

August 21, 2014

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida  
August 21, 2014

LET IT BE REMEMBERED, that the Collier County Planning Commission, in and for the County of Collier, having conducted business herein, met on this date at 9:00 a.m. in REGULAR SESSION in Building "F" of the Government Complex, East Naples, Florida, with the following members present:

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

ALSO PRESENT:

Heidi Ashton-Cicko, Assistant County Attorney  
Ray Bellows, Zoning Manager

CHAIRMAN STRAIN: Good morning, everyone. If everybody will -- I'm not going to say have your seats, because I'm only going to ask you to stand up in a second.

Welcome to the August 21st meeting of the Collier County Planning Commission. If everybody will please rise for Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Thank you. Will the secretary please do the roll call. And by the way, Mr. Mike Rosen had contacted me, so it's an excused absence.

COMMISSIONER EBERT: Yes, good morning.

Mr. Eastman is absent.

Mr. Chrzanowski?

COMMISSIONER CHRZANOWSKI: Is present.

COMMISSIONER EBERT: Ms. Rosen is gone.

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: And Ms. Roman?

COMMISSIONER ROMAN: Here.

COMMISSIONER EBERT: Thank you.

CHAIRMAN STRAIN: Okay, I don't believe there's any addenda to the agenda at this point.

Planning Commission absences. Our next meeting is the first meeting in September. Ray, I believe that's the 4th. Is that --

COMMISSIONER EBERT: It is.

MR. BELLOWS: I have a sheet here. That would be the 4th.

CHAIRMAN STRAIN: Okay. Does anybody know if they're not going to make it to the meeting on the 4th?

(No response.)

CHAIRMAN STRAIN: Okay, we'll have a quorum at least.

There's been no minutes submitted from our last meeting for approval, and there's been no Board of County Commissioners meeting since our last meeting, so we won't have any recaps there.

I don't have a chairman's report.

As far as consent agenda, there isn't any. And we'll move right into the advertised public hearings.

\*\*\*The first item up is 9.A, and we will be -- this is a Growth Management Plan transmittal hearing for PL-20130001767/CP2013-10. It's the Vincentian Mixed Use Subdistrict in the Urban Mixed Use District located at the corner of Southwest Boulevard and U.S. 41.

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

(All speakers were duly sworn.)

CHAIRMAN STRAIN: Because it's transmittal, disclosures aren't required, but I think it would be better just to disclose. Does -- we'll start with Stan. Any disclosures?

COMMISSIONER CHRZANOWSKI: I think it was mentioned during conversation with Rich Yovanovich. I don't think he went too much in depth with it.

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: No.

CHAIRMAN STRAIN: I had a meeting with Richard and Bob. I talked to some of the citizens who are here today prior to the meeting. I talked to the applicant at that time and staff numerous times between the distribution and now.

Karen?

COMMISSIONER HOMIAK: I spoke to Mr. Yovanovich, Mr. Mulhere and Commissioner Fiala.

COMMISSIONER DOYLE: I had some conversation with Bob Mulhere.

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: I spoke with Bob Mulhere.

CHAIRMAN STRAIN: Thank you. Bob's been making the rounds, it seems.

There's a couple things. Before we start, we normally hear from the applicant first. I'm going to at least make a statement as to how the process is going to be handled for the benefit of those who haven't been through this before. And then Corby wants to make a brief statement about a correction to the staff report before Bob.

Fist of all, this particular petition is for what's called a transmittal hearing for a Growth Management Plan amendment. It's more of a conceptual discussion to get the parameters roughly ironed out as to where this project is hoping to go by the applicant. It goes from today's hearing to the Board of County Commissioners when they return sometime I think it's October it's scheduled for. And then it will go to Tallahassee for review by the Department of Oppor -- yeah, DOE, whatever that is.

When it comes back, we go through a process which is called the adoption hearing. And this particular project has already got a PUD application in at the county, and the details of what they are trying to do will be further defined and more explicitly defined in the PUD. But that hearing probably is several months away, if not longer, and it will probably be done concurrently with the adoption hearing for the final GMP, Growth Management Plan, hearing.

Corby, the time frame from when this would be sent in transmittal to when it comes back on adoption, just rough in months, do you have any idea?

MR. SCHMIDT: More than 60 days.

CHAIRMAN STRAIN: More than -- well, yeah, it's not even going to get out of Collier County until October. So after October then it will come back to us and you think we could have an adoption by January then?

MR. SCHMIDT: Into the early year, yes.

CHAIRMAN STRAIN: Okay. So just for the members of the public who are here, that adoption hearing and that PUD hearing will be the real details that will tell you more about the project than the conceptual language you see today. Well, some of it isn't as conceptual as we're used to, so we'll be getting into that.

So anyway, as a general idea of where the meeting's going to go, that's what I wanted you all to know.

And Corby, if you wanted to make your concerns now, we'll move on with that.

MR. SCHMIDT: Yes, there were some statements provided in your staff reports that since being distributed staff looked at again and would like to correct on the record.

In your staff report, and I believe it's on your Page 3, the staff's assessment of the commercial analysis, there are three major points being made there about what we thought were shortcomings about the calculations or the numbers provided in that commercial analysis.

And in the appendix, some of the figures in the --

CHAIRMAN STRAIN: I'm sorry, Diane is having trouble hearing you. Can you pull the mic closer.

MR. SCHMIDT: Can do. Better?

In the commercial analysis itself there are tables provided in the appendices. And in appendix A-1, it's the first of the series of appendices, there is a set of tables. And in those tables staff didn't see certain square footage supportability figures for the trade areas. Well, those supportable square footage figures are accurate for the math being done in the background, just not all the math is being shown. The allocation percentages early table left-hand columns, not the result figures, aren't being shown. They were shown to staff in an earlier version of this document, but the results are the same. And we'll talk about that in more detail when we come up later.

COMMISSIONER ROMAN: Can you show what you're speaking about?

MR. SCHMIDT: I believe I can.

COMMISSIONER ROMAN: I mean, you lost me on this.

MR. SCHMIDT: I'm sorry.

MR. MULHERE: Yeah, it's in the backup. No, it's in the backup. Here's the report. What page were you talking about, 14?

MR. SCHMIDT: First appendix.

MR. MULHERE: The first appendix.

MR. WEEKS: I think it's 22, Bob.

MR. MULHERE: Okay. I'm getting there.

MR. WEEKS: I've got it.

MR. MULHERE: Okay, I got it here, 22. Let's put that right on there. We might have to zoom in a little bit to get to the right line. Is that visible?

COMMISSIONER ROMAN: Yes, that's very good for me.

MR. SCHMIDT: The figures you're seeing in the left most columns in these tables do not necessarily lead you to the results given you in the right-hand column of these tables. There's missing information from the tables themselves. However, from the calculations being done that no one sees, the calculations have included those correct numbers.

For instance, your top left number of 14 some percent and those allocation percentages to certain commercial types of uses, those do not necessarily directly lead you to the result figures on the right. For instance, the general merchandise on the far right bottom then of almost 8,000 square feet of supportable square footage doesn't necessarily come directly from that percentage. There's other figures being used that you just don't see here.

COMMISSIONER ROMAN: And what are you trying to show here?

MR. MULHERE: I'll translate it, if I can. I think Corby is saying that the calculations have been done correctly, though it's not as obvious or visible to someone looking at the report; is that correct?

MR. SCHMIDT: Yeah.

COMMISSIONER ROMAN: So your conclusion is still the same.

MR. MULHERE: Yes. No, his -- ours and his is.

COMMISSIONER ROMAN: Corby, your conclusion is still the same?

MR. SCHMIDT: The conclusion is still the same; however, the figures are accurate for this portion of the calculation.

COMMISSIONER ROMAN: Okay.

CHAIRMAN STRAIN: And what I was going to do today with the Board's consent is the applicant's going to make a presentation first like we normally have. Before at least I get into my questions of the applicant, I thought it might be helpful for the rest of you too if we had the staff explain their positions step by step on this whole application. So then when we ask the applicant after -- then we go back to the applicant afterwards to get into the language. And that might help flesh out some of the concerns you have.

COMMISSIONER ROMAN: Yeah, I'm just trying to be clear on what he's trying to tell us.

CHAIRMAN STRAIN: Right. Exactly right, I agree.

David?

MR. WEEKS: Mr. Chairman, to further Corby's comment, if you'll -- because he first started out by referencing the staff report and then we jumped to the appendix.

If you go to Page 4 of your staff report under staff assessment, the third paragraph, it starts with one more example of data irregularity. That's the paragraph that correlates to the table that Corby was just discussing. In essence that table should be removed from the staff report. That was -- that's the error that staff made, what is stated in that paragraph.

CHAIRMAN STRAIN: Okay. Thank you, David, that certainly helps confuse us. Thank you.

Okay, Corby, thank you. And we'll get back to you probably a little quicker than we normally do.

So Bob, if you want to proceed with your statement.

MR. MULHERE: Thank you. For the record, my name is Bob Mulhere with Hole-Montes, here this morning representing the applicant.

Chris Shucart is also here with me this morning, and Rich Yovanovich is our land use attorney.

Mike Timmerman is out of town who actually produced this report, unable to attend. You may have

some questions that we can't answer, and if that's the case we'll have to provide you with responses presumably at the next meeting, whether that's a consent meeting or a second meeting of this hearing.

Also Norm Trabilcock wasn't available for this meeting as well, who did the transportation analysis. I don't think there's really any dispute about his analysis, but just wanted to let you know that.

I wanted to give you just a little bit of background. First of all, I'm sure you're all familiar with this site, but just for the public and so on and so forth, the site is right here. It's 30.68 acres in size. It directly abuts Tamiami Trail, the East Trail. It's got some commercial zoning adjacent, C-5 zoning adjacent to the -- I guess that's the east and into the west. And then there's the Trail Acres single-family subdivision that abuts the property in the back here. And over here there's also the Hitching Post Mobile Home Park. So our neighbors -- a significant portion of our property abuts Hitching Post and Trail Acres. This is Southwest Boulevard right here.

The subject property is currently zoned PUD. It does allow for both residential and commercial uses. It's an older PUD. It's a little unclear in some respects in terms of how much exact acreage would be allocated to commercial, but about eight or nine acres. And the residential density that's allowed under the comprehensive plan presently is four units an acre for the site.

CHAIRMAN STRAIN: What is the -- if you don't mind, I don't mean to interrupt, but since you mentioned the former PUD, I know the answer but for the benefit of those who don't, can you tell us what the former PUD had in quantities both commercial and residential?

MR. MULHERE: I'm hoping I know the answer.

CHAIRMAN STRAIN: 115,004 --

MR. MULHERE: 115,000 square feet of commercial, but the residential I think is, in my view -- the staff had come up with a number that I don't think is accurate. Because it allows four units an acre. And if you subtract out the commercial acreage, let's just assume that 30.68 acres total, let's say eight acres of commercial, then you would be left with 22.68 acres. And if you multiply that times four, you're out about 90 units.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: So I believe that's closer to an accurate density than what was provided for in the staff report, which was 40, under 50.

CHAIRMAN STRAIN: I thought the staff report said about 40.

MR. MULHERE: Yeah. I'm not sure where that came from.

CHAIRMAN STRAIN: Well, I mean, I'm sure they're not sure where yours came from either, so that's a debate we don't need to have.

MR. MULHERE: I just explained it to them. It's crystal clear. It couldn't be clearer.

CHAIRMAN STRAIN: Okay. Sorry to interrupt you, Bob.

MR. MULHERE: That's okay.

We submitted -- in October it will be a year ago, so October of 2013, and we've had numerous iterations of staff comments and responses. Now, I'm just referring to the GMPA. I'm not getting into the zoning. As the chairman indicated, it's a two-step process.

We've had a lot of iterations. When we first submitted, we submitted requesting commercial uses only at a maximum square footage of 250,000 square feet. Norm had done the traffic analysis and had calculated that we should agree to a cap of 1,107 trips under any circumstance p.m. peak hour total trips weekday.

So when we submitted, we submitted for 250,000 square feet with a trip cap of 1,107 weekday p.m. peak hour total trips.

One of the first -- when we got our first response from staff, one of the issues that was raised was whether or not -- and we had made an argument that residential uses were not appropriate on this site at that lower density, and that the only option to increase residential density is an affordable housing density bonus because the property is in the coastal high hazard area. And we didn't have the desire to secure an affordable housing density bonus, and we know for sure that the neighbors also do not wish to see that.

And so when staff came back and said you really haven't demonstrated to us that residential is not a viable use, I spoke to my client and we decided that we should do an analysis of the residential market. And

Mike Timmerman did that analysis. So not only did we submit a commercial needs analysis, which arguably is not required either under the statutes or by Collier County, but we submitted it, so we'll move on.

We also submitted a residential market analysis to demonstrate that there was in fact a market for what we then decided to ask for based on the staff comments first round. We decided to ask for a multi-family at a density of 12 units per acre. And the reason we asked for that 12 units per acre was we had practical experience in dealing with people who might be interested in the property for either a fee simple or rental, market rate rental project, which there's a lot of demand for in the marketplace today. But minimally they were looking at 12 units per acre to make it attractive enough to amenitize it and be able to make the profit that they need to make to be interested in the property.

That's why we came in at that density and that's why we hired Mike Timmerman to go ahead and do that analysis.

We had a number of other submittals, staff comments and resubmittals dealing with changes or issues relative to either the market analysis or the commercial needs analysis or relative to other issues, including the mixed use scenario and what the maximum level of commercial intensity and the type of commercial uses that were appropriate under the mixed use scenario.

Our last meeting with staff was on July 23rd, and in that meeting we agreed to make a number of final changes that reflected in what you had been provided. One was to reduce the maximum level of intensity in a mixed use scenario to no more than 128,000 square feet of commercial and no more than 10 acres in size. We did not adjust the residential component, and we had asked for the ability to calculate our residential on the gross acreage. So it would have included the commercial acreage.

There is a provision in the plan that already allows that for mixed use PUDs. But nevertheless we don't need to go there anymore, because we've actually dropped that request and I want to get into that at this point in time. I don't want to waste a lot of your time talking about what was, but I thought the background might be helpful.

I have a revised set of lang-- we met with -- let me just talk about the NIM too before I get into that. And also that we had met, as you know, with a number of you or spoken to all of you and listened to the concerns that were raised by each of you and have made some changes to this document based on the staff comments and the staff recommended changes. In the event that you do transmit something, they had some recommended changes. We didn't agree with all of them, we agreed with most of them. And also, your comments individually and collectively.

And I guess the last thing before I hand out this document was to say that we did have a neighborhood information meeting. That was on July 7th. There were, I don't know the exact number, but maybe 30 people in attendance. The attendees were from the Hitching -- our neighbors, the Hitching Post and Treetops. And there were a lot of questions, a lot of really good questions, some dealing with stormwater design and those kinds of things, some dealing with buffers and what kind of buffers we were going to provide.

And in the end the most significant topic of conversation and concern that was expressed was relative to the type of residential housing that we might consider putting here. There was a concern expressed that we not increase the amount of affordable housing in this neighborhood. There's several affordable housing projects in close proximity. Directly across the street is Whistler's Cove. Habitat has a number of houses that they've built both across the street and within Treetops, and there are some other nearby affordable housing developments.

So their concern was that we indicated that was not our intention. We agreed with them that we would put some language in the comprehensive plan to ensure that that was not our intent. We put that language in there. Staff asked -- or actually asked that that language be removed. You'll see we've put it back in in what we're providing for you because we think it's important that we live up to the commitment we've made to our neighbors. But, you know, that can shake out as part of the discussion.

I did want to just address one other issue briefly. I didn't bring a copy of the PUD master plan since we weren't talking about the PUD. But this is relatively similar to the PUD master plan. This was an exhibit that was used by Norm in doing his transportation, but it will suffice for the discussion.

I had a question about the native vegetation preservation. There is some language in the comp. plan

that allows us to meet the native preservation requirement off-site. That recommendation actually came from staff. And then we said that's a good idea and we included it for flexibility purposes.

CHAIRMAN STRAIN: Bob, I'm sorry to interrupt you again, but that plan is not the master plan you submitted.

MR. MULHERE: No, it's not --

CHAIRMAN STRAIN: Why are we using it then?

MR. MULHERE: Because this -- I just want to show the preserve area.

CHAIRMAN STRAIN: Okay. Because it seems to provide the illusion that you've got two separate tracts, which may then have two separate kinds of uses, and that's not the way the master plan is --

MR. MULHERE: No, this is not the current master plan, but it does show generally the preserve area. That's really all I wanted to talk about. I didn't have a copy of it with me.

Do you have a copy of the master plan? No, okay. Oh, great, that would work better, then we won't have any confusion. Thank you, David.

That's it. That will work perfect. Appreciate it, thank you.

CHAIRMAN STRAIN: Yeah, that's not the new one you submitted either.

MR. WEEKS: That's the current PUD.

CHAIRMAN STRAIN: Right. Which is not what you're doing.

MR. MULHERE: I'll take it off. Actually, the other one shows the preserve area better.

MR. SHUCART: The other one is more applicable.

MR. MULHERE: All I wanted to do was just -- Commissioner Roman had a question, I just wanted to respond to it. And I think this will allow us to respond to it graphically.

We do have our South Florida Water Management District and Army Corps of Engineer permit. And those permits depict the geometry and location of the lake, as well as generally our preserve area. And we made a commitment at our neighborhood information meeting to folks living back here that we would have a substantial setback which would be vegetated from their properties, just as is depicted in here.

And so although we made that commitment, the language that was proposed was really open-ended. It would have allowed us to mitigate entirely off-site the way it was written. That really wasn't our intent.

So I just wanted to mention that we would -- and you'll see in here that we would change that language such that we would agree to retain in any case a minimum of 15 percent, which is what was depicted on that exhibit and what is also contained in the permit with the agencies.

So with that, I'd like to hand this out, Mr. Chairman. And maybe this is a point where there probably will be some discussion about these changes, and we can go over them and I'm sure there will be some questions.

CHAIRMAN STRAIN: And before we get into the detail, if there's general questions from the board -- before we get into the detail of the changes, Bob, I'd like to hear staff's presentation. Because this one had a lot of concerns from staff, so I'd like to get that on. And I don't know if anybody else had any general comment?

(No response.)

CHAIRMAN STRAIN: I had one. And I read your NIM minutes carefully, and I saw where you introduced the idea you weren't going to do affordable housing. And it seemed even by the minutes there must have been a sigh of relief from the neighborhood. Wow, great.

Well, it's almost like a red herring, because I didn't see elsewhere in the minutes of the NIM where you actually spelled out all the uses. You generally did, C-1 through C-5. But how many people in this county know what that means? 99 percent of the population doesn't. So that part of your presentation wasn't as detailed as I would have hoped it would have been.

And we'll get into that later, but I think by only throwing out the fact you're not going to do affordable housing and get everybody feeling comfortable may not have led everybody to the conclusion to look at the detail of the commercial uses you're imposing.

MR. MULHERE: You know, that may be true. We did tell them and we did hand out -- there was a hand-out that summarized what we were ask for. It didn't have a detailed use.

And you know, it's -- frankly, it's very difficult, unless you go through over use within the SIC Code,

I know you have that with you here. And that means, you know, probably -- I'm not saying it's not the correct way to do it, but that means a much more specific neighborhood information meeting. And we've generally used those to generally go over the issues. We would have been happy to answer any questions that came up, even after I had my business cards there, I always do, and also introduced staff to answer any questions.

So it wasn't that we were intentionally avoiding that. I think your comment is a good one and I will keep that in mind for any future meetings that I have wherein there may be some uses that people need to know about maybe spending a little more time going over those.

CHAIRMAN STRAIN: I know you're familiar with this, Naples Lakes?

MR. MULHERE: Yeah.

CHAIRMAN STRAIN: Okay. Remember the meetings that you and I had to --

MR. MULHERE: Yes.

CHAIRMAN STRAIN: -- provide the community --

MR. MULHERE: I thought that was unique.

CHAIRMAN STRAIN: -- with the detail they needed to understand the uses? And remember how many meetings it took and how long it took when we walked through every one of them? This community should have had the same courtesy. And I hope that before this is over this will all get worked out.

MR. MULHERE: Well, yeah, the zoning is, you know, at a minimum probably four or five months away. So we have an opportunity to work with -- we always thought we'd have more discussion prior to the zoning hearings anyway.

CHAIRMAN STRAIN: Thank you.

Corby, you want to do your staff report a little bit early this time? And we definitely would like to get into the detail with you on what your concerns were from this project overall, so then we could have a better discussion back to the applicant then.

MR. SCHMIDT: Yes, thank you. For the record, Corby Schmidt, Principal Planner with the Comprehensive Planning section of the Planning and Zoning Department.

With me this morning are other comprehensive planners, including David Weeks and Michele Mosca. Also planners who worked on this case.

A number of concerns led to the staff recommendation. And you've read about them in your staff report. I won't go into detail, and I'll certainly invite your questions in a few moments, but I'd like to talk about the three main areas where we have concerns.

Residential development: There's a high density residential development being proposed in front of you. The residential development in the Vincentian subdistrict is in an area of the county, the coastal high hazard area, where these kinds of residential densities are limited. And they're extremely limited. By that I mean there's only a few ways to achieve additional density above three units per acre.

Commercial development. Commercial development, there's a number of statements made by the application or by the applicants that this is a convenient beneficial right size and shape location kind of property for a wide range of commercial uses. Some of their statements are generalized observations, anecdotal. But the data and analysis provided to you doesn't support the intensity of the commercial uses that they're requesting.

And thirdly, there's issues with not just the amount of commercial being proposed, the intensity, but the mix. The mixture in the subdistrict language that's possible or proposed is either entirely commercial, entirely residential or a mixture of the two in some yet to be defined combination. And the proposal leaves that flexibility and definition for a later time. In this case assumably the planned unit development itself.

So there's a wide range of uses, a great amount of square footage, the possibility of different mixture of uses or not, high intensity commercial and/or high density residential. And some other uses that we can address on the side, hotels and some others that may not make sense at this location.

So I'll take questions, but just to summarize that way.

CHAIRMAN STRAIN: Okay. And does anybody on the Planning Commission want to ask anything of staff at this time?

(No response.)

CHAIRMAN STRAIN: Corby, I'd like to dwell on your three points for just a few minutes. And



your first one was the residential, because it's in the CHHA. We do allow this kind of density or whatever kind of density could evolve in the CHHA if it was affordable housing. Is that incorrect or correct?

MR. SCHMIDT: We have provisions to allow for that, yes.

CHAIRMAN STRAIN: Okay. So if this project were to do whatever number of units they have into the ratio that provides the density increase to be that allowed to happen because they put affordable housing in, then staff would not have an objection to the residential?

MR. SCHMIDT: I'm not sure I can answer that. Because without a proposal for it, we haven't been able to evaluate that.

CHAIRMAN STRAIN: Okay. Well, then let's understand what your -- I'm trying to get a definitive -- some kind of definitive answer on how you've looked at this.

If your concern is that the density is too high because it's in the CHHA, coastal high hazard area, because the only use that you can have -- the only residential use of that high density in the coastal high hazard area is one that uses affordable housing, then if they were to use affordable housing would it then be acceptable or not?

MR. SCHMIDT: There are other factors to take into account that may not lead to that kind of density, may or may not.

CHAIRMAN STRAIN: Well, see, it's one thing to say the density's too high, period. And that I would rather have you tell us and the reason for that than to say it's too high because they didn't use the right density bonus to apply it, because that seems to be what you're saying, when the community's regard is we don't want more affordable housing. I don't blame them, East Naples has got a lot of it in it.

So if though they want to put market rate housing in but the density's still too high, why, if in comparison to what could be there if it was affordable? That's all I'm trying to find out.

David?

MR. WEEKS: Let me jump in. David Weeks, Comprehensive Planning Staff.

Commissioner, I think I see where you're going and it's an issue we've discussed before. And that is

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CHAIRMAN STRAIN: You and I or you and staff?

MR. WEEKS: I think you and I. And probably --

CHAIRMAN STRAIN: You have a better memory, you're younger. So anyway.

MR. WEEKS: Planning Commission as a whole. And that's the idea of okay, so density for market rate should be limited to three or maximum at this location of four units per acre. The only exception is with the affordable housing density bonus.

So the plan is saying it's okay for market rate housing to be restricted, but affordable housing can have a higher density, notwithstanding that it's in the coastal high hazard area. It seems like oh, so it's okay for those people to be subject to a Category 1 hurricane storm event but not for that group of people over there. And it's really a balancing act.

This has been in the plan since it was adopted in 1989. Two competing interests. One interest is not to put additional density in the coastal high hazard area. Not to put more humans in an area where they're subject to potential harm.

The other competing interest is the desire to have additional affordable housing in the county. This goes back to 1989 but it's still in the plan today. We had our last Evaluation and Appraisal Report in 2011 and amendments based on that adopted just last year and there was no change to this provision.

So we still have -- notwithstanding sometimes expressed opinions both here and at the County Commission about the need or lack thereof of affordable housing, the plan still has the provision for affordable housing, it still recognizes these two competing interests in that way that it does, and that is by allowing the affordable work force housing to have a higher density, notwithstanding that it's in the coastal high hazard area. But that's what the plan says.

To answer your question now, conceptually staff would not object to affordable work force housing at 11 units per acre. That's what they're eligible for under the plan now. I say conceptually, because as with any application you get into the details, well, does that mean 11 units per acre across the board is appropriate at this location? Is it compatible? Are there infrastructure concerns?

Well, that's not part of your question, I don't think. But conceptually, yes, 11 units per acre of affordable work force housing would be acceptable to staff, because that's what the plan allows.

CHAIRMAN STRAIN: Okay, and part of my concern there is if we had a storm come through and there had to be an evacuation, if you have market rate housing, as our experiences in the county are that market rate is seasonal in a lot of cases. Probably more than you find in affordable. If someone's living in an affordable housing, it isn't one that -- it's not their second or third home from up north, it's their primary home. And they would be there 24 on, 365 days a year.

So it's ironic that we think that the affordable provision can increase the density and it's more acceptable and for those people are there around the clock and especially during the summer months when we have hurricanes, yet the seasonal purchasers who generally go home during the hurricane season aren't there. And we have less of a concern from a public health, safety and welfare and with that scenario than we do with the affordable housing scenario.

So it seems a little bit disingenuous to say we can only have one -- I understand that's the policy, but I wanted to make sure there wasn't anything else besides that entering into the density picture. I don't like the density of this project as a whole either. To me it's putting a lot in a small location. But that's another issue we'll get into.

MR. WEEKS: I just want to say that I think you were just making an assumption that these would be second homes. And that's something that we don't know.

CHAIRMAN STRAIN: Oh, I know.

MR. WEEKS: If they were built as market rate rental units, we don't know who the occupants would be.

But I understand the point. And that's been raised -- just generally speaking, when do people usually take their vacation that live here year around? Well, it's usually during the summer. And the summer coincides in part with our hurricane season.

So there's always that argument, well, it's not as bad as it otherwise might be, because a lot of people might be gone during the summer anyway. And most particularly, if it's seasonal rentals, yeah, those units are sitting there with nobody.

CHAIRMAN STRAIN: Well, in fact the defense that we used in one of the AUIRs based on questioning from this panel over why our shelters didn't have the capacity for the population was, was because the population is expected to decrease during the summer. And that's an accurate assumption. That made everything correlate.

So anyway, on that residential issue, I want to understand specifically where it was coming from. I do now. So let's go to the commercial.

COMMISSIONER CHRZANOWSKI: Can I ask something?

CHAIRMAN STRAIN: Oh, absolutely.

COMMISSIONER CHRZANOWSKI: I don't want to belabor that point. I was curious what the logic was behind putting I was going to say poor people or as you worded it, those people, into the coastal high hazard area. And I don't see the logic. I understand the argument is that it's what the code says. I just don't see the logic, so --

MR. WEEKS: Well, let me say one thing, and that is that it's not that the Growth Management Plan specifically allows that affordable housing density bonus to apply in coastal high hazard area only. It applies throughout the urban designated area. It's a matter of not excluding it from the coastal high hazard area. So if you're outside the coastal high hazard area, that density bonus applies just as it does if you're within.

But it still comes down to it's a balancing act. Why is it acceptable for some people to live in an area where otherwise we'd say that density should not be allowed there. And again, it's a balancing act. Affordable housing versus health, safety welfare concern.

CHAIRMAN STRAIN: Does that answer your question, Stan?

COMMISSIONER CHRZANOWSKI: No, but I'll take it.

CHAIRMAN STRAIN: Okay, and then Corby, the commercial development that's being asked, they're over doubling what they previously have in the current PUD. And you said you're concerned about the intensity. And I can tell you I am as well.

My intensity concern is primarily on the intensity of the uses that they requested. Is that one of your intensity concerns?

MR. SCHMIDT: It is.

CHAIRMAN STRAIN: Okay, let's work on that one first. They ask from C-1 through C-5. And I notice staff said if this was considered to be recommended for approval, you ought to at least drop it down to C-4. Based on the experiences we've had with current concerns over C-4 uses next to residential and mostly I'm thinking of the RaceTrac at Palm and 41, is C-4 something we generally like to see in new zoning up against residential? I mean, our pattern of development for planning seems to have been we have our activity centers which are the most intense, we have the density bands which are a step -- which go to multi-family. Then we have our single-family outside those. That's the ideal. And our code is written in a hierarchy of C-1 through C-5 and industrial. And the lesser the intense of the C, the more compatible it then becomes with the neighborhoods around it.

How are we justifying -- I mean, your recommend -- not yours necessarily, but staff's point that the C-4 might be the way to go if we even consider that. How did you justify that? Or David. David looks like he wants to answer, and that's fine. I don't --

MR. SCHMIDT: And I'll let David add to it in a moment. But keep in mind that part of our recommendation includes if this were to be a mixed use development that is reduced down to the C-3 district, because we recognize those incompatibilities outright.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: Couple things. And that's a good point Corby made.

I just want to emphasize the point that staff did not recommend approval. So we're only talking about the alternatives should this body choose to recommend approval. We recommend denial, period.

The first alternative in your staff report is nothing more than a cleanup, I'll call it cleanup, of the applicant's language. Just putting it in the right format code language. I don't want to dwell on that, but it's not intended to in any way impact the intensity or density of what they're asking for, just put it in the right format, the right language.

And then, Chairman, your question about the second alternative which was to limit the depth development to C-4 uses, that's based upon the premise that the applicant has asked for community commercial uses. That's what their data and analysis was submitted to try to demonstrate, that there is a demand, there is a need for more community commercial development at this location. And in this -- in their market area. And an appropriate location to fulfill that need is at this specific site. And that's why staff chose the C-4 zoning district as something that we believe would allow for community commercial uses.

We didn't specifically think about compatibility with surrounding properties. I would just generally comment that as you stated, Mr. Chairman, activity centers do allow for the full range of C-1 through C-5 uses. It's during the specific rezoning petition that comes to you one by one that the specific analysis is made of the given piece of property, what the uses are around it, what the appropriateness is of the intensity of uses.

That would be the same here. If the plan were to be adopted with this amendment to say C-4 uses are allowed when you're reviewing the PUD, that's when you could say, you know what, the plan may allow all the C-4 uses, but some of those are not appropriate at this location based upon the specific circumstances of this property, the surrounding uses, the available infrastructure, et cetera. That was a more broad view.

CHAIRMAN STRAIN: No, but that -- and that's a good point. But it also -- and the reason the question is more relevant from my understanding of how staff did things is because some of the recommended language, if it were to find approval, was to list very specifically the various prohibitive uses. If that's supposed to occur at the PUD level, which I think it does, why are we getting into that in the GMP level for this particular one?

MR. WEEKS: I think you're referring to the uses that staff had recommended be prohibited. And you're right, they're only about three or four. And this ties into the idea of their market study attempting to demonstrate a need for community commercial uses. A hotel/motel is one of those that staff recommended be prohibited. That in our view is not a community commercial use, that's more akin to a regional use. It doesn't -- typically a hotel is not serving the surrounding community the same way a shopping center is, the same way, the way other types of retail and office uses would be.

Same thing with a car dealership, that's more akin, in staff's opinion, to a regional use, not to a community.

CHAIRMAN STRAIN: Could you turn to Page 13 and 14 in the staff report. Because the hotel/motel is not listed as a prohibited use. Neither is the other one. I mean, there's actually more than a few, there's 17 listed prohibitive uses. That's why it surprised me because on the fact that we always wait 'til the PUD to get into this kind of stuff.

MR. WEEKS: You're looking at the applicant's language.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: Staff recommended alternative again --

CHAIRMAN STRAIN: What page is the staff stuff on?

MR. WEEKS: That starts on Page 16. And specifically the prohibited uses --

CHAIRMAN STRAIN: Okay, I understand now.

MR. WEEKS: -- I think we're on Page 18, maybe.

MR. SCHMIDT: I believe it is 16. And those prohibited uses, the short list of four.

CHAIRMAN STRAIN: There's four, okay, I see that.

MR. WEEKS: Yeah, 17, specifically. Page 17.

CHAIRMAN STRAIN: Do you review PUDs?

MR. WEEKS: Yes, Comprehensive Planning Staff does.

CHAIRMAN STRAIN: Okay. Because the uses that you've suggested to be dropped are in the request for the current PUD that's being submitted, which surprised me.

MR. WEEKS: We haven't done a detailed review of the PUD yet. And the reason for that is because we need to wait for the -- our view is let's wait and see what happens with the plan amendment. Let's don't invest a lot of comprehensive planning staff time reviewing the details of the PUD when the very ability to have that PUD is still in question.

If this gets approved for transmittal, then staff will start looking more detailed at the PUD submittal.

CHAIRMAN STRAIN: It does work both ways. Because their list of the 17 prohibited uses, some of those also appear in the PUD application they subsequently submitted. So that might be a problem as well.

Corby, I understand now the intensity -- I don't want to say I understand it, I'm not sure it clarifies it as much as I had hoped. But the other section of intensity is square footage. Is the square footage and intensity issue, they're asking for 200 and what is it, 50,000, something like that, versus the 115 previously. Do you have an issue with the quantity of square footage? Let's say they get to a mix of commercial that is acceptable in that location. Is the size of the commercial a problem as from an intensity perspective? Because we only addressed the uses so far.

MR. SCHMIDT: I think it remains an issue.

CHAIRMAN STRAIN: Okay.

MR. SCHMIDT: In our counter -- or our second alternate recommendation, and I believe in one of theirs they've reduced that number. But we haven't seen any kind of increase being demonstrated in the data and analysis.

CHAIRMAN STRAIN: Okay, so --

MR. SCHMIDT: And David can explain in more detail.

But again, he's already mentioned the analysis they gave us was for a specific type of commercial type, the community commercial. And the expansion, those list of possible uses across the board, the C-1 through C-5 or C-4, includes the neighborhood, the community, the regional uses and more. And it's the intensity and the possible amount of some of those intense or more intense uses, because there's no limitation on any one of them as well.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: Mr. Chairman, I was just going to comment further on the square footage. And that goes back to the proposal to allow community commercial shopping center as opposed to neighborhood or regional. You've got your different categories of commercial.

And the square footage is relevant because the different categories of shopping center correlate both typically with an acreage, as well as a square footage of development.

Think of a mall with a million square feet and 30 or 40 or 50 acres. That's your regional use. You get down to your neighborhood use, generally speaking your shopping center size goes up to maybe as much as 150,000. I know it can exceed 100,000 square feet. And then your community shopping center picks up somewhere in the neighborhood of the lower end of about 100,000 square feet and then goes up from there.

So trying to get the square footage to correlate with community commercial or, conversely, to correlate with the neighborhood commercial, if they intend to develop neighborhood commercial. And that is where their alt -- well, the applicant's revised language, the language before you, excuse me, in your packet, that if they develop mixed use they have offered to limit the square footage of the commercial to correlate more with the neighborhood commercial.

CHAIRMAN STRAIN: Okay. And so your concern over the intensity of the square footage is because of the market study they provided, the lack of the data in the market study, is that how --

MR. WEEKS: Well, it's both that and then our own knowledge and research of what these different commercial center categories, the types of uses that they allow and the square footages that they allow. It's in the ULI shopping centers handbook.

CHAIRMAN STRAIN: And then the last one that, Corby, you mentioned as a mix of the subdistrict, that they didn't commit to a mix. Is that part of it?

MR. SCHMIDT: Well, the language that you have in front of you allows for a mixture of uses, but doesn't guaranty that. This PUD in place today requires a mixed use development, and to veer away from that is one thing.

When the intensity of the commercial development on the property is increased, the residential density has not been requested to be reduced. The number of residences on the property stays static, given the amount of commercial space. So there's -- they may have a revision in mind here. Mr. Mulhere mentioned some that he's got to produce today.

But there's a buildup of intensity where the intense uses can take place and all of the residential can take place, and the hotel and the ALF, and a mixture that doesn't have a balance. The only limiting factor that we might have is a trip count that somewhat monitors that and as the uses are proposed. But those details are part of the PUD, and to rely on just that one measure is a -- should be a discomfort.

CHAIRMAN STRAIN: Okay. And I know we're used to seeing ratios between if they put X number of hotel rooms they drop their use for commercial square footage or acres by X. And we've done that on multiple projects, and I didn't see that at this stage of things. I'm assuming those -- is that something we would be better looking at in regards to a PUD application versus a GMP, or do you think those kind of standards ought to be in a GMP? If those ratios were to be considered.

MR. SCHMIDT: They're commonly found in the GMP.

CHAIRMAN STRAIN: Okay. And that's -- Diane, did you have something?

COMMISSIONER EBERT: Yeah. Corby, am I reading this right that right now the way it was zoned in '99, that there was four dwelling units an acre, but the highest you went as far as commercial is C-2, that's in their zoning right now?

MR. SCHMIDT: As a category or as a zoning category, yes. There's a number of additional uses as well.

COMMISSIONER EBERT: Okay. Because they had an ALF in there, they had four dwelling units and then the C-2. Was that the --

MR. SCHMIDT: Oh, yeah. And their list of uses more intense than the C-2 district include the group housing and the ALF, theater, miniature golf course, bike and moped rentals, auto and home supply stores, business services, drinking places, hospitals, other retail, museums, art galleries. I'm just halfway through the list. But outside the C-2 category is extensive.

COMMISSIONER EBERT: Okay. That's kind of what I'm reading in here. The only thing I don't see that they've asked for is heavy industrial. They missed that category. Otherwise they have everything, you know, listed.

I think it bothered me a little bit because they said no one would be interested in this property unless they could build 11 units an acre. I have no idea what they're going to ask for this property as far as a price, but apparently it must be very high that a developer wouldn't even consider it unless there were 11 units an

acre. And I'm going, the only thing they haven't asked for is the Eiffel Tower and complete industrial here, is the way I'm looking at what was presented in the report.

COMMISSIONER CHRZANOWSKI: Could I ask something? Staff analysis background and considerations. Vincentian PUD was originally approved in 1985, allowed so much, and then changed in '91, changed in '99. Why so often changed and nothing ever built?

CHAIRMAN STRAIN: That may be a question for the applicant.

COMMISSIONER CHRZANOWSKI: Thirty years of PUD. I remember the Vincentian being there the whole time I worked at Collier County. And we couldn't figure why nothing was built.

MR. SCHMIDT: While staff has tried to provide a history and that background for the property, I'm not sure I can answer that question.

CHAIRMAN STRAIN: Okay. Any -- go ahead, David.

MR. WEEKS: I wanted to ask, Commissioner Ebert raised a question about residential density. Bob touched on it as well. And it is a point of disagreement between staff and the applicant.

And this PUD, existing PUD as it is right now, ordinance 99- something, as well as the two prior versions all the way back to the original '85 petition and then the '91 -- excuse me, '85 ordinance and '91 ordinance. So all three ordinances for the PUD on this site limited the residential density based upon the residential tracts only. It's explicitly stated that way in the PUD.

That is unusual. And it's also different than how the Future Land Use Element applies to density calculations. That's why in the staff report we identify that if the property -- that the property is eligible for more dwelling units today than the PUD is approved for. Because the PUD is more restrictive. It limits the calculation of density on the residential tracts only; whereas the PUD master plan has commercial tracts totaling 8.5 acres, residential tracts totaling 9.8 acres, and then you have additional preserve area of 11.7 acres.

The Future Land Use Element would allow that 11.7-acre preserve area to be used in calculating density. This PUD does not. So it's four units per acre times a smaller acreage in this PUD. The Future Land Use Element would allow only three units per acre but a greater acreage. Net result being the Future Land Use Element would allow more density than this PUD itself allows for this piece of property.

That's the staff analysis of the density. The applicant, I have to assume from the way they've stated it, believes that the four units per acre applies throughout the non-commercial part of the PUD.

CHAIRMAN STRAIN: Okay, thank you.

Anybody else have any questions of staff at this time?

(No response.)

CHAIRMAN STRAIN: Corby, thank you.

MR. SCHMIDT: Thank you.

MR. YOVANOVICH: If you don't mind, Mr. Chairman, can I have -- make some general comments while Bob hands out our specific provisions that we would like to go through with you all?

First of all, this is the existing -- this is the currently adopted PUD master plan. When we started looking at the potential Growth Management Plan amendments, we assumed we were going to basically come in and change that PUD master plan and looked at what were our options under the existing Growth Management Plan for this property.

Under the existing Growth Management Plan, the two parcels along U.S. 41, these two parcels here, which is roughly 8.5 acres on which we can construct 115,000 square feet today, which would include the hotel and many of the uses that your staff is recommending deletion from under our proposed growth management, I can already build those uses on that 8.5 acres today.

It was deemed compatible at one point. I don't know what we did to all of a sudden make it incompatible by asking for additional commercial uses. But be that as it may, we could do 115,000 square feet.

CHAIRMAN STRAIN: I'm sorry, would you mind backing up and trying to explain that to me.

MR. YOVANOVICH: Your staff has a list of prohibited uses that --

CHAIRMAN STRAIN: We've only got four, you've got 17, so --

MR. YOVANOVICH: Not, but they said, they specifically said we should not have a hotel or motel

on this piece of property because it's not a -- they just called it a regional use, I think David said. I don't agree that it's a regional use.

But my point is that hotel and motel use is already allowed under the existing Vincentian PUD. So I don't know what changed in staff's mind to all of a sudden say a hotel and motel use is not an appropriate use on that property when it's currently been an allowed use.

Same thing with the amusements and other things like that that they've listed in there for uses. The bowling center for one, that is specifically allowed today in the Vincentian PUD. I don't -- my point is I don't know what happened or changed to take what are currently allowed uses under the existing PUD to make them prohibited uses in the future. That was my point.

From an intensity standpoint, we're allowed 115,000 square feet today on 8.5 acres. We've asked for 250,000 square feet over 30 acres. We've actually reduced the intensity on a per acre basis through our specific request than what can be allowed today.

Now, we looked at this and realized if you look at this master plan, you have residential one, residential two, preserve, commercial, of these two parcels. That's what exists today.

And when we started this process we were a sunset PUD. And that changed recently with the LDC amendments to where we're no longer sunset, this is what we have. But we were going through this process recognizing that we were sunset, what can we do under today's GMP. Under today's GMP we can do the two commercial parcels up front, and in the back we have roughly 22 acres, 22.2 acres I think it is, left over. What can we build on that?

Under David's analysis we can do three units per acre on the back piece, so we can do 66 units. That is not enough critical mass to develop a multi-family project on those 22 acres. Just not enough units for a multi-family developer to be interested.

So we can do a single-family subdivision on that 66 acres. And what would be the price points in that neighborhood if we were to do a standard unamenitized subdivision. The price points would be fairly low.

And one of the concerns at the neighborhood information meeting from the community was we do not want any opportunity for affordable housing to occur on that property.

And I would submit to you today, if we're left with three units per acre on that 22 acres, it will be a single-family development, it will be relatively small lots, it will be tight, and the price points will probably be lower than we're trying to achieve through a market rate multi-family or luxury apartment complex.

So the only way to get there was to go through a GMP amendment. Because as David said, I could come in today, ask for 11 units per acre for affordable housing and I would be deemed consistent with the comprehensive plan from a density standpoint.

Now, we've talked a lot about the coastal high hazard area that was around in 1989. I would submit to you there have been some significant changes since 1989 in the regulatory scheme statewide as well as Collier County as it pertains to the coastal high hazard area. There have been significant changes to the Building Code. The buildings are much more I guess sturdy or strong or whatever you want to use, that the type of construction that was allowed in 1989 is very different than what is required today in 2014. So that's one major change regarding coastal high hazard area. Plus we're right on U.S. 41.

Also evacuation was a concern in the coastal high hazard area. The philosophy regarding evacuation due to the fact that construction is far sturdier now than it was back in 1989 is basically to evacuate in place. We met with Dan Summers who is the emergency services person for Collier County. And we said Dan, do you have any problem with our going with 12 units per acre potential of 360 units on this piece of property when under the current comprehensive plan I have 30 acres, I could put 90 to 120, depending on how you want to do the math, on the full 30 acres if I did a full residential project.

He didn't have any issues with doing that because -- and another thing that changed is the state statutes changed. Before in the state statutes they basically wouldn't let you increase density in the coastal high hazard area. Now you can increase density in the coastal high hazard area if you appropriately mitigate.

So we met with Dan Summers about if we want to go from three units per acre to 12 units per acre or four units per acre to 12 units per acre, how do you arrive at what the right base is. What would be the appropriate mitigation. We talked about, you know, having our own shelter. He goes, you don't need that,

the buildings are fine. We need in Collier County, we need a mobile portable generator. That will mitigate in his mind increasing the density to justify increasing density in the coastal high hazard area.

So I go back to if 11 units per acre or 12 units per acre is acceptable for affordable housing, it should also be acceptable for market rate housing from a standpoint of hurricane issues. You'll have better construction, you'll deal with the evacuation times.

So it really just comes down to in my simple mind housing's housing. It comes down to who gets to live in the housing under the current comp. plan. And we're suggesting that who gets to live in the housing, maybe we should do market rate housing because that's what the community wants.

If you look at the NIM, there was a lot of concern about will this increase density resulting in another affordable housing project. Because even at the RSF-4 that's around us, those lots are being purchased and acquired by affordable housing developers. And they wanted to make sure that that didn't happen anymore.

So we put a provision in there that basically made it very clear that we would do market rate housing and we would not do affordable housing. Because your comp. plan also says that the burden of affordable housing is to be shared throughout the community. So we said based upon the fact that there was already affordable housing in this area we would be prohibited from doing affordable housing in this area. So we tried to address that safeguard in our revision.

Now, regarding data and analysis, this is always a frustration for us because it's always a numbers game with staff. Staff will tell you that there are 12,000 potential residential units in this area, why do you need to increase the density by another hundred or so or 200 or so units.

I'm never going to win the numbers game when you're looking at purely residential. But what you have to do is you have to factor in each particular piece of property and how the current comprehensive plan applies to that piece of property and does it really further what the community wants.

And I will tell you, the current restrictions under the GMP is not what the community wants. The community does not want lower priced housing on that piece of property, and I don't think the community wants strip retail on that property either. And I think that is a factor in your data and analysis.

But we never get that level of data and analysis from staff, we always get the pure numbers.

Now, we think even under the pure numbers there's clearly a demand for -- and I don't think staff denies that there's clearly a demand for market rate rental apartments. I don't think they dispute that there's a demand, they just think that since I'm in the coastal high hazard area I shouldn't put it there. And staff -- our numbers come up that there is more demand than supply for commercial. But staff only looks at that part of the equation. And we think that data and analysis is also the property. You have to look at the piece of property and factor in does the current code result in the type of development that the community wants.

Bob's going to take you through revisions we did that did address the concerns regarding intensity of C-5, and we've lowered that, and other concerns that were raised by you all and particularly Ms. -- I don't want to -- can I call you Charlette instead of -- you want last names -- regarding the buffer.

Because another way to address uses next to residential is through appropriate buffering. Which we think we can address at the PUD level. And there are a lot of listed uses in C-4. And I know not every one of them is appropriate, and we're not going to ask for every one of those when we go through the PUD. And we know that there need to be prohibited uses. And all of that will be addressed in the PUD.

We've kind of gone to the comp. planning of almost a PUD level analysis at comp. plan review. And I think we've kind of gone a little overboard and we need to be more general, recognizing that a PUD still has to meet compatibility guidelines. So Bob will take you through what we've tried to do to address the major --

CHAIRMAN STRAIN: Hold on. I want to ask you some follow-up to the statements you made.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: You said -- put the other the plan back on there, please.

Now, you said that plan, because of the concentration of commercial and the new plan because of its allowing commercial over the whole parcel, is less intense.

MR. YOVANOVICH: On a per acre basis.

CHAIRMAN STRAIN: Okay. So let's walk through that. See the 11.7? That's for your preserve conservation area. That provided a buffer several hundred feet wide to the residences to the south. And that wasn't very intense. Preserves aren't very intense. So the intensity on this plan was limited along 41,



regardless of the number of square footage. The residential on the left side is 4.5 acres. That's going away and could theoretically be commercial, because you've not allocated it definitely as anything else. So that's an additional 4.5 acres of commercial, in addition to the 11.7, which is -- and the 11.7 is only offset by 4.5 acres of preserve on the PUD plan you currently submitted. And the 5.3 over on the right-hand side in lakes shows up as 4.13 in the current PUD plan. So you did increase the intensity substantially, based on what this master plan allocated.

MR. YOVANOVICH: Mr. Strain, my comment was I can built 115,000 square feet on eight acres today. On a per square foot basis it was more intense. If you do it over a potential of 30 acres and take out the preserves, it's a less intense per square foot. I didn't say that we weren't going to also address through the PUD provisions a change. Because we cannot build any --

CHAIRMAN STRAIN: But that leaves the impression to the public that you're really not increasing the intensity on those on the overall parcel, and you are.

MR. YOVANOVICH: I acknowledged that we're going to be --

CHAIRMAN STRAIN: Well, I'm just acknowledging it clearer for you. I'm giving you a hand.

MR. YOVANOVICH: You're giving me a hand, helping me with the math?

CHAIRMAN STRAIN: I'm helping you with it.

MR. YOVANOVICH: Okay, I appreciate that.

CHAIRMAN STRAIN: Well, let's get on the next issue. You said that you can't do it at three acres -- three units per acre because if you do that and you've got this project of single-family for the kind of money it'd have to be would never basically sell, that's the synopsis. But you would cluster that three acres into a multi-family product most likely at this location.

Now, how is that not viable compared to what you're planning to do for a portion of the project now potentially anyway?

MR. YOVANOVICH: Because we've looked at it, Mr. Strain. We've tried to shop this property for basically 20 acres of residential at three or four units per acre. We used four. That would be 80 units. We're not getting any buyers for a multi-family project at 80 units on 20 acres. Okay? So we've been shopping it.

CHAIRMAN STRAIN: But you wouldn't -- you just said multi-family. At three or four units per acre, you could cluster that and do multi-family. You're not limited to single-family. And the rest could be commercial.

MR. YOVANOVICH: And I said that. I said that we have two choices, single-family or multi-family. We're not getting any buyers for an 80-unit project on 20 acres or even any buyers for 120-unit project on 30 acres.

Could I do it? Sure. But would I have anybody buy it? No.

So then my other option is single-family RSF-4, which is right around me. We'll do something and we'll have single-family smaller lots and the price points would be at a price point that I don't think the community wants.

CHAIRMAN STRAIN: I mean, that's a limited option, and I understand your argument on that. I'm not agreeing with it.

The last point you made was that a lot has changed since '89 or '98, whenever year you picked --

MR. YOVANOVICH: '89.

CHAIRMAN STRAIN: -- in the coastal high hazard area.

MR. YOVANOVICH: That's when it came in --

CHAIRMAN STRAIN: Well, you're right, a lot has changed and it's called climate change. And the sea levels are rising and we're going to have to face that. So I don't care what kind of construction standards you think are better to allow people to live closer to an ocean that is rising, but the end result is going to be it's not going to be better. So we do have to be considerate of our coastal area, and we've got to be a little more careful than we may have in the past, not less careful.

MR. YOVANOVICH: But we'll also meet the minimum elevations that you're going to have to build for a house. And, you know, I'll admit, I haven't been following the climate change issue at this point. But I think at some point, you know, under climate change we're probably all under water wherever we live in Collier County. So, I mean, I don't see climate change as a factor. We'll address the minimum floor

elevations through the building code like every other project. And whether it's affordable or not affordable housing, those same issues are out there for everybody.

CHAIRMAN STRAIN: Well, and I think -- I think we need to be more cognizant of our coastal high hazard areas, so --

MR. YOVANOVICH: I agree. And we're proposing a reduction in the density numbers we originally asked for. And we'll go through that.

CHAIRMAN STRAIN: Okay. And Corby, since you came early and they had a rebuttal to yours, before this is over you'll certainly have an opportunity to rebut theirs again if you'd like.

So right now, though, we'll go into -- well, actually, what we're going to do is take a 15-minute break and come back at 10:30 and we'll resume with Bob's discussions of the changes. Thank you.

(Recess.)

CHAIRMAN STRAIN: Thank you. We're back on. And we left off with Bob was going to walk us through some of his I guess suggested changes he's making.

MR. MULHERE: Right. And I'm going to go over that. Did you get a copy?

MR. WEEKS: I did.

Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir.

MR. WEEKS: Before we go into that detail, would you allow me to I guess refute something that Rich stated earlier?

CHAIRMAN STRAIN: I'm hoping somebody would. Go right ahead.

MR. YOVANOVICH: You mean besides you?

CHAIRMAN STRAIN: Besides me, yeah.

MR. WEEKS: It's just to the specific use. I realize you want to move on so I'm going to be --

CHAIRMAN STRAIN: No, that's quite all right, David. We're here to get the facts.

MR. WEEKS: Okay. Two assertions. One is that bowling alley is allowed presently, and that's not listed in the existing PUD. The amusement/recreation services category is listed, but it does not include bowling centers.

Secondly, and this is another I'll say anomaly about this PUD. In general -- I'll put this on the visualizer. In general language makes reference to hotel/motel use. But -- and that's highlighted here. But it's not listed under Section 4.3 which are your permitted uses and structures in the district.

Now, I can't tell you why that's there. I can offer a possibility. And that is as this body well knows, when you're reviewing PUDs, looking at the list of uses, you sometimes recommend uses be removed. And of course maybe added to but removed.

And I could -- to me it's very plausible that at one time this PUD during its process of review had included hotel/motel use, and therefore that statement made sense. And then perhaps that use was eliminated, hotel/motel use was eliminated somewhere during the hearing process, but that statement remained. That's just a guess. I can't tell you factually.

But regardless, the staff's position is that having it listed up above generally does not mean the use is allowed. It must be listed explicitly under the permitted uses section. So the staff position is hotel/motel/bowling alley are not presently allowed in this PUD.

CHAIRMAN STRAIN: Well, that's comprehensive staff's position.

MR. WEEKS: And zoning staff has concurred.

CHAIRMAN STRAIN: That contradicts other ZBLs that have been issued. So anyway, I'm not sure that is a true statement then, David. I mean, I understand where you're coming from, but I also have seen -- I can think of one right offhand that I thought referenced the general description and because it was there it became a comparable compatible analysis request, and that was part of the reason it was then accepted.

MR. WEEKS: And I'll respectfully suggest that if this applicant made the request for a comparable compatible analysis, possibly that would be determined. But based strictly on the list of uses, no. Again, I didn't want to belabor the point but I did want to --

CHAIRMAN STRAIN: And I wanted to make that clarification, because we have looked at it that way before from what I can tell from the record.

MR. SCHMIDT: Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir.

MR. SCHMIDT: I've got something to add to that, because the hotel use is at issue. Although that's a specific use, there are a number of uses here above C-2 that were included in the PUD at the time.

One of the points that Mr. Yovanovich makes is a drawing on the date of 1989 and the coastal high hazard area and the things that have taken place since then.

Well, in another area, whether it's planning or zoning, this PUD was approved at a time when there were no mixed use activity centers in the county. And there was no planning to purposely concentrate those more intense uses at a certain number of specific locations. And a number of these higher intensity uses, like the description that includes hotels, where the county was allowing those uses anywhere they were asked for. At any commercial location these more intense uses may have been allowed.

Today that's not the case. It's not the case with a number of these more intense uses. So in this Comp. Plan Amendment and certainly when the PUD comes around during your adoption phase, the opportunity to withdraw those uses from the more intense -- from this location and allow them to develop at those mixed use activity centers where we now intend them to be will be a point.

CHAIRMAN STRAIN: Okay, thank you. And Corby, I'll be asking you for an opportunity to come back up before this is all -- after we get done talking.

David?

MR. YOVANOVICH: I've got to say something.

CHAIRMAN STRAIN: No, David?

You'll say something when I recognize you, Richard.

David?

MR. WEEKS: Rich -- I don't like eating crow, Commissioners, but Rich has offered me some -- it is explicitly listed in the existing PUD SIC Code 79-33, which is bowling center. So when I told you it was not presently allowed, that was just absolutely incorrect. I stand by what I said with hotel/motel, but bowling center is clearly allowed right now in this PUD.

The second point, I want to feed some crow to Corby. When this PUD was amended in 1999 to allow the uses that it does today, including the various commercial uses, activity centers were in existence. They've existed since 1989. The original PUD was approved prior to the existence of activity centers, but with the introduction of commercial uses which occurred in 1999 and the activity centers were already in existence.

CHAIRMAN STRAIN: Thank you, David.

Richard, did you want to further enlighten us? If you do, you've got to use the microphone, sir.

MR. YOVANOVICH: I no longer request to be recognized because Mr. Weeks said to you exactly what I was going to say regarding activity centers and the timing of the commercial when it was added. Thank you.

CHAIRMAN STRAIN: Bob?

MR. MULHERE: Thank you. I did put the -- Rich had a copy of the existing master plan, Mr. Chairman. And I wanted to put that up there because we had some confusion about that.

And I just wanted to again point out the location of the preserve and the design of the lake which were intended purposefully to provide for maximum separation from our residential neighbors from the Hitching Post and Trail Acres. And, you know, that would push any future commercial use away from those locations, providing adequate buffering.

I recognize, though, that this is something that's going to happen and be further discussed as part of the zoning, but we had some discussion, and I just wanted to share that with you.

So I handed out a document. If you start on the third page, which is where you first see highlighted, this document incorporates by struck through language or double underlined language changes. The struck through is obviously being removed, the double underlined is being added, and the yellow highlighting reflects changes that we have proposed. The changes that are not highlighted are changes that were suggested by the staff, if you were inclined to transmit suggested changes in the language.

So if you go through this document, a lot of that is more grammatical and less substance in terms of

the staff recommended changes. Some of it is substantive and I'll go over those.

But starting with the first highlighted change, there's been a lot of discussion about the intensity of uses. We are proposing to change our request to limit the uses to eliminate the C-5 uses and allow the uses, at least in the comp. plan, to be arranged from C-1 through C-4.

COMMISSIONER HOMIAK: Why not C-3?

MR. MULHERE: There are a number of uses in C-4 that we think may be appropriate for the site. For example, department stores are not permitted in C-3. So there are a number of uses that are allowed in C-4. We would rather come back to you -- in the comp. plan allow C-1 through C-4, and we commit to working with the neighbors, we commit to coming back to you as part of the zoning, and then deal with restricting or eliminating, and we're putting it on the record right now, those uses that you may think are inappropriate in the C-4 district, but do that as part of the zoning.

You have no risk for transmitting this comp. plan language. You're going to see the zoning and the adoption at the same time in four or five months whenever we get to you. So that's the reason. We think there are some uses that are appropriate in there.

Looking at this list of uses that are prohibited or would be prohibited, there's a general question. We've made some changes here, because we struck through those that were C-5 uses, because we're no longer asking for those.

But frankly there's a question I think as to whether we need to as part of the comp. plan list any prohibited uses. Now that we've changed this from a request for C-1 through C-5 to a request for C-1 through C-4, perhaps we need to just put some language in there that clarifies or indicates that the list of uses may further -- will further be refined at the time of zoning.

CHAIRMAN STRAIN: And while we're on that subject, I want to make sure we have absolute clarification from David that should language get developed into the comp. planning that provides a range, there's an absolute right on the part of staff and on the part of the citizens and on the part of this board to limit that range to any use within that range we want to or exclude any use within that range we want to. Is that a fair statement, David?

MR. WEEKS: That is absolutely staff's position.

CHAIRMAN STRAIN: Okay. I want that on the record and it's clear so that if you have a range that's there and you expect you're going to get even a bowling alley, that may be something the neighbors don't want and it may not happen then.

MR. MULHERE: And we agree with that. I mean, I -- you know, for a while I was in a position very similar to David's and I would have said the exact same thing. It is not by right, it is a range of uses and the zoning is the controlling opportunity for that.

CHAIRMAN STRAIN: Because based on that kind of opportunity, the least we have in the GMP the better, because it doesn't clutter up the GMP and it makes it more responsive in the PUD. That's the document that is most nuts and bolts in regards to how this property is going to be.

MR. MULHERE: And Mr. Chairman, by the way, that's why the term allowable uses is used. Because that is -- these uses are allowed. They're not necessarily going to be approved. Then you would get into in the zoning permitted uses or conditional uses and so on and so forth.

So let's move on then, because if that -- if we go to the next page under additional use restrictions and intensity standards, paragraph C, we are still asking for the ability to do commercial mixed use or residential. In the commercial we would still limit it to 250,000 square feet of gross leasable floor area. We're asking for a hotel and assisted living in that scenario.

Under the residential development we have proposed to reduce the density from a gross density of 11.74 units per acre down to 10 units per acre for a maximum density of 307 dwelling units. Now we would only achieve that if we develop that entire project as residential.

CHAIRMAN STRAIN: But on both of those, if that was something that is going to be considered, what kind of conversion are you going to use? For example, are you saying you want 250,000 square feet of commercial plus hotels at FAR-06 and 307 units of residential?

MR. MULHERE: Well, no. Because --

CHAIRMAN STRAIN: I know that's going to be the answer, but how are you going to get there?

MR. MULHERE: No, no, well, what you said -- no, let's take the residential out, because we haven't gotten to the mixed use limitations. So if we do residential/commercial we've reduced -- we haven't talked about that yet. This was just commercial. Number one is just commercial. And I think your question was are we asking for 250,000 square feet plus a hotel plus an ALF. There's no residential in that scenario.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: And the answer is yes, we are asking for that. And I know you've suggested that there should be a conversion ratio. And there's two --

CHAIRMAN STRAIN: You know how much square footage that comes up to? You can calculate FAR at .6 times whatever number of --

MR. MULHERE: I know, I have a number of responses.

CHAIRMAN STRAIN: A million square feet? We're talking --

MR. MULHERE: Number one, there's no way -- we have a maximum trip count. There's no way that we can have all of that under that -- that is the overriding limitation. Now, I mean, I think it's fine to suggest that we would have a ratio, a conversion for the floor area -- for the ALF. And that typically is found within PUDs. And that's fine, we can come up with a conversion factor for that. We put an ALF on three or four acres, those three or four acres are not usable towards the commercial, there'd be some reduction in square footage.

Hotels typically are commercial uses. And whatever acres we use for the hotel is going to reduce the otherwise allowable commercial acreage that we could use, so -- did you want to say something?

CHAIRMAN STRAIN: I'm keeping track of everything you're saying.

MR. MULHERE: I didn't know if Rich --

MR. YOVANOVICH: Other than I would also add when we get to the PUD, there's going to be development standards, height, setbacks, all of that's also going to regulate what can be put on the property.

So although theoretically you can do that, practically we'll never be able to put all of those uses within this PUD.

MR. MULHERE: So under the residential development scenarios I just suggested, we reduce the requested density per acre and the total number of units and again that's only achievable if you do 100 percent. That maximum number is only achievable if you do 100 percent residential.

Now let's go to number three, which is the mixed use scenario. And one major change is that, as I indicated before, our submittal all the way up until now has said we'd like to calculate our residential density to include the commercial acreage. And I asked for that because the plan already allows that in some circumstances. And I asked for that because I thought that would be a very substantial incentive for a high quality mixed use developer.

However, we give it up. We've now said that the residential density will be calculated on the acreage, excluding any commercial acreage. Just as is usually the case in Collier County.

So if we do a mixed use project and we develop 10 acres of commercial, the residential can only be calculated on the remaining portion of the project.

We've also limited our maximum -- and I think both of these are significant, our maximum square footage in the mixed use scenario to 128,000 square feet, which I think goes a long way towards addressing the concerns that David raised relative to the kind of commercial. And you'll also see that we -- we've included again the 150-room hotel and the assisted living facility, and we've restricted the commercial uses from C-1 to C-3 which gets down to that kind of neighborhood type uses under mixed use.

But having said that, remember that we are only allowed to calculate our residential density on the acreage excluding the commercial. So if we do a hotel -- again, it all counts towards that trip ratio -- and we do some commercial under a mixed use scenario, those acres cannot be used towards the residential calculation.

So I think those are significant, significant changes that we've made in response to our most recent meeting with staff which was in late July and our meetings with you individually and what we heard from most of you, if not all of you.

Moving on to the next page -- well, one item I wanted to touch on, number five, which says only one automobile service station is allowed. It may be located anywhere within the subdistrict, except in the case of

mixed use development it shall be limited to the commercial tract. Which to me is obvious, but that was -- staff recommended a language change.

Having said that, we wanted to make it clear that we would only ask for one, but we wanted to have one, that's why we put the language in the comp. plan. We recognize that the location for that would not be appropriate in close proximity to the residential, so we would then have to provide some separation requirement. And I think the appropriate place for that would be in the PUD. And we will have that separation from residential in the PUD. That's where it's typically found.

So again, moving on to the item paragraph D which is site development, I'm just looking to number seven. Number seven was the item that I addressed related to off-site satisfaction of the native vegetation preservation requirement.

You know, a lot had changed over the years, however many years this PUD has been around, when it was first approved with a pretty significant preserve. The fact is that a lot of that became highly infested with exotics over the years.

For whatever reason, we've gone through the permitting process. And the permitting process, the location of the preserve is reflected on the master plan that I showed you. And that's not the county's requirement. The county would require -- the county requires 15 percent native vegetation for commercial. So if we did all commercial, this would be satisfied or pretty close. It's 14.5 percent. We'd have to find another half a percent somewhere to satisfy the county.

But if we do mixed use or residential, the native vegetation preservation requirement climbs to 25 percent. And actually as I said it was the staff that said we do have the option to mitigate some or all of the native vegetation off-site. And what we've -- and this issue was raised particularly by Mrs. Roman, but others raised it too. And I thought that what we ought to do is guaranty to you that we would preserve a minimum of 15 percent. So if we do mitigate off-site, it will only be for that amount of native vegetation that might be required above the 15 percent. So what you see you will get at a minimum.

The last item is that residential development shall be limited to a market rate project. We had said rental only, and I think we did that very recently in our last meeting, we put that language in with staff because there was a question of would we agree, since that's what they felt our data supported, would we agree to limit it to market rate rental only. And we did agree to that at that time. Obviously if the data supports market rate rental, it's easy to understand also that it would also support some form of fee simple development.

And so we don't see the need at this point to only limit it to rental -- you know, rental project. It could be fee simple, it could be rental. So we struck through that.

We put back in the language to avoid the concentration of affordable housing in one location of the county. The county has a policy that says that as they locate affordable housing it won't be concentrated in one area of the county, and we made a commitment to the neighbors that we were not going to do affordable housing. So whether this language stays in here or not, we don't want there to be any perception that we were the ones that took the language out. It's in there because we made a commitment. And so we put it back in. If it doesn't stay in, they can hold somebody else responsible for removing it.

That concludes my remarks. I know that you had asked about whether or not we assumed we would be coming back. And yes, at 10:51 we assume we will be coming back. So we'll be prepared to listen to your comments, make notes. And if you're inclined to, you know, let us know what direction you think we should go relative to the changes we just proposed, that would be helpful and then we can reschedule.

CHAIRMAN STRAIN: I think that would be a good idea. Right now, though, let us go through our questions of you and see where we want to go with it.

And for the members of the public that want to speak, you'll definitely be able to speak before we break for lunch.

MR. MULHERE: Rich just mentioned something to me that maybe I wasn't clear when I said it. Probably wasn't. But there has been some feedback from the community as it related to that rental only option to say why would you limit it to that, it could also be, you know, just fee simple. And that's why we structured that language.

CHAIRMAN STRAIN: Okay. So with that, is any --

COMMISSIONER HOMIAK: I don't think anybody wants to see the rentals in the community, anywhere in the community, or the commissioner.

MR. MULHERE: The fear is that that would be something --

COMMISSIONER HOMIAK: Fee simple may -- you know, as long as there's amenities and maintenance fee and that kind of thing, so it wouldn't be affordable.

MR. MULHERE: And I think we're prepared as part of the PUD to make sure --

COMMISSIONER HOMIAK: I still don't know how you get to the density though.

CHAIRMAN STRAIN: Well, wait a minute, there's a difference between fee simple and condominium. Fee simple means you're selling a piece of land.

So you mean multi-family.

COMMISSIONER HOMIAK: Right, multi-family.

CHAIRMAN STRAIN: Multi-family, just not rental multi-family.

MR. YOVANOVICH: What I really meant was owner occupied. In other words, you're not rental apartments, it's -- you're buying the unit.

MR. MULHERE: Anyway, we'll be prepared to add some of those minimum requirements for elements that would ensure that this is an upscale project, if it were to come to fruition, for residential development.

COMMISSIONER HOMIAK: Can I --

CHAIRMAN STRAIN: Absolutely, go right ahead.

COMMISSIONER HOMIAK: Do you still -- why do you have to have the automobile service station in this amendment and not something that would go through and --

MR. MULHERE: I mean, it's a really good location for one.

COMMISSIONER HOMIAK: There's going to be one on the other side of Hitching Post, right?

CHAIRMAN STRAIN: Yeah, but there's one at barefoot and 41. There's a RaceTrac going in there.

MR. MULHERE: Yeah, competition's a good thing.

COMMISSIONER HOMIAK: And there's one on the other side of --

CHAIRMAN STRAIN: You're going to compete against RaceTrac?

MR. MULHERE: Eventually.

MR. YOVANOVICH: Here's -- I think a standalone gas station -- again, when we originally put this in, there hadn't been service stations planned in close proximity to this.

What we would like though is if -- and I'm not saying this would come to this site, but if a Costco or something like that came to this site, we would still like to be able to have fuel pumps as accessory to that type of use. But we're not asking for a standalone -- we can give up the standalone service station such as a RaceTrac on this location.

So that's all we -- and we have that ability today under the comp. plan to come in and ask for -- I'm sorry, under the LDC to ask for a service station. I think all the way down to C-2. Is that right, Mr. Strain?

CHAIRMAN STRAIN: Yeah, C-2 on you can -- it allows gas stations.

MR. YOVANOVICH: Right. So we can ask for one subject to a distance waiver requirement. What we were trying to avoid was the distance waiver requirement for a Costco or something like that. If they wanted to come in and have their fuel pumps, there is the potential and now probably a reality that there will be some service station within 500 feet.

COMMISSIONER HOMIAK: A Costco? What gives you the idea that --

MR. YOVANOVICH: I'm not saying it would. I'm saying that's the concept of accessory. Apparently, you know, and I hate to give examples of something that didn't work. There used to be an Albertson's up on Immokalee Road that had its own convenience. And I understand in a lot of parts in the country that's become something that's happening a lot with grocery stores; they're having a convenience gas accessory use to that. And that's what we were talking about. The one that only came into mind for me was Costco because that's where I go get my gas. So that's where -- that example. It doesn't have to be a Costco, it could be -- if Publix decided to go into the business of having accessory gas, that's the type of thing we're talking about. Obviously subject to the PUD where they're going to be located, what kind of buffering and all that stuff.

MS. ASHTON-CICKO: Can I make a comment, since you're on the issue?

COMMISSIONER HOMIAK: Yeah.

MS. ASHTON-CICKO: I would recommend deleting the second sentence, because I think under the definition of our LDC for automobile service station, it will include fuel pumps, so it will fall under the definition. So you don't need that second sentence.

COMMISSIONER ROMAN: Where are you at on that, please?

MR. MULHERE: Number five, I think. Under C, paragraph C.

Well, I think what we have to do is come up with some language that makes it clear that we won't ask for simply a freestanding gas station but that we would have the ability to have ancillary pumps with some other use and we'll have to identify that use as a grocery store or whatever the other type of larger store is called.

CHAIRMAN STRAIN: I think that's language you could come back to propose and we can see if it fits or not.

MR. MULHERE: We can.

COMMISSIONER HOMIAK: Well, under the site development in number five and number six, should that be -- why wouldn't that be in a PUD?

MR. MULHERE: It would. You're absolutely right. It's reviewed as part of the PUD.

COMMISSIONER HOMIAK: So those can be removed?

MR. MULHERE: I'll tell you why -- I'm not sure exactly why the pedestrian interconnection came in. I think the building height we put in there only to give --

COMMISSIONER HOMIAK: These are the new -- this would be the building height and the setback.

MR. MULHERE: Okay.

COMMISSIONER HOMIAK: Because you changed the number --

MR. MULHERE: They would be. The only reason that they were placed in there was because we wanted to give some sense of comfort to the neighbors when we talked to them what the maximum building height would be and what the setbacks would be. But absolutely, they are probably more appropriate at the PUD.

COMMISSIONER HOMIAK: So they can be removed?

MR. MULHERE: Yeah. And you're going to see them because we're going to be coming back to you with a PUD at the same time. So that would be five and six.

CHAIRMAN STRAIN: Anything else?

COMMISSIONER HOMIAK: No, that's it.

CHAIRMAN STRAIN: Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Well, you're not going to get away without my questions, Bob, sorry.

MR. MULHERE: Yes, sir. No, I didn't expect that.

CHAIRMAN STRAIN: Okay, the --

MS. ASHTON-CICKO: If I could make a couple of comments? I don't know if you want to --

CHAIRMAN STRAIN: Go ahead, I'd love to hear your comments.

MS. ASHTON-CICKO: The first one might be moot.

CHAIRMAN STRAIN: You've got to pull your mic closer to you, Heidi.

MS. ASHTON-CICKO: The first one might be moot, depending on whether you decide to eliminate the prohibited uses. But should you keep them in under number two, so I'm on page -- I think I'm on Page 2 where it's the allowable uses. And then you go to the prohibited uses. Number two is the adult book stores. At the end of that the sentence I'd just like to add some language, so it would read: Adult book stores, adult video or rental sales or any other use that is defined as sexually oriented business in the Collier Land Development Code 26-151 et seq.

And then the new language would be: Based on distances to residential properties, churches and schools, period. Okay?

MR. MULHERE: So assuming that's going to end up in the PUD, we'll still need that same



language.

MS. ASHTON-CICKO: Yeah, I mean if -- yeah. If it's being moved to the PUD instead of here, either way it will need to be in there.

And then on the next page just the commercial, they've listed it as gross leasable floor area. And I'd just like to keep it consistent with our Land Development Code, which would be gross floor area. Our Land Development Code defines floor area.

MR. MULHERE: Thank you.

MS. ASHTON-CICKO: Thanks.

COMMISSIONER EBERT: Heidi, I have a question for you. When you said the adult book stores, you want that -- the whole sentence to also be in the GMP?

MS. ASHTON-CICKO: Well, whichever way you decide to go. Because I did hear some discussion that the prohibited uses would come out and in lieu of that there would be a statement that the uses would be further refined as part of the PUD.

Should you decide not to go that route and you want to keep it in here, I'm just asking to add that language at the end of the sentence. If it goes in the PUD, then I'd ask that that language be added at the end of the PUD.

COMMISSIONER EBERT: Okay, thanks.

MS. ASHTON-CICKO: And then I just had one last comment for your consideration, which is on item number six.

MR. MULHERE: Under --

MS. ASHTON-CICKO: Additional uses and restrictions.

MR. MULHERE: Got it.

MS. ASHTON-CICKO: And it talks about the recreational site.

MR. MULHERE: Yes.

MS. ASHTON-CICKO: And my question is whether the square footage of those buildings would fall under the commercial or where it would come out or it would be in addition to the other uses.

MR. MULHERE: Yeah, it would definitely be in addition. Because what -- let me just -- let me just give you a little -- this is raising more questions than I thought it would.

The Hitching Post park has a recreational facility that's shared between two associations. I may have this slightly wrong, but I believe one of the associations does not own or does not have ownership in that recreational facility. And in the future in order to ensure that they would have a recreational facility, one option under any scenario, let's say the other portion of the park sold that property or something, they would be left without a recreational facility.

So one option is to allow for a recreational facility in this location right here with pedestrian bicycle or maybe golf cart interconnection. Maybe vehicular but probably wouldn't necessarily need that. And that would be no more than three acres in size. Would include -- something funky about that microphone -- but would include typical recreational type uses.

I don't know that we need to restrict that. It's going to be, you know, a clubhouse, a pool, a bocce ball court, the typical kind of things that -- and it probably depends on the size. If they went for three acres, they could have more, if they went for two acres, they would obviously have less. But it would private in nature.

So, you know, it's kind of premature to know exactly what they might put there. And it's not really commercial, it's really a private recreational facility.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir.

MR. WEEKS: Would it be appropriate for staff to make a couple of comments now before you --

CHAIRMAN STRAIN: Sure. I mean, I'm going to have questions of the applicant, but mine can certainly occur at any time, so go right ahead.

MR. WEEKS: Just two or three. The first would be on their second page under letter A, allowable uses. And the thought occurred to me that in allowing C-4 zoning district uses, both those allowed by right

and by conditional use, that's almost the same as asking for C-5 permitted by right. Not completely. But many of the uses allowed by conditional use in C-4 are allowed by right in C-5. And I just want to point that out, that it's not the same as C-5. But a lot of those conditional uses are allowed by right in C-5. And with this language they would be allowed, all those CUs and C-4 would be allowed by right. So there's a lot of intensity that would be included in this.

I know in the PUD this will be scrutinized more closely, but to me it just begs the question do we want to allow that intensity generally in the plan.

And then the other two points go over to -- let's see, it would be the fourth page. This is under C, additional use restrictions and -- no, excuse me, it's under D, site development. Number eight. It's already been discussed. This the residential development shall be limited to market rate project. And then goes on, to avoid the concentration of affordable housing in one location in the county.

Two comments about that. First is that if this language, the highlighted phrase to retain regarding the concentration of affordable housing, if that's desired to be kept in the GMP language, I would submit to you that this is not the appropriate location. This is an explanation of why a use is allowed or is restricted in some way. If we're going to keep this here, let's move it to the purpose and intent section and then make some reference to the housing element policy that refers to avoiding the concentration, and then this statement could be part of that. This is just proper format.

CHAIRMAN STRAIN: I don't think anybody's going to be heartburn over that.

MR. WEEKS: And then the other thing, though, is of far more substance and that's that the applicant's data and analysis staff did agree demonstrated a need for more rental apartment -- market rate rental apartments. And by changing this to eliminate that limitation that it does mean condominiums would be allowed. And as the applicant's own language -- application indicates, proximate to this site there's over 10,000 approved but unbuilt dwelling units. What is the justification for allowing additional type of dwelling unit that we have such a large inventory of already?

CHAIRMAN STRAIN: Thank you, David.

MR. YOVANOVICH: Can we respond to that?

CHAIRMAN STRAIN: Sure, go ahead.

MR. YOVANOVICH: I think one factor of data and analysis is community desire. That is data and analysis. And we've had that discussion with sev-- both at the NIM and with some of the Planning Commissioners that felt that the community would prefer a for sale product versus a rental product on that site.

And then I also go back to if we can't get enough density for a properly amenitized market rate condominium project, then we default down to single-family development on that site. And single-family development on that site will be probably at a lower price point and may actually encourage some more affordable housing to be constructed in that area. So I think that is data and analysis for -- and it's already happening, Ms. Ebert. The RSF-4 property right around this is being acquired. The individual lots are being acquired and are being built as affordable housing units. And I think Ms. Homiak can probably help confirm what I --

COMMISSIONER HOMIAK: Well, Habitat has bought up a lot of the properties in Trail Acres.

MR. MULHERE: And the nature of this property -- just to add to that, the nature of this property makes it different from those others. Almost -- I believe all of the 10 to 12,000 unbuilt approved units are within large or fairly large master planned communities. Those are different from a 30-acre project that has a net developable area of maybe 22 acres. It makes the type of development that you would put on that different from a 100, 200, 500, 2,000, 5,000-acre master plan community. They're not the same. You have to treat them differently.

CHAIRMAN STRAIN: Bob, back to David's point about the C-4 and the conditional uses. First of all, C-4 has 142 uses. Actually, 140. The conditional uses that are allowed there are 23 more. Many of those are on your prohibition list, so you weren't going to consider them anyway.

I would suggest you look at that and see if you really need it. Because if you do, what we would have to do is build -- if we were to accept what you're suggesting, we'd have to build the conditions of approval for a conditional use into your PUD for every one of those uses that you are considering as a

permitted use by right that's a conditional use.

MR. MULHERE: Unless you think -- unless --

CHAIRMAN STRAIN: You may not need them is what I'm suggesting.

MR. MULHERE: Except that typically when you're going through a public hearing for a PUD rezone, that constitutes the hearing for a conditional use. Same issues, same analysis. Typically that's the way it's treated in Collier County.

CHAIRMAN STRAIN: Well, but typically we have two different ways of approaching it. Some say permitted uses by right and they list -- and they just say the district. They don't say conditional use. And we have certainly brought that up at many meetings. All I'm suggesting is if you leave it there we're going to look at it differently.

MR. YOVANOVICH: Mr. Strain, going back to the conversation with David, which was confirmed by Mr. Mulhere, is that these are allowable uses, they're not permitted uses in the GMP. They're obviously subject to review at the PUD stage. In the PUD we would list -- we wouldn't just say all C-4 uses. We will come back to you with the list of uses we want. So you won't have to worry about if we want a conditional use that's a conditional use under C-4, we'll list it as a permitted use in this PUD. So you'll be able to go through that strict scrutiny of uses. I doubt we'll come in -- I think you said there's 142?

CHAIRMAN STRAIN: Yeah, I've got the C-4 section --

MR. YOVANOVICH: I don't think we're going to come in with 142 permitted uses in the PUD.

CHAIRMAN STRAIN: Oh, I can assure you you're not.

MR. YOVANOVICH: I know we -- what my point is, is that we are going to come in with the laundry list of uses we want and you'll be able to measure the intensity of whether you agree or disagree that it's appropriate on that property.

CHAIRMAN STRAIN: And David, from a perspective of the GMP based on that kind of statement he just made, does it matter? Is it an issue we should decide now or we should wait until -- does it matter if it's decided now in regards to how it's worded in the GMP or is it still something that can be resolved absolutely guaranteed in a manner of discussion at the PUD? Because the last thing I need is someone to say well, it's in the GMP, we can do this, and we have a fight we didn't need to get into if we just excluded it to begin with.

MR. WEEKS: Commissioners, it's acceptable to wait until the zoning. It's just that it arguably creates an expectation of what would be allowed. And that's the very type of argument we've heard thrown back at us of why something should be allowed when it comes to the zoning stage. Well, the plan allows it. That's created the expectation that that's what's going to go there.

But I stand by what I said earlier, at the PUD stage we absolutely have the right to say this use is not appropriate, it's not compatible and for whatever reason, legal reason, that you should not be allowed in the zoning.

So I could agree that we could leave it here, but I just raise the question, because as you've acknowledged, Mr. Chairman, there's 20 something conditional uses allowed in the C-4 zoning district. That's a lot of uses potentially added by right.

MR. MULHERE: I'm perfectly happy to come back to you with the specific conditional uses that we might be requesting. And we can either include them in here or include them in the PUD.

CHAIRMAN STRAIN: I think that might be a better way to approach it.

MR. MULHERE: Because there aren't -- we don't need all of those conditional uses.

CHAIRMAN STRAIN: You already said you would prohibit some voluntarily. The homeless shelters and soup kitchens, I'm sure you don't want. Fuel dealers. You can't do fishing, hunting and trapping on the site so you don't need that one.

MR. MULHERE: We can now.

CHAIRMAN STRAIN: Yeah, I figured it would be something like that.

Okay, my questions will be centered around -- since we've got a lot of the discussion in the GMP further along, your reference to the vision for the East Trail corridor was included in the packet that this Planning Commission received.

MR. MULHERE: Now we wish we never included that. Because the intent for including that was

not to suggest that -- whatever that which was never adopted and only preliminary discussed was not to suggest that whatever that plan suggested is what we would ask for. Simply that others have recognized that this site was unique and could allow for a mixture of uses or should allow for a mixture of uses.

CHAIRMAN STRAIN: Right. But since you did introduce it and since it is the vision for the community as some people may have seen it, and I did look up the participatory people in that, it's a registered foundation and all that stuff. Under their center section that was included in your backup material, and it was on -- it's on Page 13 of the vision for the East Trail corridor. Under centers it says: The centers should be scaled consistent with a transit mount so that intensity and design of the center relates to the intensity and design of the surrounding area. Centers put forth in the character plan that would be appropriate along the East Trail corridor range in type and scale from town centers, neighborhood centers, village centers, hamlets and rural crossroads.

Now, the reference to the character plan, if you open Dover-Kohl up and you go to Page 94 in the Dover-Kohl design manual, you'll find they have five center types: One is the rural crossroads, which you mentioned; a single intersection within a small roadside country store, convenience outlet in an otherwise rural setting. I don't think you're talking about that with a quarter of a million square feet of commercial.

Hamlet: An informal compact grouping of five to 20 buildings which may be tightly focused around a small-scale commercial establishment, a place of worship or a civic building.

Village center: The heart of a self-contained community surrounded by countryside where provisions are made for the eventual inclusion of at least a minimal commercial component.

Neighborhood centers and town centers: When multiple neighborhoods are grouped together in a town, the neighborhood centers are the quieter civic hearts of each neighborhood, while this group surrounds and shares a more commercially orientated town center that is located along primary thoroughfares.

Now, they provide examples in Dover-Kohl, none of which seemed to reach the intensity of sizing of -- by the way, they have some limitations in the vision committee, or actually in this one in Dover-Kohl about the size of the buildings that would go in these. They're looking at 20,000 square feet but generally not greater than 50,000 square feet.

I see no -- I've heard no discussion of limitation. Because you mentioned a Costco. That's 100,000 plus square feet with gas pumps. That's a lot different than what the visioning committee it seems intended by their references to the Dover-Kohl plan. So either you guys got to come on board with the Dover-Kohl plan and look at the specifications on that --

MR. MULHERE: If we did, we'd be --

CHAIRMAN STRAIN: -- or you've got to take that reference to the East Naples vision out of the picture and we've got to ask that committee, of which Ms. Homiak was one, did they intend that to be consistent with the plan or what you're talking about. Because they even gave that activity center, if you want for lack of a better term, that area a name. I think it was an Indian name of some --

MR. MULHERE: Navaho.

COMMISSIONER HOMIAK: Well, it's the road.

MR. MULHERE: Navaho Trail.

COMMISSIONER HOMIAK: She used it as a cut-off or segments as part --

CHAIRMAN STRAIN: But if the committee intended something to be there and you're using that as a basis for your argument, I certainly would like to understand then how you're coordinating those two. Because I didn't see it in what you're proposing here today.

MR. MULHERE: It wasn't our intent to comply with the Dover-Kohl provisions at all. At all. It was simply to provide a piece of information as data and analysis that indicated that folks had been looking at this site, and that was primarily the East Naples Civic Association, to my knowledge, that was looking at it. Or a branch of it, okay. And that they had entertained at one point some mixed use nature. Doesn't mean that they couldn't consider what we're proposing as being appropriate.

And so we weren't planning to -- I mean, those don't even make sense, the examples that you read to me.

CHAIRMAN STRAIN: Well, I'm just reading what you supplied. And my concern is --

MR. MULHERE: But I keep saying what the intent of supplying it was on our part, but no one

seems to hear what I'm saying so, you know, I don't know.

CHAIRMAN STRAIN: I understand what your intent was. But then you're saying that you don't intend to be consistent with what the visioning of the community was.

MR. MULHERE: I don't think that was really the visioning of the community. Honestly, I don't. I mean, I know they began to look at a visioning process. They never completed it. And, you know, they didn't even adopt that. It was simply a beginning of a process.

CHAIRMAN STRAIN: Now, Karen, are you --

COMMISSIONER HOMIAK: Well, it wasn't completed. There was no money.

THE COURT REPORTER: Could you please speak on the microphone.

COMMISSIONER ROMAN: Yeah, I can't hear you at all.

COMMISSIONER HOMIAK: I'm sorry.

It wasn't completed because there was no money. This was funded by developers in the area of which Treviso Bay, the previous owner of this property, was part of. But it was never intended to be -- most of the community wants something of the low density and low intensity along that area. That was -- I mean, that was part of the vision, it was the start of it. We had our first public meeting but it went no further than that. So whether it would have changed or not, I -- you know, but that's the most concern of anybody there. They want -- in the view shed from the road. Same thing we went through with Colliers over by Rattlesnake Hammock there, the property that's not developed yet as commercial. We want to try and keep the rural character as much as possible that you can see from the road and not have strips of commercial everywhere. But we don't want it to look like the north trail or -- I mean, we want to keep the rural character. There's a lot of -- it's just too environmental there anyway. I think you're going into the Everglades, there's a lot of natural parks and -- just wanted a different -- our own community and a certain look to it.

COMMISSIONER EBERT: I have a question.

COMMISSIONER HOMIAK: And we're just trying to get there.

MR. MULHERE: I think there are, but not really surrounding this piece of property. It's kind of iso -- it's got development on all sides.

COMMISSIONER HOMIAK: Well, there's a park across the street that's --

MR. MULHERE: Right. And directly across the street is Whistler's Cove and next to it is the park. Some of the Whistler's Cove property I think went to support that park, I believe, a piece of it.

CHAIRMAN STRAIN: But the point I was trying to make is you guys don't intend to follow the East Naples vision plan, even though it was part of your application.

MR. MULHERE: Yeah, and I --

CHAIRMAN STRAIN: Those kind of things tend to muddy up the waters.

MR. MULHERE: However, I will say that I heard your comments related to the setback and view corridor, and that's something we can certainly look at and bring back as part of the PUD in addition to the amenity list that we talked about, to ensure that that was, you know, the right kind of developer.

CHAIRMAN STRAIN: Karen, does that committee still exist, the foundation?

COMMISSIONER HOMIAK: Yes. The foundation, yes.

CHAIRMAN STRAIN: Could they possibly meet to go over this application before the adoption PUD hearing?

COMMISSIONER HOMIAK: Sure.

CHAIRMAN STRAIN: I mean, it might be --

COMMISSIONER HOMIAK: I mean, I mentioned it at our last meeting that it was in this packet, because no one really knew about that.

THE COURT REPORTER: I'm sorry, I can't hear you.

COMMISSIONER HOMIAK: I'm sorry.

I mentioned this at our last meeting that it was in this -- included in this, but no one was aware of it.

CHAIRMAN STRAIN: Okay. Well, that's why I'm asking, could you --

COMMISSIONER HOMIAK: I mean --

CHAIRMAN STRAIN: -- take a look at it before the next four or five months go by? Since you --

COMMISSIONER HOMIAK: Sure.

CHAIRMAN STRAIN: Since you all wrote that plan. And that plan seems to be something that the applicant is wanting to at least be aware of.

MR. MULHERE: We'll try to get over to the civic association and have a conversation with them.

COMMISSIONER HOMIAK: Well, this is a different board.

MR. MULHERE: Oh, I thought they were --

COMMISSIONER HOMIAK: No, it's not.

MR. MULHERE: Sorry.

CHAIRMAN STRAIN: But that's another good idea, though.

COMMISSIONER HOMIAK: They should be --

MR. MULHERE: We can do it together.

COMMISSIONER EBERT: I have a quick --

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: I have a quick question. And it's really two part.

David, do you use the Kohl's method for when you implement things?

MR. WEEKS: The Dover-Kohl?

COMMISSIONER EBERT: Dover-Kohl's. Because I hear that mentioned a lot through staff that's how we do this stuff. And I just heard Bob say we have no intention of using the Dover-Kohl's. We'd be the first one that ever did. And I'm going wait a minute, staff does it one way and --

MR. WEEKS: Well, I think I have two responses. The first is to state what it was. The Dover-Kohl study was just that, it was a study commissioned by the county. And that study recommends certain types of development, styles or patterns, including those that you might see in Golden Gate Estates as a neighborhood center all the way to the types of activity centers that we have in the urban area and different scenarios in between. Not just dealing with commercial but also dealing with mixed use and with non-commercial developments such as parks. And I think road corridors even. It covered a lot.

That study has partially been implemented through certain amendments to the comprehensive plan, as well as to the Land Development Code. So to the extent that the plan has already been -- excuse me, that the study has been incorporated into the Land Development Code and the Growth Management Plan, yes, staff does rely on that study in that sense.

Beyond that it would be more general in nature. Just like in this case this applicant has made some general reference to this particular study here, staff in looking at a comprehensive plan amendment might look at the Dover-Kohl study and its proposed design of a mixed use development, say, if we were looking at a Growth Management Plan Amendment for a mixed use project as a general source. Because it's not a regulatory document. So we could look at it for ideas, for concerns, for opportunities within an amendment. But we can't say that study says it should be this, therefore this plan amendment should be that same way.

MR. MULHERE: And in particular, those types of developments that Mr. Strain mentioned have never been adopted.

CHAIRMAN STRAIN: And I wouldn't have mentioned it had you not put it forth.

MR. MULHERE: I know, yeah.

CHAIRMAN STRAIN: So when you guys put something in documentation that you try to sell to the public, you have to stand by it. That's all I'm trying to say. And it didn't look like you were, so -- and I've now found out you're not.

Anyway, based on the timing, my intention is to get us through this application to a point of continuance before we break for lunch. So when we come back we only have the Esplanade to deal with. But I want to make sure the public that's here gets to voice their concerns as early on as possible.

I still have a few questions from the NIM that I think I can wrap up pretty fast, then I'll go to members of the public for their comments.

The first page of the NIM meeting, it's the 257th page of your application, I'm confused by what it says. It's in the very first paragraph right after the start of the meeting. Mr. Mulhere also went over the proposed PUD master plan, including location for development, stormwater lake, preserve and project access. Mr. Mulhere also explained the process for review and approval of GMPA in the PUD amendment to export fill for U.S. 41 improvements, changing from golf course community to lake community has resulted in

excess fill, briefly identified projects anticipated to take additional fill.

What is that about? On the first page of the NIM transcript. And it's --

MR. MULHERE: That sounds like language that should have come out of this summary that was left in there from a previous one using a format. That sounds like it was cut and pasted. Error is what it sounds like.

CHAIRMAN STRAIN: Well, that's good.

MR. MULHERE: Because this project had nothing to do with that. And we didn't discuss that.

CHAIRMAN STRAIN: I think that's the --

MR. MULHERE: Naples Reserve.

CHAIRMAN STRAIN: You're talking about Naples Reserve, yeah. Okay, so you're not going to be exporting any fill.

MR. MULHERE: No.

CHAIRMAN STRAIN: In the discussion with the NIM, you said that you're having an overriding cap to limit development. And I'm expecting that to mean the traffic.

MR. MULHERE: Yes.

CHAIRMAN STRAIN: So we're going to have to have John eventually comment on how strong that cap is.

Then further on, and this is -- by the way, it wasn't the transcript, it was the summary prior to the transcript that that was in.

In another part, Page 13, and this is the transcript, your presentation, we've strategically located certain things. And then it says: But what we've done is built that up by building our preserve in here. And we've already had the discussion with staff and they're supportive of the location of the preserve.

Now, at the time I outlined that I did so because you had asked in the GMP to have all the preserve removed. So that would be contradicting what you had said in the NIM, so it would have been something I would ask to be struck. I saw you subsequently have struck it so that takes care of that. But you did say this is over a 100-foot width in this location. Now, that insinuates it's 100-foot wide preserve strip.

MR. MULHERE: Yeah, I meant the setback.

CHAIRMAN STRAIN: Could you, when you come back, show us minimum width of that preserve strip so we can --

MR. MULHERE: Yes.

CHAIRMAN STRAIN: -- understand what you're going for.

MR. MULHERE: And -- sure. And probably the setbacks as well, so you can see what that distance is, yes.

CHAIRMAN STRAIN: Then it says you're going to have much more robust preserve than folks typically have for a 50-foot landscape buffer. We still have to provide the landscape buffer but in addition we'll have the preserve.

Now, a robust preserve is something that I would assume means it's got a lot of plant material. And I understand that the material on this site is primarily melaleuca. So what's going to happen when you bulldoze all that down?

MR. MULHERE: Well, actually, we're going to retain the native vegetation as much as we can that does exist there. And then we'll supplement that to make sure that we --

CHAIRMAN STRAIN: Well, in the PUD process then we will have to have that word robust spelled out and how robust you're going to make it.

MR. MULHERE: I'll tell you what we're going to do. Because it's already required by code.

CHAIRMAN STRAIN: Okay. I'm moving my way down this -- you're actually developing 20 or 22 acres of land. I think that coincides with what I saw in the PUD.

Which leads me to my final discussion at this point. The three sides of that project, not the side facing the Tamiami Trail, based on the measurement of -- I'll use from the aerial at the tax assessor's office -- totals about 3,700 lineal feet. Of that, 700 feet is adjacent to residential -- or commercial. The balance, nearly 3,000 lineal feet, is all adjacent to residential.

So one consideration that you may want to look at is that your intensity of development for

commercial, you should -- I would suggest you consider a dividing line on that property between where you may have certain intense uses and less intense uses. For example, a gas station, you're not going to -- that's going to have to -- if that is even considered, or gas pumps, you wouldn't want to put them back by the residential, they'd have to go out along 41. If you're going to put in some of the more intense uses of the C-4, maybe those are the ones that go along 41 and then there's, say -- I don't know how long this project is, say it's 2,000 feet. But the front 1,000 might have one zoning category applicable to it and the back 1,000 might have another. And it might also help you suggest where you could put your residential if you were only going to do partial residential with a mixed use product, because then you're actually helping the residences to the south by putting the residential closer to them. That's something you ought to consider in your planning when you come back, after the continuance is provided.

MR. MULHERE: And that's the intent for designing it the way mixed use --

CHAIRMAN STRAIN: Well, I was thinking you'd go a step further --

MR. MULHERE: Yeah, I understand.

CHAIRMAN STRAIN: -- and make at least the statement in the GMP for at least how much this site would be potentially applicable to the higher intense uses and how much would be to the remaining uses. So it's just a suggestion.

And with that, if there's anymore questions of the applicant? If not, we'll go to public speakers.

(No response.)

CHAIRMAN STRAIN: Okay, Bob, thank you.

MR. MULHERE: You're welcome.

CHAIRMAN STRAIN: And Ray, do we have any registered public speakers before we just go to public speakers?

MR. BELLOWS: No one has registered.

CHAIRMAN STRAIN: Any member of the public wish to speak on this item?

Ma'am, come up to the microphone and please identify yourself for the record.

MS. KELLY: My name is Rosemary Kelly. I live at 22 Pecos Trail, Naples, Florida, in the Hitching Post.

We attended, and it wasn't a very well attended meeting because people have already gone on vacation. As you can see today, it's not well attended by the Hitching Post either. Most of our board is on vacation or had prior commitments.

We're not opposed to seeing the land developed. We had -- one of the board members discussed with Chris purchasing a piece of land for future development. We presently have to cross Barefoot Williams to go over to the clubhouse that we jointly own with the Naples RV Park. Hitching Post is manufactured homes, they're RV's, park models, what have you.

And the light has greatly helped us in that area. Now they've put another light up at Whistler's Cove because we have so much traffic in season going back and forth.

And I went to the meeting and I had a lot of questions. And obviously I don't have the expertise you do. And you did bring up a lot of the questions that neighbors had. You know, what are you going to put there. I don't know, C-1 to C-5. I'm just a resident who wants to make sure that the East Trail does not become the North Trail. We have a beautiful park going across the street with a little civic center going in there.

It's a heavily traveled area. Heavy commercial use of the property is not the way we want to see it go. And I don't think you do either.

I'd like our board to be more involved with talking to Mr. Shucart to see if we could purchase a portion of the land. At one time I served on the board and I wanted to buy the whole parcel, and it took me a long time to find out who the actual owner was. And by that time it had already been purchased.

And then one of the our board members started speaking to Chris and we were looking at an acre or an acre .4. And, you know, the price is up there. And I know they want to get money for the land, but a heavy -- I can't imagine buy a luxury apartment and looking out the window at Whistler's Cove. I would want a swimming pool, tennis court, I'd want a lot of amenities. Which are offered at Lely, which are offered at Treviso Bay, which are being done at Artesia.



We want to kind of keep our community a community. We don't want to become on the fast track. If we had ever known that RaceTrac was purchasing that property in front of our clubhouse, which I still can't figure out how they're going to exit without using a driveway that we use bicycles, golf carts and a lot of walking pedestrians, we would have been at that meeting to protest. But we didn't know.

CHAIRMAN STRAIN: That didn't happen at a meeting. That's I believe under what's called straight zoning. It's been zoned that way for a long -- before this board ever existed. Unfortunately that wasn't one that they needed public approval on. It was --

MS. KELLY: Okay, they're exiting, I don't know how the zoning commission or whoever handles that is going to handle the zoning on how they get out of there.

CHAIRMAN STRAIN: There are no zoning issues that we're involved in on that. We can't be.

MS. KELLY: Okay. That's all I wanted to say. And I thank you for your time and I thank you for asking all the questions that I wasn't experienced enough to ask.

CHAIRMAN STRAIN: I do have one question for you. Are you on your board?

MS. KELLY: No, I am not.

CHAIRMAN STRAIN: Is someone in your group able to talk with them to see if they would be interested in sitting down with the applicant and going over all these codes, these C-1 through C-4 step-by-step, use-by-use to see which ones may or may not be offensive to you all?

MS. KELLY: Certainly. Richard Elstridge (phonetic) will be back next week, he's the president, and I'm sure he'd make an appointment with Chris and sit down with him.

CHAIRMAN STRAIN: Okay. Because all those are spelled out in a book like this, and you really need to have that there, and you need to look at the number in here and see what it says so you know how the intensity would affect and impact your neighborhood.

MS. KELLY: Not a problem. We'll take care of it.

CHAIRMAN STRAIN: Okay, thank you.

MS. KELLY: Thank you very much.

CHAIRMAN STRAIN: Okay, any -- Stan?

COMMISSIONER CHRZANOWSKI: Quick comment. I've seen this come up before where people say none of our residents are here in the summertime. I know the Board takes off the summer, but there's just no way that we're going to shut down the county government for three or four months because everybody goes up north. I mean, just things keep going.

CHAIRMAN STRAIN: Right. And in this particular case it's going to work out almost exactly like they're requesting, because the hard zoning issues aren't going to come up 'til the PUD and the adoption comes along a few months from now.

COMMISSIONER CHRZANOWSKI: In this project. But I have seen many other projects come through different boards where the residents come up and they say all our people are up north. And you just can't shut the entire government down because everybody goes up north.

CHAIRMAN STRAIN: No, understand.

Anybody else?

(No response.)

CHAIRMAN STRAIN: Just a little bit of renew -- or reminder of what we've talked about.

We're looking at the residential density and how that's occupied, sold or operated.

Mitigation to the -- of 100 percent off-site was something that wasn't favored. You've come up with a proposal for 15 percent.

We're looking for conversion numbers between an ACLF and residential or commercial and hotel and commercial, something of that nature.

No standalone gas station, you're looking at ways to apply that.

Limiting the size of any one building, I'd certainly like to know what the largest building is you expect to put there. Which isn't unprecedented to ask for in a situation like this.

Going to remove the building height and setbacks from the GMP and the prohibitive uses and indicate some language in the GMP that these matters will be able to be handled at the PUD level.

And consideration for C-4 CU uses.

And then finally, take a look at the idea of putting the more intense commercial uses along 41 with a dividing line somewhere along the project to indicate a point of separation.

MR. YOVANOVICH: Mr. Strain, I agree, we talked about all those things. There's two that's just come to mind, and Bob may think of others, that it may make more sense to do as part of the PUD instead of the next two weeks. One would be building size, if we can leave that to the PUD.

CHAIRMAN STRAIN: I have no problem with that. As long as you're aware that --

MR. YOVANOVICH: I know. And we'll address every one of those things you said, but I'm not sure that in two weeks time we can come up with what would be a good size building without talking to people.

CHAIRMAN STRAIN: Understand.

MR. YOVANOVICH: Likewise, the line, you know, where the more intense uses will be or not be I think probably can also be -- well, I know it can be addressed in the PUD. And I would like to think that that would be the better time to do that.

It certainly can be included as part of the adoption, if that's where you think it needs to be, and the GMP as well. Because again, we're going to be meeting with residents and others, and as we talk through this stuff we could probably come up with a better idea of where that line may or may not be applicable. So I would like to defer that to the PUD or the adoption instead of trying to figure it out in the next couple of weeks, if that's acceptable.

CHAIRMAN STRAIN: I mean, I'm fine with that. My point was to get it on the record and secondly, to make sure that when you do meet with the residents, if that kind of option is there, they know that, so that that can be discussed with their board and possibly look at that split with them as well.

MR. YOVANOVICH: I agree. And we will -- everything you said that needs to be addressed will be addressed. I just didn't know if you were expecting it at the next review.

And likewise, I'm not -- and I know you're going to prove me wrong as soon as I say this, but I don't recall conversion factors for ALFs and commercial being in the GMP. I absolutely know in PUDs, but I don't remember --

CHAIRMAN STRAIN: I'm not sure if they were in the GMP or not.

MR. YOVANOVICH: Right. I mean, I do know we have those --

CHAIRMAN STRAIN: I have asked on multiple times. I can't tell you, and I'll defer to David on that as far as where it's best spelled out. But I don't want it to be utilized that well, the GMP didn't have a restriction and we have all these piled on top of one another. No, that's not where we're going to go.

MR. YOVANOVICH: I understand. And I recall those kinds of conversations occurring at the PUD stage with conversion factors, I just don't remember one where we did it at the GMP.

CHAIRMAN STRAIN: I don't offhand. I'll have to check, and I'll leave it to David's final discussion --

MR. YOVANOVICH: I just didn't want to come back in a couple weeks and have forgotten to address something that you thought we were going to address. So I just wanted to clarify all that.

CHAIRMAN STRAIN: And David -- or Corby, did you want any follow-up? I offered it to you because of the earliness of your original presentation. If you want to follow up, you're more than welcome to.

We're going to continue this meeting, by the way, without a vote of final authority. We're going to continue this meeting until we get back a lot of the responses to today's discussion.

Richard, you seem surprised by that.

MR. YOVANOVICH: No, no, I just --

CHAIRMAN STRAIN: Go ahead.

MR. YOVANOVICH: Are we planning on combining the consent along with the next review into the same meeting?

CHAIRMAN STRAIN: I won't have a problem with that, because I think we've gone far enough along today.

MR. YOVANOVICH: I thought so too. I just wanted to make sure we were doing it both at the same time.

CHAIRMAN STRAIN: Yeah, I think that will work.

MR. YOVANOVICH: That was my only confusion.

CHAIRMAN STRAIN: Corby?

MR. SCHMIDT: I just wanted to say that I had nothing else to say. Thanks for offering, though.

CHAIRMAN STRAIN: Corby, that's great.

MR. SCHMIDT: All that time.

CHAIRMAN STRAIN: And my last question is a follow-up with John Pod. And John, if you're not prepared to answer this in detail today, when it comes back that's fine. I want to make sure we understand the -- how solid of a restriction the cap on traffic counts is and how the current traffic count number compares to the one that the previous PUD was already approved for. So I just wanted to make you aware of that and if you want to just be prepared for that for our next meeting when we finalize this.

MR. PODCZERWINSKY: If you'd like, I can answer the first part for you today.

CHAIRMAN STRAIN: Okay.

MR. PODCZERWINSKY: I don't have the answer on the second part of your question, how the two compare.

But in any case, the strength of that when it's implemented at the PUD, it's a county ordinance once it's implemented. So it's something that is enforceable by Code Enforcement. We look at it at every review stage thereafter. It's set in stone as far as we're concerned.

CHAIRMAN STRAIN: I'm more worried about how you get to the number. Your traffic engineers are like smoke and mirrors, the snake salesmen. Am I saying that right? You know, you can't sit here and argue with them too well because they talk in circles.

So I can see 1107, whatever the number is, being generated by any number of ways to get there. How -- and that's kind of what I'm concerned about, is that 1107, how much flexibility does that provide in the intensity uses or does that even relate?

MR. PODCZERWINSKY: I understand your question, and yes, it does relate. That's why we include one specific word in the condition that limits those trips. We use the term unadjusted. And when we say unadjusted, what it means is the total maximum trip generation that the uses could provide without any adjustment for pass-by trips, internal capture, the type of things that you usually think of --

CHAIRMAN STRAIN: That's exactly what I was getting at.

MR. PODCZERWINSKY: That's why we use an absolute number. It's an unadjusted number. That way it cannot be exceeded.

CHAIRMAN STRAIN: It's like gross square footage, leasable square footage, net net -- we get into all these different terms -- manic -- however you say it -- ways of looking at it. It's concerning. And I just wanted to make sure we're not going to get tripped up by that.

MR. PODCZERWINSKY: Right. That's exactly why we use that term, so that we don't become tripped up by it later.

COMMISSIONER HOMIAK: This is p.m. peak hour.

MR. PODCZERWINSKY: P.m. peak hour unadjusted trips is the term that we will use at the PUD.

CHAIRMAN STRAIN: Well, okay, and if --

COMMISSIONER HOMIAK: It's not the number of trips generated during the day, daily trips, it's p.m. peak hour.

MR. PODCZERWINSKY: That's correct. We don't use daily trips when we calculate these because we relate it to the p.m. peak hour, which is typically the peak hour of the site for most of the uses that are out there. There are few exceptions to that, depending on the potential uses.

And I say like schools are a particular difference to that. Schools have an a.m. peak as opposed to a p.m. peak.

CHAIRMAN STRAIN: Okay. Thank you, John. I appreciate it. And David?

MR. WEEKS: Just one comment. It's not specific to where we're headed, it's just that we talked earlier about the affordable housing bonus and I just wanted to get another thing on the record about that.

The affordable housing density bonus, the whole idea behind it is it is to incentivize development of affordable house. People often misunderstand, and I may have even contributed to that by my earlier comments by referring to those people. People often misunderstand and think that when you get the

affordable housing bonus, all of those bonus units are going to be for the affordable -- all affordable units. That is, dwelling units that either sold or rented to those that qualify for affordable housing, you know, of a certain income level.

And that's absolutely not the case. The whole idea of it being an incentive is that the developer by providing some percentage of those bonus units as -- within certain affordable categories, they get a whole bunch more dwelling units at market rate. So it's actually only a percentage of the bonus units that are developed as affordable housing.

Secondly, those affordable housing units are developed at multiple levels. You know, some for the low income, some for the very low income, some moderate income, some work force, some gap. You know, the whole range. And included within that range are housing prices or rental costs that would accommodate the young professionals, which includes planners --

CHAIRMAN STRAIN: He said young, though, David.

MR. WEEKS: Yeah, the new planners.

Your emergency medical and firefighter professionals, teachers, nurses, your young professionals, some of which have been specifically identified as wow, we really need to provide for those, pretty much all those I gave examples of.

So I just want to get that out there that it's not strictly affordable dwelling units. There's a lot of market rate involved as well. And then the range of affordability varies from those that are at the very bottom of the income level all the way to those that include some young professionals. Thank you.

CHAIRMAN STRAIN: Thank you, David. And with that we'll entertain a motion from this board to continue this application to the September 4th meeting. It would be the first one up on September 4th.

Is there a motion?

COMMISSIONER HOMIAK: I'll make a motion to continue to September 4th.

CHAIRMAN STRAIN: Motion made by Ms. Homiak. Is there a second?

COMMISSIONER EBERT: I'll second.

CHAIRMAN STRAIN: Seconded by Ms. Ebert.

Discussion?

(No response.)

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

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0 for a continuance to September 4th to finish this one up. Thank you all for coming and we will maybe see you back on September 4th.

I'd like to ask this board to consider taking a break 'til noon and then come back and finish up the one remaining application that is Esplanade. I don't believe it's going to take nearly as long as this one did.

Does that seem fair to everybody? Means we'd work kind of through what we normally have for lunch. Is that okay?

Okay, well let's take a break, we'll come back at 12:00 and resume.

(Recess.)

CHAIRMAN STRAIN: Okay, Ray, we're on line? Good.

If everybody wants to take their seats, we'll resume the meeting and finish it up without taking our lunch today.

\*\*\*The next item up is 9.B, an advertised public hearing. It's PUDZA-2014000099. It's the Mirasol RPU name change to Esplanade Golf and Country Club of Naples. And it's on the north side of Immokalee Road near 846 -- or near 951.

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

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

COMMISSIONER CHRZANOWSKI: I talked to Rich Yovanovich about this project.

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: I talked to Nick about this project last night.

CHAIRMAN STRAIN: Nick who?

MR. YOVANOVICH: The Greek.

CHAIRMAN STRAIN: Nick the Greek, huh? I don't know, if he's Italian.

I had a meeting with Rich Yovanovich on this, and I know I probably talked to staff about it periodically, so that's it.

Karen?

COMMISSIONER HOMIAK: Nothing.

CHAIRMAN STRAIN: Brian?

COMMISSIONER DOYLE: No.

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: No contact.

CHAIRMAN STRAIN: Okay. With that -- I haven't seen you for a while, Richard.

MR. YOVANOVICH: Did you miss me?

CHAIRMAN STRAIN: Oh, yeah.

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

With me today is John Asher with Taylor Morrison. Alexis Crespo is our professional planner. Tim Hall is our environmental consultant. And Jim Banks is our transportation consultant.

This is a fairly straightforward I believe and simple amendment to the existing Mirasol PUD which we'll be renaming the Esplanade PUD. And it's for the Esplanade project that -- I've put an aerial up on the visualizer for you to see just how far along the project is. It's on Immokalee Road near Collier Boulevard. Part of it actually is adjacent to where Collier Boulevard will get extended but it's near the intersection of 951 and Immokalee Road.

On the visualizer you can see this roughly 19.7-acre parcel. That is what we're adding to the PUD, and we'll do so pursuant to this PUD master plan. That 19.7 acres is in the urban area. It's also within a residential density band. So standalone parcel could be developed with to up to 138 units. We are asking to add that parcel to the property and add 112 units to the overall PUD. And those 112 units will actually get developed on that 19.7-acre parcel.

There are a few other minor changes to the development standards table that we're making. And Mr. Casalanguida, through Mr. Podczerwinsky, two good Italian names, sprung upon us this morning a transportation stipulation that they would like to incorporate into the PUD. I believe that stipulation has been handed out to you all, correct? Not yet? It will be handed out to you all.

CHAIRMAN STRAIN: Do you know why this was sprung at the last minute?

MR. YOVANOVICH: I do not, no. But it's okay, I mean, it happens.

CHAIRMAN STRAIN: Well, it doesn't necessarily mean it's okay. It's something that hopefully could be taken care of in the course of the review instead of --

MR. YOVANOVICH: You know, things come up when you're thinking about it and I'm sure that's what happened, and were are able to work it out while we were doing the previous hearing.

And I'm going to actually let -- you want to do that? I'll let Alexis do it because I was in here when it was being discussed.

How do I zoom in?

MS. CRESPO: For the record, Alexis Crespo with Waldrop Engineering, representing the applicant.

This language again was received just first thing this morning when we walked into the hearing. We did make some slight modifications to the language proposed by staff which you have before you. Mr.

Casalanguida has reviewed this.

The underlined bold text at the bottom that says if the developer is willing to prepay his impact fees for these units at that time is something he added to the language.

Basically there's -- it's two components ensuring that a proportionate share of payment is provided for the additional 112 units being added through the PUD amendment, as well as a timing restriction.

There were two concerns that we addressed through these last-minute changes which were ensuring that the applicant could build on the 19.7-acre parcel; that it wouldn't be tied to the 112 units specific to that parcel but the last 112 units within the PUD.

Based on where the 19.7 acres is located in the southern portion of the project, it's likely that that would be developed in the short term as opposed to the last 112 units being developed. If that's clear.

And we also wanted to add in some language since the proportionate share determination has not been finalized by the county, just to ensure that language in there to provide protection for Taylor-Morrison.

CHAIRMAN STRAIN: Okay. And staff has reviewed this? I mean, I know you got it from Nick or John.

MS. CRESPO: John via Nick.

CHAIRMAN STRAIN: Okay. John, the paper that's been handed out to us that's on the screen with the changes noted, is that something staff is supporting?

MR. PODCZERWINSKY: Yes.

CHAIRMAN STRAIN: Okay, thank you.

MS. ASHTON-CICKO: Mr. Chair?

CHAIRMAN STRAIN: Go ahead.

MS. ASHTON-CICKO: I haven't reviewed any of this language, so if you approve it today, I would ask that it go to consent agenda so I can review the language and provide --

CHAIRMAN STRAIN: Why don't you read it right now? I mean, it only takes a minute. I've read it already.

Diane?

COMMISSIONER EBERT: Yeah. Rich, this is probably my fault, because I called Nick yesterday and I said, whoa, wait a minute, I remember an attorney telling us that this project would never have more than 799 residents in there, when he originally came through and which shows in here. I said it's up to 1,121 and now they're adding another 112. And I said, in reading through it said they're vested for 799. What happened to the other ones?

And you don't know because you don't live in the area, but this road is already pretty much dead. And as I said, is there something -- I said, you can't even get in or out of Pebblebrook at this time.

And in reading the NIM minutes for the people that were there, their big thing was traffic. They didn't care about anything else, it was traffic, traffic and traffic.

So he said, let me get with John. And he said, you're right, this intersection needs to be done.

So this is -- and I didn't know what he and John and the rest of you had worked out. But it was a concern of everyone who lives in the area. Because Immokalee Road is over-used the way it is now. And I'm -- that's where it comes from.

MR. YOVANOVICH: I mean, conceptually we didn't have a problem because we already have commitments to pay money towards that intersection. So this didn't -- the concepts didn't come as a shock to us or too difficult to review. Now we know why it was brought up yesterday. That's fine.

CHAIRMAN STRAIN: Okay. Do you want to -- did you have anything else you want to add to your presentation?

MR. YOVANOVICH: I don't think so. I mean, we've been through this PUD a few times.

CHAIRMAN STRAIN: Anybody have any questions?

(No response.)

CHAIRMAN STRAIN: Richard, when I met with you I told you I have some concerns over the way the rear yard setback was stated in reference to the fact it didn't address how it's going to handle the LME's and LBE's. Did you look into that since we spoke?

MR. YOVANOVICH: Well, when we spoke you agreed that this was an existing PUD and we

weren't going to have to identify those as separate tracts.

CHAIRMAN STRAIN: Yes, because it's an existing PUD. And I understand that. But as far as you went from a 15-foot rear yard setback to a 10-foot. Your property lines go over the LBEs and LMEs, so basically you're selling people property they can't use.

Where do you see your 10-foot setback coming in to play when you have a 20-foot ME, or a 15-foot LBE?

MR. YOVANOVICH: Essentially the setback would be the landscape buffer easement or the LME because they are greater than the 10 feet. We obviously would not be putting structures into the landscape buffer or the lake maintenance easement.

So in those cases, you know, the 10-foot setback will clearly be exceeded.

CHAIRMAN STRAIN: Well, your footnote number one, which is a footnote to the rear yard setback, says rear yards for principal and accessory structures on lots and tracts which abut lakes and open spaces. Setbacks from lakes for all principal and accessory uses may be zero feet, provided architectural bank treatment is incorporated in the design and subject to written approval from the Collier County Engineering Review Section.

Well, that almost seems to negate the LME in that case, because you could put an architect-- landscaping in there and extend the section of the house out into the LME, which wouldn't be practical. But I'd rather see some specific language that says your setbacks will not -- you will not intrude upon the LMEs and LBEs for any reason whatsoever with your structures.

MR. YOVANOVICH: I mean, I don't --

CHAIRMAN STRAIN: We're going to have a big enough problem now with you selling these as usable land to your clients. Because now people are going to expect them to be their backyards, and they really can't be. And that's what caused the whole concern from the beginning. But be that as it may --

MR. YOVANOVICH: And I understand that. And I understand the concern. I don't have a problem putting something in there that says we're not going to put a structure in the landscape buffer easement or a landscape maintenance easement. If we need to add that, we're happy to do that. I mean, practically we can't anyway.

CHAIRMAN STRAIN: Ray?

MR. YOVANOVICH: But even with a separate tract --

CHAIRMAN STRAIN: They're all shown up -- all the LBEs and LMEs show up on the plat or by separate instrument, so they really -- I guess they really couldn't put anything in those by staff's review, would they?

I mean, there's a situation that just happened in Pine Ridge, the lots were platted there up to the edges of the lakes or the LMEs, basically. But they got permits to put fences out into the lake.

MR. BELLOWS: First I heard you could put anything in the lake maintenance easement --

CHAIRMAN STRAIN: I know.

MR. BELLOWS: -- without getting approval from the maintenance ownership, or the --

CHAIRMAN STRAIN: This wasn't done that way, and so I'm just trying to make sure we don't have a similar situation where people are using those LMEs or the LBEs in a manner that's inconsistent with the easement.

MR. BELLOWS: A lot of it depends on who's the responsible entity for the lake maintenance easement. And certainly if it's through the homeowners association, they can grant those waivers.

MR. YOVANOVICH: Are you worried about a fence or are you worried about a house?

CHAIRMAN STRAIN: I'm worried about anything that goes out into an LME or an LBE that isn't part of what that was designed for. We -- A lot of times people believe that they're their backyards when you actually sell them to them, and so they think they can trim all the bushes and plant things, do whatever they want to do, put their barbecues out there. And that's just not true. It's not a usable space.

MR. YOVANOVICH: Well, I don't know that you can't use a barbecue in an easement, because it's

--

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: But what I'm saying is --

CHAIRMAN STRAIN: Is it appropriate?

MR. YOVANOVICH: I'll be honest with you, even if it's a separate tract, I'm looking out my backyard and my lot ends before I get to this separate tract but there's no marker where this tract is. You under -- there's no fence or something. I mean, I'm probably thinking that's my backyard anyway, even if it's platted as a separate tract, from a practical standpoint. I mean, it's not like there's something saying hey, Mr. Yovanovich, you end here. But I get it. And we're not allowed to put structures in those lake maintenance easements anyway.

CHAIRMAN STRAIN: I'll work with that.

I also notice that your warranty deed for the property that you attached to your application includes the north half of the Section 11, Township 48, Range 26 East, Collier County, Florida.

You did plat that as part of the Esplanade Golf and Country Club, and you did spread your homeowners docks across it. Why when it's not part of the PUD?

It's up to the right of the -- right there, yeah. Just --

MR. YOVANOVICH: That is actually a preserve requirement related to the permitting of the project. So that was included as part of the plat, because even though it's not within the PUD, it is related to the PUD, if you will. But it is not encumbered by the restrictions within the PUD.

CHAIRMAN STRAIN: I was just curious. I had seen -- I thought that was interesting to plat it and spread the HOA documents over it and then not make it part of the PUD. Because this piece you went to the trouble of bringing it in.

MR. YOVANOVICH: And I have a brief recollection of this. The reason that was not in was that parcel, if I remember correctly, was acquired after at that time Mirasol had been identified as what could be subject to the density blending regulations. It was a certain date that you had to own the property by.

That property was acquired after the magic date. So it was left out because we were not allowed to count it as part of the project for purposes of density blending, you know, and getting the approval. So that's why that is not part of the original PUD. It made no sense to be part of it and became very confusing if we started getting into what counted and what didn't count for purposes of the density blending at the time.

CHAIRMAN STRAIN: Okay. It wasn't an objection, I was just curious.

Ray, does addressing review the PUDs in this particular case?

MR. BELLOWS: Yes, they do.

CHAIRMAN STRAIN: Okay. So they were satisfied that it's okay to have two projects in Collier County named Esplanade?

MR. BELLOWS: Well, I --

CHAIRMAN STRAIN: I guess they were, because they didn't object, right?

MR. BELLOWS: Normally the review staff with addressing would notify the planner if there was an issue with the name.

CHAIRMAN STRAIN: Okay. I mean, I know now there's two.

COMMISSIONER EBERT: I think they own the other one.

CHAIRMAN STRAIN: They do. But it's down in Hacienda.

MR. BELLOWS: I think one method they have used in the past is when there's adjacent or similar projects, they may say Landings at Bear's Paw, for example. The Landings was a PUD adjacent to Bear's Paw. They wanted to incorporate Bear's Paw into it, but they had to put The Landings first and incorporate the Bear's Paw second. Addressing has approved that concept in the past.

CHAIRMAN STRAIN: Okay. I don't have any other questions. Does anybody else?

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: Rich, on the planning, let me see, it would be Page 20 of 21, the developer shall complete construction before it was done at 45 percent of the project. And they upped to it 50 percent of the project. Why? Why the extra five percent?

MR. YOVANOVICH: I'm just reading it. Bear with me.

I will tell you what I assume, is the developer looked at that and said we need a little bit additional flexibility for when we've got to put the permanent clubhouse in.



COMMISSIONER EBERT: Well, it was just something that before it was at 500 units, now it's 50 percent.

MR. YOVANOVICH: Which is 616.

COMMISSIONER EBERT: Yeah, well.

MR. YOVANOVICH: I know, I'm just saying it's still fairly early on in the project. So it's some additional flexibility.

COMMISSIONER EBERT: And again we have a traffic limit here, Mr. Podczerwinsky. They are limited to 823 two-way unadjusted p.m. trip hours?

MR. PODCZERWINSKY: Yes.

COMMISSIONER EBERT: Did you not say if there is a school around that's normally a.m.?

MR. PODCZERWINSKY: Yes.

COMMISSIONER EBERT: Well, you've got golf courses.

MR. PODCZERWINSKY: Understood. Yeah, golf courses are typically amenities to these developments. The trip generation that we look at for the development is based on the number of units and not per se the golf accessory golf course to that. If it's a public golf course we look --

COMMISSIONER EBERT: No, no, no, no, no, no. You mentioned earlier when we were talking about the other one down on 41 with Vincentian --

MR. PODCZERWINSKY: Yes, yes.

COMMISSIONER EBERT: -- that if it's around a school you use a.m. peak hours is what you --

MR. PODCZERWINSKY: If a school is part of the -- part of what they're seeking as a use, we look --

COMMISSIONER EBERT: Oh, if it's part of their use, okay.

So -- but you have them limited to 823. Are you going to be -- who does this? Are you going to put strips out on both entrances, the Broken Back and Immokalee going into their community to do this?

MR. PODCZERWINSKY: It's actually based on the calculated total when they come in for their plat and SDPs combined. We actually make them do a combined analysis that tells us their total trip generation prior to any adjustments, such as internal capture or pass-by trips.

COMMISSIONER EBERT: No wonder our roads are starting to -- they should actually take measurements there.

MR. PODCZERWINSKY: There is a monitoring report requirement that's stated in the LDC and that they do --

COMMISSIONER EBERT: And how is it monitored? Is there a little ticker?

MR. PODCZERWINSKY: There are different elements. Some of them use tube counters, some of them actually have somebody that goes out there and presses a button to count cars, count turning movements at the intersection. So it depends on the data, the method that they use to collect the data. But the data is collected and turned into the county for us to hold in review if we need it.

COMMISSIONER EBERT: Okay.

MR. PODCZERWINSKY: Okay? Again, that monitoring does not tie back to the limitations that are stated in the PUD. The limitations that are stated in the PUD are based on the calculated trip generation totals that they present to us in their traffic study.

And what that gives -- it gives staff a tool that allows us to make sure that we limit the number of units or square footage or whatever their impacts are based on that trip generation number.

COMMISSIONER EBERT: Okay. And I notice on this road that when you and I were just talking here, that you said westbound traffic on Immokalee turning south onto 951 is where this --

MR. PODCZERWINSKY: Yes.

COMMISSIONER EBERT: -- big failure.

MR. PODCZERWINSKY: That's our first failure that's been identified. It was actually part of the Bent Creek development. Their first plat identified that failure. And the additional developments that are further to the east of that are, for lack of a better term, they're on the hook for a proportionate share of payment towards adding -- it's actually going to be adding an additional left turn lane.

COMMISSIONER EBERT: Okay. And can you tell me, is anything in review now for doing this

intersection to making --

MR. PODCZERWINSKY: Yes. It's currently in design. I believe we're working with CH2M Hill, who is one of the county's consultants on that. But it is in design. Mr. Casalanguida confirmed that this morning that it's in the design process and that we are working on it.

COMMISSIONER EBERT: So how long does that normally take from design process to actually starting it?

MR. PODCZERWINSKY: In this case, in this intersection case, it could be a few years. There have been some differences on the impacts to the intersection. There's a complication there with the bridge that's north of the intersection, the future location of that bridge and the future location of the canal. Which again have to be shifted with the addition of the turn lane that we just discussed on the east side of the intersection.

So one part of the intersection affects the other parts of the intersection. They do tie together, even though the impacts are from different developments.

COMMISSIONER EBERT: Okay, very good, thank you.

CHAIRMAN STRAIN: Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Is there a staff report? I see you got your marketing guy with you, too, Richard, so that's good.

MR. YOVANOVICH: I was going to say either my marketing guy or my snake oil salesman's here.

CHAIRMAN STRAIN: I like the snake oil one.

MR. YOVANOVICH: You heard from the county's snake oil salesman.

CHAIRMAN STRAIN: Yes, we did. And I already told him on break.

Go ahead, Kay.

MS. DESELEM: Yeah, for the record Kay Deselem, Principal Planner with Zoning.

You do have the staff report and it is last revised 7/17. And in the essence of brevity I will just state that we are recommending approval, finding that it's consistent with the Growth Management Plan.

CHAIRMAN STRAIN: Thank you. Anybody have any questions of staff?

(No response.)

CHAIRMAN STRAIN: Anybody in the public want to speak? Snake oil salesmen excluded.

Okay, with that we'll entertain a motion. Does anybody --

MS. ASHTON-CICKO: Actually, we do --

CHAIRMAN STRAIN: Oh, I'm sorry, yes. Heidi, did you finish your review?

MS. ASHTON-CICKO: Well, I reviewed it and I think there might be some overlap or lack of clarity with transportation condition number three, which already exists in your PUD for a proportionate share payment.

But with that said, the language should be changed on the final paragraph so that it reads: Until such time that adequate roadway intersection capacity has been constructed for the intersection of County Road 951 extension and Immokalee Road.

That's the inserted language.

And then at the end of the sentence your bolded and underlined language should say: And provided the developer has prepaid his impact fees for these units at that time.

I don't know if there's going to be any enforceability issues.

CHAIRMAN STRAIN: Well, Heidi, if this can't be done on the fly then we're going to have to have a consent hearing on it until it comes back in the proper language. I didn't realize that, and that's why I really don't like things added at the last minute to a meeting that needs to have a legal analysis. Through no fault of the legal department.

Rich, I don't know how to finish this up today. We can finish it up and vote on it but we're going to have to come back for consent is all I'm suggesting.

MR. YOVANOVICH: Well, I think we're okay on the concept. So isn't this something that you all can let the County Attorney and staff hash out the specific language?

CHAIRMAN STRAIN: I have no problem with it. It just depends on if the County Attorney's Office is comfortable with us voting on something where the language isn't final.

Heidi?

MS. ASHTON-CICKO: Well, I told you I don't know the difference between three and what's being proposed here. There is some difference. If, you know, somebody else picks this up and they don't understand the difference, there's going to be enforceability issues of your conditions. So --

MR. YOVANOVICH: And I think that can be worked out amongst staff and the County Attorney's Office and our side before we get to the BCC. We've agreed to a proportionate share and there may be some overlap. And if there's overlap, we'll delete the overlap.

And then if there's going to be a requirement that we prepay our impact fees in order to vest, we're okay with that.

If you're okay with those concepts, I think we can work all that out so that the Board sees language that we're all in agreement with.

CHAIRMAN STRAIN: I have no problem with it. How about the rest of you? I'd rather see this go forward and get done. It's too simple to keep kicking it around.

So if that's okay, then I guess we would need a motion to recommend approval, subject to the County Attorney and the applicant working out final language on these additions prior to the board hearing. Does that work for everybody? If there's a motion in that regard -- Stan?

COMMISSIONER CHRZANOWSKI: Yeah, I move we approve PUDZA-PL2014000099, Mirasol RPUD a/k/a Esplanade Golf and Country Club, with the conditions that the attorney and the developer work out any wording about the additional funds at the intersection.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER DOYLE: I'll second.

CHAIRMAN STRAIN: Brian seconded.

Discussion?

(No response.)

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

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Can I have a motion to waive consent on this one?

COMMISSIONER HOMIAK: I'll make --

COMMISSIONER ROMAN: So moved.

COMMISSIONER HOMIAK: Second.

COMMISSIONER CHRZANOWSKI: Second.

CHAIRMAN STRAIN: Motion by Charlette, seconded by Karen.

All in favor, signify by saying aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Thank you all. That takes us to the end of our agenda today. There is no old business, no new

business.

Is there a motion to adjourn?

COMMISSIONER ROMAN: So moved.

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Motion by Charlette, seconded by Karen.

All in favor, signify by saying aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: We're out of here. Thank you all.

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There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 12:26 p.m.

COLLIER COUNTY PLANNING COMMISSION

  
\_\_\_\_\_  
MARK STRAIN, Chairman

These minutes approved by the board on 9-18-14 as presented  or as corrected .

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