the hidden little catch that Richard's got built into here that we're not seeing?

MR. PODCZERWINSKY: The hidden catch -- and I'll actually speak out loud on microphone what Rich and I just discussed two seconds ago.

The concept of this being an off-site improvement and then it may be eligible for impact fee credits if they were to do this. If it's a minimum LDC requirement, it is outright the developer's requirement to do so along the frontage.

This being an off-site improvement they, of course, would have to apply for those impact fee credits. But it's -- I think it's something they could certainly discuss with the county.

CHAIRMAN STRAIN: So you're saying that even though they put the money up, they could come back and get it back as impact fee --

MR. PODCZERWINSKY: Correct.

CHAIRMAN STRAIN: -- credits because it's not required because it's not in front of their project?

MR. PODCZERWINSKY: I'm going to look at Heidi when I ask the question, but I would want to make sure that transportation department is not asking for an exaction of any kind. We are looking to ask for --

CHAIRMAN STRAIN: Right. we can't legally do that.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: So I'm not going there. I'm just trying to -- they volunteered to put the sidewalk in to Massey. And now that we tried to call them on that volunteering effort, we're trying to have another deal put on the table to see how we can do it so that everybody -- as a compromise, and that's something we should be listening to.

MR. PODCZERWINSKY: Understood. And if there's anything that I'm not seeing in that discussion, I can't tell you that I'm aware of it at this point.

We would like to take it under advisement and look at it amongst staff and make sure that all options are as least vetted amongst the developer, among staff, and then we'd like to probably bring you a recommendation back when you guys hear this for the final time.

CHAIRMAN STRAIN: Well, we're going to -- we're supposed to vote on this today.

MR. PODCZERWINSKY: Oh, consent is today?

CHAIRMAN STRAIN: No. Consent is -- we can't change the vote on consent. We only can confirm that the accuracy of our stipulations came through on consent. That's all we're allowed to do.

MR. PODCZERWINSKY: Okay.

CHAIRMAN STRAIN: So we're going -- the decision is supposed to be made today.

MR. PODCZERWINSKY: Okay.

CHAIRMAN STRAIN: As far as permitting the section from St. Agnes to Douglas, from a timeframe viewpoint, do you have any idea what that could involve?

MR. PODCZERWINSKY: I'm sorry. Say the question one more time.

CHAIRMAN STRAIN: Where the sidewalk terminates at St. Agnes and goes to Douglas --

MR. PODCZERWINSKY: Right.

CHAIRMAN STRAIN: -- the time frame to permit that, do you know what kind of position we are in to get it permitted? Because it's the same position we'd be in whether we accepted this deal or not. I'm just curious what that is.

MR. PODCZERWINSKY: I believe our position right now is I think we're at or near 60 percent design. And the reason I say that we're at or near 60 percent design is, historically, as I recall, we made it to 60 percent with the Vanderbilt Beach extension project. When we reach 60 percent, that allows us to go and acquire right-of-way and seek permits at that level. It's a status within our permitting process.

CHAIRMAN STRAIN: So you don't even know if you've got the right-of-way to put this sidewalk in.

MR. PODCZERWINSKY: Correct. I don't know if we have all of it yet.

CHAIRMAN STRAIN: So even if we wanted to put it in immediately, we couldn't?

MR. PODCZERWINSKY: I wouldn't say that we couldn't, but I don't believe we could today. I'd have to take a second look to see if we have enough right-of-way to do it.

CHAIRMAN STRAIN: And if we were to focus on just permitting the sidewalk, not the rest of the

road -- because that's a much bigger project --

MR. PODCZERWINSKY: Correct.

CHAIRMAN STRAIN: -- can that be done independently of the road?

MR. PODCZERWINSKY: Yes.

CHAIRMAN STRAIN: Okay. Those are all -- that's good information. Thank you.

MR. PODCZERWINSKY: Uh-huh.

COMMISSIONER CHRZANOWSKI: Can I do my sidewalk rant now?

CHAIRMAN STRAIN: Sure. Go right ahead.

COMMISSIONER CHRZANOWSKI: I started this when we first went on break, and I shouldn't have even said the word "sidewalk."

I am the person -- when we had -- the first bike-path coordinator was a guy name Jeremy Battis (phonetic). I was his chaperone when we biked almost every road that was existing in Collier County at that time to make the first bike/ped map.

I bike this road all the time. I bike VBR from one end to the other, because I live near the intersection of Airport and Vanderbilt.

Island Walk is right next to -- it exits onto this road. It's right near the shopping center. Every time I bike this -- and I use a mountain bike now. I got rid of my road bike.

I'm comfortable in the lane, bike lanes. It's not a problem. And out here in Vanderbilt, I'm comfortable out their, too, out in the road. It's no big deal. But I'm up on the sidewalk now because I'm older.

And the road bike just -- I like the mountain bike. It's much more stable when I go off the road and into the gutter and into the swale and whatever. I can stay up.

CHAIRMAN STRAIN: This is going somewhere, right?

COMMISSIONER CHRZANOWSKI: This is going somewhere, yeah.

I never see anybody on those freakin' sidewalks. I mean, we have a beautiful system in this town. And when I used to bike to work, I hated the Airport Road sidewalk because it's on one side of the road, and you have to -- it's a very bad stretch from Pine Ridge to Golden Gate.

I used to go out to Livingston and do that sidewalk, but it's only on one side of the road. I'd love it if they put it on the other side of the road. You wouldn't have to cross over and then cross back, which is -- you know, twice crossing traffic, you don't really need.

Places where we need stuff where we actually have -- and there are actually some people biking those sidewalks. But when I'm out here, I don't see anybody biking -- well, there are some heavy-duty bikers that do the bike lane still, but I don't see out -- anybody out on these sidewalks out here. You know that -- I just don't. And I wish I saw more people out there walking, you know, from Island Walk to the shopping center, whatever. I just don't.

So you can build all the sidewalks you want. You can't force people to use them.

CHAIRMAN STRAIN: Well -- but with this --

COMMISSIONER CHRZANOWSKI: No, I agree. We should build sidewalks.

CHAIRMAN STRAIN: With the price of gas going up and the lack of fitness for a lot of people in this country, the more we can encourage people to use sidewalks in lieu of driving and things like that is better, and we can't do that if they're not there.

So the opportunity to put them there is now. We have someone willing to, more or less, work towards that goal, so I think we ought to work the best opportunity we can to see that happen.

John?

MR. PODCZERWINSKY: Yes. I just wanted to jump in quickly. I have a correction for a statement that I made earlier. I've received a clarification from one of our staff members via text message to let me know that the conveyance on Vanderbilt Beach Road that I was discussing previously is actually a conveyance that occurred on 951.

I was -- I incorrectly gave you the wrong information. So such that the Vanderbilt Country Club is still -- as far as I understand it at this point is still on the hook, so to say, to provide payment in lieu for that sidewalk, for that portion at the frontage of their property.

CHAIRMAN STRAIN: So that is really good for the county, then, because the only piece the county needs is what's in front of its water plant, and then we've got -- so that's a small budget issue compared to what we would get reimbursed from Vanderbilt Country Club and the process that Richard's talking about now to put -- for them to put up.

MR. PODCZERWINSKY: I believe so, yes.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: You want to change the deal already? We just started talking about it.

MR. YOVANOVICH: Well, that's the best time to change it -- slightly.

I'm not sure whatever happened, but I do -- one of the things that Mike Humnican just pointed out to me is we don't think we should have to pay the money in until we actually get our core permitting done. I don't -- that's going to take about a year.

I don't know that the county would move that quickly, but we didn't want to -- we never anticipated being in a position where we'd have no cash flow from the project to actually fund our monies, okay. So we think that we should be allowed -- we should at least be able to, you know, sell 50 houses before we have to pony up the cash.

CHAIRMAN STRAIN: Without that project, the need for the sidewalk isn't as great --

MR. YOVANOVICH: Doesn't exist. I mean, it's not there at all.

CHAIRMAN STRAIN: -- because your project's creating the need, and it's -- I think that's fair enough. I don't have a problem with it.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: So the way it's going to work is when you sell 50 houses, you'll put the money up as -- if the county's permitted and moving forward, but when you sell the 375th house, you'll put the money up regardless of the position of the county.

MR. YOVANOVICH: The county's in, correct.

CHAIRMAN STRAIN: And how -- the money that's being put up would be for a 6-foot-wide sidewalk from Massey to Douglas, to the connecting sidewalk on Douglas, which is on the east side of Douglas.

And then that -- then the county will, theoretically, have the permitting to put that in and to put the piece from St. Agnes all the way to Massey so we have one connecting future link for a sidewalk complete from Douglas till 951.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: Okay. How does that sound to the Planning Commission?

COMMISSIONER EBERT: That sounds good.

CHAIRMAN STRAIN: Ray?

MR. BELLOWS: I would just like a clarification when you say sold. I think we had similar language, but we used --

CHAIRMAN STRAIN: CO'ed.

MR. BELLOWS: -- when it CO'ed.

CHAIRMAN STRAIN: Yeah, CO'ed is the way it would be.

Okay. If the Planning Commission has no objections to it. Heidi, have you heard what's being discussed?

MS. ASHTON-CICKO: Yeah, but are you saying at the 50th CO?

CHAIRMAN STRAIN: No. There's two steps, and rightfully so. If they don't have a viable project, it's a lot of money to put up without that. I understand that. And every developer runs on cash flow. At the -- if the county gets the permits to put the pieces in from St. Agnes all the way to Douglas, and they've sold the 50th house, they will --

MR. YOVANOVICH: CO'ed.

CHAIRMAN STRAIN: -- CO'ed, I'm sorry -- CO'ed the 50th house, they will put the money up when requested from that 50th house on.

MS. ASHTON-CICKO: Okay.

CHAIRMAN STRAIN: If we don't have the permits or request it by the time they sell the 375th

house -- CO'ed the 375th house, they'll put the money up regardless.

MS. ASHTON-CICKO: Got it.

CHAIRMAN STRAIN: Now, is that enough for you to verify a paragraph that's produced by them to make sure we get that added to the PUD as one of their development commitments?

MS. ASHTON-CICKO: Yes. And also, based on the testimony that we've heard today, I think there's staff testimony that the project impacts this roadway such that they would not necessarily be entitled to impact fee credits. That seemed to be an afterthought, so it's up to you.

MR. YOVANOVICH: Actually, I thought John Podczerwinsky offered to give me impact fee credits.

CHAIRMAN STRAIN: Well, I bet you he'll come up right now and say he got contacted by staff and he has to reconsider that position, so --

MR. PODCZERWINSKY: To be very clear, they -- it's my belief that they can apply for them. I can't guarantee them, because I'm only a staff member. It is ultimately the board's decision, but it is my belief that they could apply for that. If they're providing an off-site improvement that is not LDC required, then they can apply for impact fee credits.

CHAIRMAN STRAIN: Well, that's your belief.

MR. PODCZERWINSKY: I'm on the record saying it.

CHAIRMAN STRAIN: Well, that's fine. I understand. And whatever comes out to be the fairest way it needs to be done, I'm sure that's what will happen.

MR. PODCZERWINSKY: And as I stated previously, I want to make sure that we're not causing any kind of exaction, so --

CHAIRMAN STRAIN: Understood.

COMMISSIONER CHRZANOWSKI: John, if you didn't believe that, could they still apply for them?

MR. PODCZERWINSKY: If I didn't believe it?

COMMISSIONER CHRZANOWSKI: Yes.

MR. PODCZERWINSKY: I think they could apply for them. I just don't think they'd get them.

MR. YOVANOVICH: If you didn't believe it?

COMMISSIONER ROMAN: I have a question.

CHAIRMAN STRAIN: Yes, ma'am.

COMMISSIONER ROMAN: In reference to what we're speaking about, could there be a situation -- and this might be a question for John. Could there be a situation where the county could be prepared to move forward with the sidewalk and put it in before the 50th house was CO'ed in this project, and then what would happen?

MR. PODCZERWINSKY: There could be a situation like that. It's highly unlikely that there would be. As I said, at this point the widening of Vanderbilt Beach Road and appurtenances that go with it, like the sidewalks, has been indefinitely postponed. It's still in our Capital Improvement Element to acquire right-of-way for that, but it's been indefinitely postponed, so it's at the political will of the board as to when they would like to see that move forward.

COMMISSIONER ROMAN: Well, it's highly unlikely, but what if, for example, the political will would change and they put the sidewalk in, and this is before this project has its 50th house CO'ed; is the petitioner off the hook then?

MR. YOVANOVICH: No. We'll pay you. We'll pay you at the 50th.

COMMISSIONER ROMAN: At that point?

MR. YOVANOVICH: At the 50th, yes.

CHAIRMAN STRAIN: Yes. If the county's ready to go ahead of time, they will reimburse the county at the 50th CO. If the county's not ready to go by the time they get the 50th CO, anytime the county is ready to go between the 50th and 375th CO, they will pay. If they don't -- if the county isn't ready to go by the 375th CO, they will pay it in lump sum at that time.

COMMISSIONER ROMAN: Well, I'm just questioning, you know, whether or not there would be a reimbursement provision or if they just would pay -- you know, just be off the hook. That's what I was

asking.

MR. PODCZERWINSKY: No. As far as I understand, they wouldn't be off the hook. If they've committed to it in a PUD and it's one of the requirements the board adopts, then we would make sure to enforce that at the time it's required.

COMMISSIONER ROMAN: Okay. Thank you.

COMMISSIONER EBERT: I have a question.

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: I have a question for Kris.

Kris, when you're coming up, I was reading meeting notes on the public utilities, and it said within the CCWSA the force main will be extended from the west but to consider the sizing of the water conveyance in view of the fire requirements, which this would be a fire-wise community.

Does it make a difference out there to have bigger force mains because of the requirements that the forestry and stuff is putting in?

MR. VAN LENGEN: Good afternoon, Kris Van Lengen, principal planner, public utility.

Yeah, the force mains would be for the wastewater conveyance, and they have to put those in because there are none out there at the present time.

I think, as you had mentioned, there are water mains traveling out to that -- in that direction, and they're presently sized at, I think, 10 inches, I believe.

COMMISSIONER EBERT: I don't know. I was just reading the notes, so --

MR. VAN LENGEN: So our process is this; that their hired engineer under seal provides to us an analysis of the required flow, and including fire flow, as you mentioned, and that depends on a number of factors; distance from the main transmission mains, distance to the PUD itself, within the PUD how many connection there are, the sizing within the PUD. So there are a number of factors that go into that engineer's analysis.

Then that analysis goes to the county in both the GMD engineering department as well as the public utilities reviews it. So it's a process that occurs later in time.

COMMISSIONER EBERT: Okay. So I was just thinking of the -- and I shouldn't say "just thinking." Because this is a requirement now for the, you know, 30 feet, you know, and all the preserves and everything, just -- that was my thing, if it needed anything special now, because I don't know how long we've been doing this where we really have Collier County water out there, water and sewer, so --

MR. VAN LENGEN: And we do have sufficient planning in terms of plant capacity. So it's a matter of conveyance, I think is what you're talking about.

COMMISSIONER EBERT: Okay, right. That's what I -- yes. Thank you.

MR. VAN LENGEN: You're welcome.

CHAIRMAN STRAIN: Okay. Does anybody else have any questions of any member of staff at this point? We've already had -- gone through our public process, so that will wrap up the public hearing, and we will now move into discussion and motion.

We have two items to make motions on separately. One is the GMP amendment and one is the rezone amendment, the rezone request. Both times this board would be sitting as the EAC and the CCPC, so the motion maker needs to include that reference as part of the motion.

I would suggest that we have some -- we've walked through the PUD document carefully, we've laid out a bunch of corrections that are going to come back on consent. We can verify, then, that all of the grammaticals and the various changes need to be made.

There are some substantial items that I'll just reiterate so the motion maker is aware of them, if the motion is to approve.

Number one is that the sidewalk, no matter where it occurs, will have at least a minimum of 2-foot clear space between the curb and the sidewalk. That doesn't pose a problem for the internal portions of the project, but that, more specifically, would have to occur in the cross -- on the south side of Vanderbilt Beach Road where they may be putting it there.

We would be approving Deviation No. 1 with the exception that the sidewalks will go along both sides of the road for those roads that are shown on the master plan.

MR. YOVANOVICH: We're on the north side. Mr. Strain, in front of our project --

CHAIRMAN STRAIN: Yes.

MR. YOVANOVICH: It's on the north side. The sidewalk's on the north side.

CHAIRMAN STRAIN: Okay. The testimony was it's on the south side.

MR. YOVANOVICH: Not in front of our project. In front of our project, it's on the north side. We were saying once we got --

CHAIRMAN STRAIN: Past your project you're going to kick it over on the south side?

MR. YOVANOVICH: That's what we talked about, but now we've resolved all that. But, yes, that was the discussion.

CHAIRMAN STRAIN: Okay. Well, that's -- still, it's 2-foot clear area no matter what side it occurs on. That was the point.

MR. YOVANOVICH: Right. I just wanted to make sure you understood.

CHAIRMAN STRAIN: We would be approving Deviation No. 1 with the exception of the roads shown on the master plan will all have sidewalks 5-foot wide on both sides of those roads.

The footnotes are going to all be modified. That's part of the general changes we made. The applicant will be maintaining Douglas up to its northernmost entrance point.

The sidewalk we've discussed with Heidi. She will be producing language in conjunction with the applicant to lay it out as we have explained it, which I'm not going to go into that again. It's on record.

And that's most of the changes I see -- have written down. Did I miss anything from the Planning Commission's perspective?

Richard, is anything there you want to add --

COMMISSIONER EBERT: Whoops, John is coming up.

CHAIRMAN STRAIN: -- as a stipulation against yourself?

MR. YOVANOVICH: I'm not letting John take the mike.

CHAIRMAN STRAIN: Oh, yeah, you are.

MR. YOVANOVICH: So then I'm not waiving any final comments.

MR. PODCZERWINSKY: Just one point to clarify. I'm curious, when you say roads on the master plan, you mean the highlighted roads on the exhibit that's shown on the screen right now?

CHAIRMAN STRAIN: No, just those areas on the master plan that go up around that central preserve area up to the tangent in the north that -- and the highlighted area and the road to the south, yeah, because I wasn't referring to just the highlighted, but now that's the case.

MR. PODCZERWINSKY: Excellent. All right. So it would not include any of the cul-de-sacs?

CHAIRMAN STRAIN: No.

MR. PODCZERWINSKY: Okay. Excellent. Just to get it on the record, I just wanted to make sure.

CHAIRMAN STRAIN: Okay.

COMMISSIONER ROMAN: I have a point -- a question on the sidewalks. I understood we were putting the sidewalks through on Vanderbilt Beach Road on the northern side from this property all the way through to 951.

MR. YOVANOVICH: I'm going to let -- the county is going to do whatever. We're just giving money.

CHAIRMAN STRAIN: But this is accomplishing that goal.

MR. YOVANOVICH: Yes.

COMMISSIONER ROMAN: Okay.

CHAIRMAN STRAIN: That was part of it, but we discussed it in such detail, I didn't want to take a chance and --

COMMISSIONER ROMAN: But then he just brought up the south side again, so --

CHAIRMAN STRAIN: No, that was my mistake.

COMMISSIONER EBERT: That was Mark.

CHAIRMAN STRAIN: He was correcting me, which is something he likes to do.

COMMISSIONER ROMAN: Thank you.

MR. YOVANOVICH: Doesn't happen very often, but -- did you include the utility language we

talked about?

CHAIRMAN STRAIN: Yes. That was part of our --

MR. YOVANOVICH: Okay. I just wanted to make sure nothing was missed.

CHAIRMAN STRAIN: No. I've made -- you know, we've got our notes from all the previous discussions, and when your consent document comes ahead, comes along, I'll be back checking it against all the stuff that occurred today.

So with that, I have one other question. It's of Kay. There are two recommendations that you identified in -- as needed in your staff report. I thought those got worked out, so where are we with those two recommendations?

MS. DESELEM: I have to defer to David Weeks, because that's a comp planning issue.

CHAIRMAN STRAIN: Well, actually, it's in your staff report for the PUD rezone.

MS. DESELEM: Right. But that's because the consistency finding by comp planning staff said it's consistent if those are done. So in order to make that full finding of consistency, I need their input.

CHAIRMAN STRAIN: Okay. David? Are you aware of what Kay had written as recommendations in her staff report?

MR. WEEKS: Yes, I am.

CHAIRMAN STRAIN: Okay. There's two of them there. Do we still need them?

MR. WEEKS: Well, we're split. The one had to do with sidewalks, which were -- have now been addressed.

CHAIRMAN STRAIN: No, she didn't --

MR. YOVANOVICH: That wasn't in the staff report.

CHAIRMAN STRAIN: They didn't make a recommendation about the sidewalks in the staff report.

MR. WEEKS: Then maybe I don't.

COMMISSIONER ROMAN: I thought they did.

CHAIRMAN STRAIN: No, they did not.

MR. YOVANOVICH: No, they actually -- they actually basically -- Kay said I don't need any sidewalks, and then they wanted the specific list of foliage.

CHAIRMAN STRAIN: They wanted two things, and one was identify the PUD, the non-highly flammable plant pieces to be used within 30 of the preserve setback. And the second one was identify the PUD, the Southwest Florida cultivated landscaping plant species to be used and planted around structures.

MR. WEEKS: The answer is -- thank you. The answer is no.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: And let me just very briefly say, the applicant has -- for the specific things in the staff report, the language the applicant has submitted is, I'll say, in concept acceptable. That was where I had mentioned that there's been some internal discussions which the applicant has not seen where we have wordsmithed some of their language, and we've taken it from -- some of their language from permissive to mandatory. And, understandably, Planning Commission said you can't present that here when we've not had time to review it, digest it.

So I can only say that conceptually we find the petition to be consistent with the plan, and between now and adoption we will work with the applicant hopefully to come to agreement on how we've modified their language.

CHAIRMAN STRAIN: This is adoption.

MR. WEEKS: For the board.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: We understand you're done, and you haven't had a chance to react -- see our language the board --

MR. YOVANOVICH: Hey there, hi there, ho there.

MS. ASHTON-CICKO: Well, the applicant did see the language, because that's what I gave him a couple days ago but, you know --

MR. WEEKS: The staff version of the language is not in the PUD that you have --

MS. ASHTON-CICKO: Correct.

MR. WEEKS: -- nor that I think was submitted today or days ago.

MR. YOVANOVICH: Can I -- can you give me one second to talk to my client? Because what I don't want to do -- can I confirm something with Mrs. Ashton?

CHAIRMAN STRAIN: Sure.

MR. YOVANOVICH: Or Cicko, sorry.

MS. ASHTON-CICKO: Either is fine.

MR. YOVANOVICH: My understanding, as of today, I don't have any objectors to this project. I'm not aware of any objectors to this project. And, knock on wood, I get unanimous approval from the Planning Commission, I would be eligible to go on summary agenda, correct, but for this issue with staff not being ready to give me the real language they want in the PUD.

MR. WEEKS: Don't point your finger.

MR. YOVANOVICH: I'm not pointing at you. I'm just pointing generally.

MR. WEEKS: There's some history here, but go ahead.

MR. YOVANOVICH: So I would prefer that we get specific language, strikethrough and underline format, that they want. And we have the -- like we did with the previous petition --

CHAIRMAN STRAIN: You want to continue this one to the 15th?

MR. YOVANOVICH: So I don't have to go and have a public hearing -- I don't have to have -- get pulled off summary to address these issues. Is that fair?

CHAIRMAN STRAIN: Well, it's -- I mean, we can't be inconsistent. We allowed the last applicant to have that, so we would have to allow you that as well. So if that's what you're asking for, that's fine.

MR. YOVANOVICH: Keeping in mind, that means I've got to have -- according to Kay, who's whispering loudly, that we have to have all this language worked out tomorrow.

CHAIRMAN STRAIN: Good.

MR. YOVANOVICH: So I'm not in control of that. The language has got to come from staff early enough in the day for us to react to it.

CHAIRMAN STRAIN: Well, I just -- if you want the continuance -- pardon me? You said something.

MS. ASHTON-CICKO: He already has it.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: Is that the final version?

CHAIRMAN STRAIN: Here. You've got to use the mike, Richard.

MR. YOVANOVICH: Is that okay or not?

MR. WEEKS: This is in your PUD?

MR. YOVANOVICH: We submitted language that basically said we're going to --

CHAIRMAN STRAIN: Okay. But you need our review of that in order to avoid being pulled off consent is what it boils down to, regardless of whether you reviewed it or not.

MR. WEEKS: Conceptually we agree, but we did make some changes.

MR. YOVANOVICH: I understand, but there's -- there needs to be some wordsmithing in our language. By way of example, they're requiring us to have a -- the road leading to the -- this preserve, they want a stabilized base.

Now the way the language reads, it's ambiguous. Do you want a stabilized base just for this portion, or am I doing a stabilized base around the entirety of the preserve? There's those concerns that we have based on the language that we were provided, and I don't know how quickly I can get that resolved.

CHAIRMAN STRAIN: I don't think we have a -- well, this board doesn't seem to indicate there's a problem giving you a continuance. I would rather the language was accurate than making a mistake this late. The only thing I'd like to ask of this board is that when we come back to hear this on -- well, hear this on the continuance, which will be a combination continuance and consent, that we limit our discussion to those things that we have not discussed today or to errors in what we have already given direction on. I don't want to open this whole day up all over again.

COMMISSIONER EBERT: You don't like to talk to Rich?

CHAIRMAN STRAIN: Well, I mean, we've been at this for two or three hours on this one project,

which is fine. We're getting to the bottom line, but I don't want to start all over again when we meet.

MR. YOVANOVICH: I agree.

CHAIRMAN STRAIN: So I'd like to suggest that we just check off language and talk about the few issues that are still on the table for resolution when we come back for continuance. Yes?

COMMISSIONER ROMAN: And, Mr. Chair, would that include some of the time that John wanted with the transportation piece on these sidewalks that he wanted to take a look at and get back with us and let the staff make a recommendation?

CHAIRMAN STRAIN: Any further clarification we can get from them on that. That's an outstanding issue yet because it's not written, and we have the fire-wise issue that's got to be resolved, and that's the two big issues.

MR. PODCZERWINSKY: Yeah. From transportation's side, I'll be glad to check in on that and find out exactly what the answer is on any of the impact fee credits, if they'll be available.

COMMISSIONER ROMAN: Thank you.

MR. YOVANOVICH: I amend my request. Go ahead and vote today, and we'll deal with staff in the next four weeks, because I don't think I can get it done by tomorrow, so go ahead. Because I've got to have it done by tomorrow as far as the language goes on the fire mitigation issues.

CHAIRMAN STRAIN: Wait a minute. Before you jump there, who on staff has indicated you've got to have it done by tomorrow? We don't have another meeting for two weeks. We get our packet the Friday before that meeting, so how are we looking at tomorrow as the deadline?

MS. DESELEM: For the record, we need to get the information to Judy Puig to be distributed no later than next Wednesday. Staff needs time to review what it is they're proposing. So we need to get it by tomorrow so we have Monday and Tuesday to review it. Now, we could probably stretch it to Monday, but bear in mind, we're doing the same thing with Buckley. So we've got two projects that we've got to do this for, and there's only so many hours in my days.

CHAIRMAN STRAIN: This review, though, is only for the corrections. It's not you're -- we're not rereading the whole project.

MS. DESELEM: Right.

CHAIRMAN STRAIN: The only changes should be strikeouts for the corrections made these two days.

MS. DESELEM: Right. But we have to get it all done within a very short period of time. You've got a lot of players that have to review it and see it and bless it.

MR. YOVANOVICH: Honestly, it's too complicated to rush. I don't want to make a mistake because I've got to have it done by Monday. We've already provided -- we walked you through all strikethrough and underlines.

CHAIRMAN STRAIN: I know.

MR. YOVANOVICH: So I think, really, the only thing we're talking about now is the fire mitigation and the sidewalk issue.

CHAIRMAN STRAIN: Well --

MR. YOVANOVICH: But be that as it may.

CHAIRMAN STRAIN: -- you may end up not being on consent for that.

MR. YOVANOVICH: What's that?

CHAIRMAN STRAIN: You probably won't get on consent -- not our consent, but the board's consent.

MR. YOVANOVICH: No. I won't get on summary, I recognize that, because you, frankly, will have not seen the final version of the fire mitigation language.

CHAIRMAN STRAIN: Okay. And then at this point we've -- I think we've gone through the stipulations, discussion, and we won't be continuing this. We'll be finalizing it with what information we've been given to review today, and then the board will have to review whatever pieces are missing and whenever it's produced in the future because they haven't negotiated it all out yet.

So with that in mind, I had read previously a series of --

MS. ASHTON-CICKO: I just need to make one comment.

CHAIRMAN STRAIN: Yeah, go ahead.

MS. ASHTON-CICKO: As part of the motion, you'll need to make a finding that you find it consistent with the Growth Management Plan, because that's part of your charge under Chapter 163.

CHAIRMAN STRAIN: Thank you. So we're going to need two motions. I've read the potential stipulations earlier. We have to hear it -- we have to make the motion as the EAC and the CCPC, and the first motion would be the Growth Management Plan amendment.

Is anybody willing to make a motion on the Growth Management Plan amendment?

COMMISSIONER HOMIAK: I will make a motion to recommend adoption of PL20130000365/CP-2013-4. Recommend adoption -- that the BCC adopt the Growth Management Plan amendment as it's consistent -- she wants it to be consistent --

MR. WEEKS: That's the rezone.

CHAIRMAN STRAIN: Pardon me?

MS. ASHTON-CICKO: The PUD, you'll need to find it --

CHAIRMAN STRAIN: The PUD.

COMMISSIONER HOMIAK: The PUD. So I'm doing the Growth Management Plan right now.

CHAIRMAN STRAIN: Right. So you don't have to do that. So let's leave it with -- we've got to do that one first.

COMMISSIONER HOMIAK: But also as the EAC, that has to be separate motion?

CHAIRMAN STRAIN: No, no. But you're recommending approval --

COMMISSIONER HOMIAK: Right, adoption.

CHAIRMAN STRAIN: -- adoption of that GMP agreement on behalf of the CCPC and the EAC; is that correct?

COMMISSIONER HOMIAK: Correct.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER DOYLE: I'll second.

CHAIRMAN STRAIN: Okay. Made by Ms. Homiak, seconded by Brian. Discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Now we need a motion on the rezone, and that one has to be found consistent with the GMP, and we are doing it for the CCPC and EAC both.

Anybody want to make a motion?

COMMISSIONER CHRZANOWSKI: I'll give it a shot.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER CHRZANOWSKI: I make a motion that we find -- that we forward PUDZ-PL201300001374 to the Board of County Commissioners as being consistent with the Comprehensive Plan.

CHAIRMAN STRAIN: Recommendation of approval?

COMMISSIONER CHRZANOWSKI: And recommendation of approval.

CHAIRMAN STRAIN: As the CCPC and the EAC?

COMMISSIONER CHRZANOWSKI: As the CCPC and the EAC.

CHAIRMAN STRAIN: Excellent. And subject to the stipulations we previously ran?

COMMISSIONER CHRZANOWSKI: Yes.

CHAIRMAN STRAIN: Okay. And not accepting staff's recommendations?

COMMISSIONER CHRZANOWSKI: Yes.

COMMISSIONER EBERT: And not accepting their recommendations?

CHAIRMAN STRAIN: Yeah. David sent them on new paper. We don't need them anymore.

That's what he acknowledged.

Is there a second, before we get into any discussion?

COMMISSIONER HOMIAK: I'll second it.

CHAIRMAN STRAIN: Okay. Motion made by Mr. Chrzanowski, seconded by Ms. Homiak.

The motion was made subject to the stipulations, not accepting staff's recommendations because staff has provided another document to the applicant in which they're working out their differences in that regard to the fire-wise program, and that was made on both the CCPC and the EAC's behalf.

Is there any further discussion?

COMMISSIONER ROMAN: Is that how we delineate the two different documents, or did we use the revision date on the document that we actually saw and discussed today?

CHAIRMAN STRAIN: The document we're discussing is the one that was in our packet that we just read off the agenda. Is that what you're trying to --

COMMISSIONER ROMAN: Yes. I'm trying to distinguish the fact of what we reviewed and discussed versus what's going to come late in the process with what -- staff's going to rework some language.

CHAIRMAN STRAIN: No. We're only -- we're approving it now based on the changes we recommended today. We confirm those changes on consent when they come back on the 15th. The consent will verify everything we said today. And if something that we said today isn't articulated properly in the consent, then we correct that, but we can't change our vote from today. We can only correct matters that were improperly annotated by staff or corrected by staff.

COMMISSIONER ROMAN: Okay. I understand that point, but when we are recommending approval, we're using the document we discussed today.

CHAIRMAN STRAIN: Correct.

COMMISSIONER ROMAN: Okay. This other document we just put out of our minds until it -- we get new language in the one that comes back to us on consent?

CHAIRMAN STRAIN: What other document?

COMMISSIONER ROMAN: Well -- or the new language or the new paragraph that David -- the staff --

CHAIRMAN STRAIN: No, David's we won't see. It wasn't part of our motion because it wasn't provided to us in time to review it.

COMMISSIONER ROMAN: Okay. Got it.

CHAIRMAN STRAIN: So that will go strictly to the board. We won't see that one. So we're reviewing -- we're approving our packet today. That's what the -- out packet with the recommended changes. That's what's coming back on consent.

Okay. Is there a -- now we've -- I'll call for the motion. All those in favor, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

That gets us through a long and grueling day. So thank you all for your attendance today, and --

MR. YOVANOVICH: You're welcome.

CHAIRMAN STRAIN: We have no old business. There's no new business. A motion to adjourn?

COMMISSIONER EBERT: I make a motion to adjourn.
CHAIRMAN STRAIN: Made by Ms. Ebert. Second by?
COMMISSIONER HOMIAK: Second.
CHAIRMAN STRAIN: Ms. Homiak.
All in favor, signify by saying aye.
COMMISSIONER CHRZANOWSKI: Aye.
COMMISSIONER EBERT: Aye.
CHAIRMAN STRAIN: Aye.
COMMISSIONER HOMIAK: Aye.
COMMISSIONER DOYLE: 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 5:00 p.m.

COLLIER COUNTY PLANNING COMMISSION



MARK STRAIN, CHAIRMAN

ATTEST
DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 6-5-2014, as presented or as corrected _____.

TRANSCRIPT PREPARED ON BEHALF OF
GREGORY COURT REPORTING SERVICE, INC.,
BY TERRI LEWIS, COURT REPORTER AND NOTARY PUBLIC.