

November 6, 2014

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida, November 6, 2014

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

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

ALSO PRESENT:

Raymond V. Bellows, Planning Manager, Zoning
Scott Stone, County Attorney's Office
Tom Eastman, School District Representative

PROCEEDINGS

CHAIRMAN STRAIN: Good morning, everyone. Welcome to the Thursday, November 6th meeting of the Collier County Planning Commission.

If everybody will please rise for Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Okay. Will the secretary please do the roll call.

COMMISSIONER EBERT: Yes.

Good morning, Mr. Eastman.

MR. EASTMAN: Good morning.

COMMISSIONER EBERT: Mr. Chrzanowski?

COMMISSIONER CHRZANOWSKI: Good morning.

COMMISSIONER EBERT: Mr. Rosen?

COMMISSIONER ROSEN: Good morning.

COMMISSIONER EBERT: Ms. Ebert is here.

Mr. Strain?

CHAIRMAN STRAIN: Here.

Ms. Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER EBERT: Mr. Doyle?

COMMISSIONER DOYLE: Here.

COMMISSIONER EBERT: And, Ms. Roman?

COMMISSIONER ROMAN: Here.

CHAIRMAN STRAIN: Thank you.

Addenda to the agenda, I don't know of any changes. Anybody have anything?

(No response.)

CHAIRMAN STRAIN: Okay. Planning Commission absences. The next meeting is our regular meeting on December 4th. The second meeting of November is not being held this month, and that was supposed to be November 20th. So does anybody know if they're not going to be here on December 4th?

(No response.)

CHAIRMAN STRAIN: Okay. Well, we should have a quorum then.

We have two sets of minutes that were sent to us. One was for the special meeting, the AUIR meeting on September 26, 2014. Does anybody have any corrections? And if there isn't any corrections, is there a motion to approve?

COMMISSIONER CHRZANOWSKI: Move to approve.

CHAIRMAN STRAIN: Made by Stan.

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Seconded by Karen.

All in favor, signify by saying aye.

COMMISSIONER ROMAN: I have to abstain. I was not at that meeting.

CHAIRMAN STRAIN: Okay. So that will be 6-0, one abstention.

And the next set of minutes is October 2, 2014. Anybody have any corrections? If not, is there a motion?

COMMISSIONER ROMAN: So moved.

CHAIRMAN STRAIN: Made by Charlette. Seconded by --

COMMISSIONER CHRZANOWSKI: Second.

CHAIRMAN STRAIN: -- Stan.

Discussion? All in favor, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER ROSEN: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

Ray, do we have any BCC report?

MR. BELLOWS: Yes, we do. On October 28th, the Board of County Commissioners heard the rezone for the Breeze of Calusa. That was a rezone to RMF6/GTMUD that was approved on their summary agenda.

CHAIRMAN STRAIN: Good.

MR. BELLOWS: As well as the DRI extension for Tollgate; that was approved on their summary agenda as well.

CHAIRMAN STRAIN: Good. Vincentian, wasn't that -- that came up as a GMP. Did that get through? It had some modifications to it, I believe, or --

MR. WEEKS: It was approved.

CHAIRMAN STRAIN: And I know there was a change in density. It went from the -- our recommendation of, I think, 300 down to 220 something. Is that -- do you know the particulars on that?

MR. WEEKS: Correct. And, for the record, David Weeks of the Comprehensive Planning staff. It was approved for 224 units, which would be 7.3 DU per acre.

CHAIRMAN STRAIN: Okay. Is there any -- were there any other changes involving the Planning Commission's recommendation? That would help us know in the future how the board's looking at things so we can try to make sure we stipulate to the extent needed.

MR. WEEKS: Mr. Chairman, I don't recall. I'll be glad to check and respond back to the commission.

CHAIRMAN STRAIN: Okay. Thank you.

That takes us to the consent agenda, which we have nothing from the last meeting, so we'll move directly into advertised public hearings.

***9A, first item up, is PL20140000113/CP2014. That's the San Marino residential planned unit development located east of Collier Boulevard about a half mile south of -- north of Rattlesnake Hammock Road.

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

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

COMMISSIONER CHRZANOWSKI: My sincerest apologies to Mr. Yovanovich for not returning his call. I have not talked to anybody about this project.

CHAIRMAN STRAIN: Mike?

COMMISSIONER ROSEN: Yes. I had a conversation with Mr. Yovanovich yesterday about the project.

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: Staff.

CHAIRMAN STRAIN: And I have talked with staff and Rich yesterday. Karen?

COMMISSIONER HOMIAK: I spoke to Mr. Yovanovich.

COMMISSIONER DOYLE: I'd spoken with Rich and staff as well.

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: I've spoken with Rich.

CHAIRMAN STRAIN: Tom, did you have anything? I forget you're sitting over there next to Scott, and I sometimes don't see you, sorry.

MR. EASTMAN: No. I've spoken with Rich, but not about this project.

CHAIRMAN STRAIN: Thank you.

Okay. With that, we'll move into the presentation by the applicant. Richard, it's all your.

MR. YOVANOVICH: Thank you. Good morning. For the record, Rich Yovanovich on behalf of the applicant and property owner.

With me today are several people: Brian Stock and Keith Gelder with Stock Development. They are the applicant; Joe Boff is representing the property owner; Alexis Crespa and Jeremy Arnold with Waldrop Engineering are the planner and engineer on this project; Shane -- is Shane here? Shane Johnson's here from Passarella; and Jim Banks is here for our transportation consultant.

Before you today is a Growth Management Plan amendment for a portion of the San Marino PUD property. We also have a concurrent PUD application winding its way through the process. So the goal would be, at adoption -- should we get transmitted, at the adoption hearing you would have both the GMP amendment as well as the PUD amendment before you a few months down the road.

The property is on the visualizer. On the aerial you can see the outline of the San Marino property. It's on the east side of 951 just south of Forest Glen, just north of what you just recently approved as Willow Run, and then you have Hacienda Lakes. And I have another zoning map that I'll show you in greater detail.

But from a comprehensive planning standpoint, under today's Growth Management Plan, we're in the urban residential fringe subdistrict. Across the street is just regular old urban. Under the urban designation, you can develop up to four units per acre as your base density. On the urban residential fringe side of 951, your base density is 1.5, but you can increase that density to 2.5 through the acquisition of TDRs.

So as the property sits today under the San Marino PUD, it was approved for 352 dwelling units along with a golf course on the property.

So far it's been developed with 350 apartment units on roughly 39 acres of the original PUD acreage of 235 acres.

So under the existing zoning, what's allowed by right today, without amending the PUD, is two units and a golf course on approximately 196 acres.

Our request is to allow this property to have a designation that would allow the remaining undeveloped 196 acres to go to 3.5 dwelling units per acre. And I know the request before you is 4, but since we've been going through the process and seeing staff's report, we've laid out the site, and I'll take you through. And we can develop 395 single-family dwelling units on this piece of property. So we're -- our request today from the Growth Management Plan standpoint is a total of 395 units on that 196 acres.

So it's essentially a request to increase the density from 2.5, which we can do today under the Growth Management Plan, by one unit per acre. And in return for that, every one of the units above 1.5 would be developed through the acquisition of TDRs.

The second portion of the request is to expand the area that we can acquire the TDRs. As you probably recall from the Naples Reserve PUD and GMP amendment that we most recently did, we're having a heck of a time trying to get people to sell us TDRs from that qualified sending area.

We have reached out to every major owner of TDRs in this area, and if you recall, Mr. Bonness, his sister, attended our hearings. At that time they had some TDRs maybe to sell us. Our understanding is, no, they don't have any TDRs to sell us at this time.

We've also reached out to other major property owners who own TDRs in that area, and they have told us they don't have any TDRs to sell to us. And we have sent letters to all of the property owners within -- the smaller property owners within the qualified sending area, and we've had no bites to sell us TDRs.

So our request is twofold. One, to increase the ability to get to 3.5 instead of 2.5 units per acre solely on the 196 acres, and to expand the area that we can acquire the TDRs from.

Now, some of you may be asking why are we not asking for one unit per acre on the entire 235 acres that's currently in the PUD, and the simple answer is I don't own or control that 39 acres. So, historically, we've never been allowed to change the comprehensive planning designation on someone's property we don't either own or control, so that's why only a portion of the San Marino PUD is being proposed as part of this Growth Management Plan amendment.

Now, staff -- and I say this sort of tongue in cheek but with no disrespect -- is recommending denial of our Growth Management Plan amendment, and I think, historically, if I were to say 90 percent -- I might be a little low -- Growth Management Plan amendment staff does recommend denial.

So we've been told, in reading the staff report, that staff believes that going above 1.5 or 2.5 units per acre if you get TDRs is contrary to the intent of the rural fringe district, that it was supposed to be a transition from four units per acre to what in 1989 was one unit per five acres and other development rights that you can have on lands that were identified as agricultural or rural under the Comprehensive Plan at that time, so they wanted a transition.

Now, I will tell you -- and I could not find my old Comprehensive Plan before we did the rural fringe mixed-use district changes in roughly 2002, but I'm going to put up the most current Comprehensive Plan Future Land Use Map, and I want to just point out a couple of things.

If the true intent was to transition from four units per acre to one unit per five acres, that isn't what happened under the original Comprehensive Plan in the northern part of Collier County.

If you see this checkerboard white area and this blue area and that orange area, in 1989, that area was designated rural agricultural lands, and the yellow area was identified as urban area. There was no transition between four units per acre there and one unit per five acres in other rural agricultural lands.

So -- but there is a transition in today's Comprehensive Plan, but I don't think it is unusual to have lands that could be developed at four units per acre adjacent to lands that could be developed at one unit per five acres in Collier County. So, clearly, you don't need a transition for that type of density.

There may have been other reasons why there was a transition in this area, but I don't think it was because of density-to-density transition.

In addition, what has not been set forth in the staff's report to the Planning Commission is the fact that the urban residential fringe subdistrict has either been amended to allow greater densities than 1.5 before there was a TDR program, or there was another subdistrict created within the urban residential fringe to allow greater densities than 1.5 before we had a TDR program.

Thank you. Specifically, if you'll see where it says Rockedge, 5.23 units per acre, which is -- where is it? Right -- my eyes are bad. Thank you. The words are actually three. Rockedge. There we go. It's this piece on the east side of 951. That specific project the Comprehensive Plan would allow -- hard to say -- a bent -- density bonus of six units per acre for affordable housing. So under the Comprehensive Plan on this particular piece of property, 7.5 units per acre would be allowed east of 951 within this transition area.

The PUD was, ultimately, approved, I believe, at 5.23 units per acre, and it's an affordable housing PUD at this time. There was no problems with the transition requirement at that time to go to 5.23 units per acre for affordable housing.

A little bit further north where you see First Assembly Ministries, there's also a PUD on that property. Now, a separate subdistrict was created similar to what we're trying to do for that particular piece of property within the urban residential fringe.

In that particular piece of property, you can do a density of 4.3 units per acre for affordable housing. And there are other things in the PUD, but just the residential aspects of it, you can go to 4.3 units per acre in the urban residential fringe. Again, no issues with the transition densities for affordable housing.

So under appropriate circumstances and for good policy reasons, density can be increased in the urban residential fringe. And what we're proposing is -- we're not asking you to give us another unit per acre for free. We're asking you to allow us to go from 2.5 to 3.5 and require us to buy TDRs. So we think, from a policy standpoint, what we're doing is furthering the TDR program.

As you know, if you're orange on the Growth Management Plan map in the rural fringe mixed use area, you no longer have the ability to develop at one unit per five acres. That went to one unit per 40 acres. You're no longer allowed to do any of the other development you were allowed to do at one time. And, in exchange, you got a TDR. That was your compensation.

And we're trying to buy TDRs. We're out there actively looking for them, and we're out there willing to buy them. And we think this location for a project makes all the sense in the world to allow an increase in density in exchange for buying TDRs.

In reviewing your staff report, you will see that your transportation staff has said the increase in density can be accommodated on Collier Boulevard. Your utilities staff has the increase in density can be accommodated for on Collier Boulevard.

In fact, everybody who's reviewed this, including your environmental staff, has said that there's

adequate infrastructure in place to accommodate the additional 196 units, and your environmental staff has said they don't have any issues with the increase in density in this location.

Now, one of the things we dealt with staff -- we did meet with staff. I believe it was after we got their first review of comments, and we wanted to understand what their issues might be. And, besides that, we're in the transition area. And one of the things they asked us to do -- or a couple things they asked us to do was to show how, even with our project, the transition would still occur, and that being the transition from density to the rural fringe mixed use area.

As I mentioned previously, you recently approved the Willow Run PUD, and -- oh, man, zoom out.

And, Ms. Roman, when we were talking, I think it was on Monday, you had asked me about where is the preserve -- you know, I was two for two. Now I'm two for four on my directions. Zoom a little further out, if you don't mind, David.

MR. WEEKS: More?

MR. YOVANOVICH: That's perfect.

From a transition standpoint, you can see in red what -- the portion of the San Marino project that we're proposing to develop, and in white is the Willow Run PUD master plan. And as you can see, the preserve for Willow Run does run the entire eastern boundary of this project.

I believe that gap that you saw on some of the maps was inaccurate. We had not shown the preserve far enough to the north. And that's about 1,200 feet in width.

So, from our perspective, there still is that transition from the development on this particular piece of property to what is the rural fringe mixed use district, which is one mile east of the urban boundary.

In addition, we were asked from a compatibility standpoint, how would our development be compatible with the project to the north, which is Forest Glen? And, specifically, they said, why don't you tell us what the net density is for Forest Glen, and we did provide that information to show that the net density of Forest Glen near our property was actually greater than the proposed density for our project.

Now, I think that became confusing that people thought we were using those net densities to justify our increase. We're not. We were just simply showing those net densities for purposes of addressing a compatibility question from comprehensive planning staff.

Also, staff included -- I think this may have actually been in an earlier version of the staff report, but at least a portion of the staff report referred to lower densities in this area and referred to a 799-unit project, which is the Forest Glen project. And there are projects on the west side of 951 that are also developed at 799 units. And I'll tell you that those units were developed prior to -- probably in the late '90s or mid to late '90s when Collier County's DRI threshold was 800 units, and the magic number was 799 so you didn't have to go through the DRI state review.

So, naturally, you would see lower densities on those projects because at that time very few people, except for maybe Mr. Rosen and other bigger developers, were willing to go through the DRI review process for going above 800 units per acre (sic).

Since then, the threshold in Collier County is now 200 -- I'm sorry -- is now 2,000 (sic) units per acre. So I think it's a fair bet if those projects were to come through the process today, they'd be at a higher density, and they may or may not still have the golf course aspects associated with those earlier projects.

So from a compatibility standpoint, even though they may be less than four units per acre, we don't think that our project density of 3.5 units per acre -- and if you include the San Marino piece, the apartment piece, into the density calculation, our project is still less than 3.2 units per gross acre when you include the apartments and the acreage associated with the apartments.

So what we're asking the Planning Commission to do -- and I'm going to show you the PUD master plan that will come back to you. Did I get it right? I did -- will come back to you as part of the PUD at the adoption hearing. And you'll see we've laid it out with all single-family lots. Our preserve to the north is consistent with the preserve for Forest Glen.

We think that the density that we're requesting makes sense at this location. We're on a six-lane Collier Boulevard. All the utilities are in place to serve this project. And we think, for policy reasons, to allow us to go one more unit per acre on this particular piece of property through the TDR process makes good policy sense. It doesn't harm the environment, and it doesn't negatively impact infrastructure.

So that's the summary of what we're requesting for for our conditional-use application. And, again, we have all of our consultants here that can answer any specific questions you may have regarding the project. Thank you.

CHAIRMAN STRAIN: Okay. Anybody have any questions of the applicant at this time?

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: Rich, everything you seem to do in this area is special, exceptional, different. You did it with Naples Reserve, Hacienda Lakes.

You're just dismantling the TDR portion for Collier County. You're dismantling it.

MR. YOVANOVICH: I'm dismantling it?

COMMISSIONER EBERT: Yes, you are. You're trying to always make an exception. You're also trying to bring the -- more units up on this side. And in looking through the staff report, even on the west side, none of them even came up to two units per acre, Naples Reserve, any of that.

You want to take it up to 3.5. And if you look at -- on the east side already, they're not up that high.

MR. YOVANOVICH: That's because under the Comprehensive Plan at the time they were developed you could only go to 1.5. By way of example, Winding Cypress. Winding Cypress was developed when there was no TDR program. It could only go to 1.5.

COMMISSIONER EBERT: That's right. That's fine.

MR. YOVANOVICH: Right.

COMMISSIONER EBERT: But everything around it -- everything around where you're trying to build is already in place. They have not gone above it.

MR. YOVANOVICH: They couldn't.

COMMISSIONER EBERT: Well -- and even with the TDRs. Let's be honest, you said you've contacted everyone with the TDRs. I went in yesterday and spoke with the TDR lady, and you are just so much in luck because there is enough TDRs for you within this area, within the one-mile range to purchase.

MR. YOVANOVICH: They've been severed? That have been severed?

COMMISSIONER EBERT: They -- a lot of these are waiting till January 1st to sever them, and I don't think you need them before then.

MR. YOVANOVICH: We'll see, but we wrote them letters, and they did not say to us, hey, I've got them. Let me -- I'll sell them to you.

COMMISSIONER EBERT: Well, they are in that area for you.

MR. YOVANOVICH: There's theoretically plenty of TDRs in that area if they were to be severed and made available for sale.

COMMISSIONER EBERT: That's correct. I also --

MR. YOVANOVICH: Theory.

COMMISSIONER EBERT: Yes, I know, I know. But it just seems like every project you do is -- it only affects this. This is a different case, and I just don't understand. I mean, to me, you're really trying to dismantle the Growth Management Plan the way it has been planned for years, the TDRs, and I just -- I'm sorry that it's Stock, because I live in a Stock community. I wish you would not own this property.

But it's -- I just cannot believe what you're trying to do here.

MR. YOVANOVICH: I'm going to respond to that -- normally I wouldn't -- because --

CHAIRMAN STRAIN: You respond to everybody, Richard.

MR. YOVANOVICH: I think there's some truly inaccurate comments in there. First of all, at the NIM, I could tell you that the Forest Glen people who attended the NIM were thrilled that it was Stock who was the applicant, because they know Stock does a quality project, and they were thrilled to hear that Stock was the applicant and they were going to have a Stock quality development on this particular piece of property.

Second, we're not dismantling the TDR program. We are providing additional opportunities for sending landowners who, unfortunately, are a mile away -- more than a mile away from this particular piece of property to sell their TDRs.

Now, if you recall, the same story was told you at Naples Reserve; if we could buy the TDRs from

the one-mile qualified area, we would not be in front of you today because there would be no reason to be here.

Those TDRs don't exist, they're not available for purchase by my client and, frankly, I don't know why that one-mile prohibition or qualified area is in there in the first place.

It restrains other people's ability to sell their TDRs. And I don't know why you would tell people, just because you're more than a mile away, you can't sell your TDRs to other, quote, receiving lands, and that's what this is. The urban residential fringe is a receiving area for TDRs.

So we're not dismantling the program; we're furthering the program. And I will tell you I'm not the first one -- although you want to believe that I am -- that has come in and changed density in the urban residential fringe.

I was not involved in the First Assemblies of God project, and I was not involved in the Rock's Edge project. So somebody other than me has gone through this process to increase density within the urban residential fringe.

I personally believe, and I think my land planner and my environmental consultants will say, that Collier County has changed dramatically since 1989 when the first Future Land Use Element was placed on this piece of property calling this urban residential fringe. You have a six-lane arterial road. You have water and sewer all in place. What we think that this does is this actually puts density where it ought to be, where infrastructure exists, instead of pushing it out further east where you'll have to address infrastructure issues potentially in the future.

So we think this makes sense. We're not asking for anything for nothing, and we're certainly not dismantling the TDR program.

COMMISSIONER EBERT: If I remember the Naples Reserve, you said your client didn't want to pay the price for the TDRs that the people were asking at the time.

MR. YOVANOVICH: Well, if you'll recall, nobody's going to develop property with the intention of losing money. That does happen, but nobody goes into the development process assuming they're going to lose money. You could only afford to pay so much for a TDR in order for you to be able to, between land costs to buy the property, development costs and the TDR costs and the impact fee costs and the construction costs to actually sell a house with the hope of making money.

So that is what I said, but the entirety was we could not find people who would sell us TDRs at the price point we can afford to pay to still try to make money, because all the offers we were getting at that time were \$25,000.

Now, one of those offers came down, but we were still short TDRs. But we can't find TDRs at a price point that makes sense. So what will happen? People won't buy the TDRs. They just won't. They don't make economic sense.

COMMISSIONER EBERT: Well, on the San Marino project, well, the 235 acres, and you have 350. They could have developed 353 units or --

MR. YOVANOVICH: Three fifty-two, right.

COMMISSIONER EBERT: -- fifty-two. The base density is already used. That's gone. So what you -- what you need to do your 588 total, I mean, it's like you're saying, well, we don't own that 39 acres, so let's discount that because we don't own that. And I'm going, wait a minute. You have an elephant in the room. That 350 units counts for this.

MR. YOVANOVICH: I've said that. If you listened to the --

COMMISSIONER EBERT: I know, but what I'm trying to say is you -- just to get up to the 588, you need bonus credits right here.

MR. YOVANOVICH: TDRs.

COMMISSIONER EBERT: TDRs, that's right. And everyone else in this area, other than what you brought this morning, is within -- within this two-and-a-half, with the bonus. They're pretty much within the two-and-a-half units that you could do. That's all I have for now.

MR. YOVANOVICH: Okay. Let me -- can I respond? You're absolutely correct.

CHAIRMAN STRAIN: If you're not redundant, yes.

MR. YOVANOVICH: You're absolutely correct, but remember when they were approved.

Winding Cypress was approved before the TDR program even started. They couldn't go above 1.5. Forest Glen was approved before the TDR program. You couldn't go above 1.5. Naples Reserve didn't go above the density because it was already approved under the then system and, frankly, the project didn't make sense to increase density.

So what you're saying is, yeah, they all came in and developed under those rules, and I get that. We're saying we think it makes sense on this particular piece of property to allow for one additional unit per acre based upon the location and based upon the intent of furthering the TDR program.

COMMISSIONER EBERT: I'm done.

CHAIRMAN STRAIN: Okay. Anybody else? Go ahead, Mike.

COMMISSIONER ROSEN: Rich, this program was put into effect, I think you said, 1989, is that right, somewhere around there plus --

MR. YOVANOVICH: The first one? Yeah, the original transition, yes.

COMMISSIONER ROSEN: Yeah. So over the years, you know, there have been TDRs that have been sold, some have, some haven't. Can you -- as representing a private developer, can you force somebody to sell the TDRs to you?

MR. YOVANOVICH: No.

COMMISSIONER ROSEN: Okay.

MR. YOVANOVICH: I could just talk to them and ask them if they're willing.

COMMISSIONER ROSEN: Yeah. That's -- I think that's an issue with the public/private partnership is that the public side cannot force the private side to sell at certain prices, et cetera, and, therefore, it could stymie the entire program.

I think -- and this isn't the first conversation we've had regarding this -- that it might be time to take a relook at this program, after, you know, almost 20 years, you know, and see if this needs to be tweaked a little bit.

But I think that, you know, your applicant, you know, in your petition, I think, is valid because you can't force somebody to sell the TDRs to you. If it was a government-held TDR, well, then there are probably regulations regarding that, but there aren't. So I understand what you're saying, and I would support what you're saying.

MR. YOVANOVICH: Mr. Rosen, I just wanted to correct one date. 1989 is when the transition area was adopted, but the TDR program was 2002. So it's been 12 years for the TDR program, not 20.

COMMISSIONER ROSEN: Twelve tumultuous years.

MR. YOVANOVICH: Yes, and we agree. It's time to relook at the program, but we can't sit around and wait, you know, a couple years to redo the program.

COMMISSIONER ROSEN: I agree.

CHAIRMAN STRAIN: Anybody else? Stan?

COMMISSIONER CHRZANOWSKI: I agree with Mike. If you tell somebody that they have to deal with somebody else and they have the product that that person has to buy and this person can't do what they have to do without buying that product, that person's going to overcharge for that product. It's just -- I agree with Mike.

CHAIRMAN STRAIN: Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Well, good. I have a few.

First of all, I agree with Mike in the fact that the TDR program should not be limited to that one-mile radius for purchase. So right off the get-go, as I have stated on the other projects that have come in and asked for some latitude, there's no justification for giving a monopoly to a handful of people in that one-mile area. So that part of this application I agree with.

The part about increasing this density on this project I do not agree with, and I agree with Diane's -- some of Diane's comments on that but probably for different reasons.

First of all, Richard, can you put that master plan that you had up here a minute ago on.

MR. YOVANOVICH: The PUD master plan?

CHAIRMAN STRAIN: Yes.

MR. YOVANOVICH: Yes, sir.

CHAIRMAN STRAIN: What you're showing there is preserve area that's less than 50 percent, including the existing San Marino preserve down on the southwest corner than what is currently in the PUD. Because you total about 56 acres for those two, and the current PUD requires 103.

Now, Ray, would you mind putting something on the overhead for me. You could start with the top one. Your opening comment or one of them seemed to indicate that you weren't causing any further environmental problems for this area.

From your PUD, it's clear that the project location has a number, and I counted them. There's approximately two dozen panther telemetry points, and that area has got a lot of panther activity.

Ray, could you put the next overhead on.

In addition, there are numerous evidence of black bear usage, and there's a lot -- and you can't see it too clearly on this, but there's numerous number of butterfly orchid locations, most of which will be destroyed by the proposed plan.

Now, if you could go back to the master plan.

What the master plan does not tell us is that this has, typical to many of the projects, a large amount of uses that are allowed. By just showing us they may do this particular one, as we all know, doesn't necessarily mean that's the direction the project will go.

They're asking for single-family detached dwelling, zero lot line, two-family duplex, townhouse, and multifamily dwelling units. The multifamily dwelling units on the zoned height could go up to 65 feet; 75 feet on actual height.

Now, that is a typical urbanized project. This area intentionally was not set up as an urbanized area because it's supposed to be transitioned for numerous reasons, including environmental, to the east.

You have not shown justification nor have you proven anything, as far as my observation goes, that you are compatible or consistent with what's been done in the area.

On a gross basis, for example, on the west side of Collier Boulevard, Cedar Hammock was 1.91 total; Naples Heritage Golf and Country Club is 1.43 total; Naples National Golf Club, .08; Homes of Islandia, .18; Naples Lake Country Club, 1.56; on the east side of Collier Boulevard, Forest Glen, 1.28; Willow Run, which we recently heard, 1.06; San Marino, as it currently stands, 1.5; Hacienda Lakes, .82; Naples Reserve, 1.68.

Now, you'll hear all kinds of excuses as to why each one of these projects should be considered at a different level. Richard and I talked about it yesterday, and I wasn't impressed with any of his reasoning on this.

To go ahead and say this one's gross density should come in at 3.2 offers no comparison or consistency with anything we've done in that corridor. Now, to say the corridor is invalid because after miles of this corridor that go along the east side of 951 south of I-75, then it goes into the estates north, and it finally flips back north of Immokalee Road into this kind of restriction, that little space in between is there, therefore, making the rest of it invalid is not an excuse.

Now, I don't see the justification for your request for density. What I do see is your right to request the additional density that is allowed, and I have no problem with that.

Now, as far as Winding Cypress goes and some of the others that came in at 1.5 because we didn't have the TDR program, sure, we didn't, but they could do what you're doing today. They could have come in and asked for a GMP change, just like you're doing.

So I'm not sure any of your reasoning is still -- provides any justification to where you're trying to go with this.

Rockedge, at the height -- or at the density you talked about was purely because of affordable housing agreements, just like the special density increases we allow in the Coastal High Hazard Area. That is the sole, singular reasoning. It doesn't generate a reasoning to populate at higher densities with regular market-rate housing. Never has, never does.

You just got Vincentian reduced from what you were trying to do down to a more reasonable rate. I think it was two units per acre or something like that, and that's in the coastal high hazard. Well, previously, we only used or we only allowed bonuses for affordable housing.

Then what it comes out to is when you get all said and done with this thing, you should have 588 units that's allowed on that property, and that's a considerable amount of density.

Three hundred fifty are built. That leaves you 238 available. And I don't know any reason that you've expressed yet why we should be considering higher than that.

MR. YOVANOVICH: A couple points.

CHAIRMAN STRAIN: Well, I figured you'd have a few.

MR. YOVANOVICH: I do, I do. I'm going to let Shane with Passarella deal with --

CHAIRMAN STRAIN: And who's -- he is an expert of yours?

MR. YOVANOVICH: Yes, he's my environmental consultant.

CHAIRMAN STRAIN: And your applicant is paying him?

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: Okay. Your environmental staff also reviewed our request, and your environmental staff didn't object to any of this, so -- and I'm not paying them, other than paying for fees.

CHAIRMAN STRAIN: Well --

MR. YOVANOVICH: Now, Mr. Johnson is a professional. And he's going to get up here, and he's going to tell you his professional opinion, and he would give me the same professional opinion whether I'm paying him or not. I don't want any implication that I paid him to give me an answer I wanted to hear.

Second, I started the presentation by we were going to revise our PUD application to be consistent with what I was telling you, which was to go to single-family, 395 units, on this 196 acres, and we had every intention of doing that, and we'll even put it in the Comp Plan if we need to say it has to be single-family.

I do not have the right to the density on the apartment complex. That's the reason we're not in here. I don't have the ability to use that 39 acres and take that density and put it on the 196 acres. So what we can do as a matter of right through the PUD amendment process is 198 units on 196 acres.

We think -- you're absolutely right, Mr. Strain, and I said it from the beginning, that the board, for policy reasons, determined it was okay to go to more than 1.5 units per acre. And in that case, the policy reason was affordable housing.

We think it's okay for the board to increase density for the policy reasoning of allowing more TDRs to be purchased and placed where appropriate infrastructure exists.

The fact that other projects could or could not come through at some point in the future and totally change their development scheme, like Winding Cypress, to increase their density I don't believe is a good counterargument. It's not going to happen.

So they came in and they lived with what they had. They most recently amended the PUD and chose not to increase the density because it would have changed the planned development for that particular project.

Likewise, Willow Run came through with a project less than the base because to do a project that would make sense economically, they couldn't even get to the base, because if you look at that particular property, you have a big 'ole lake in there. So it's an artificially low density.

I'm not saying that we're not increasing density. I'm saying we're increasing density where it makes sense to increase density.

Now, on the environmental side, I'd like Shane to address the comments regarding the environmental.

MR. JOHNSON: Good morning. Shane Johnson, for the record, with Passarella & Associates, experts in wetland and listed wildlife-related matters.

Commissioner Strain, I recognize your concerns specifically with the Florida panther, Florida black bear, and I think you mentioned the butterfly orchid.

So this is the map, our listed species location map straight out of our environmental report prepared for the Growth Management Plan amendment. So you-all should have a copy of this. And I think this is the same map that you referred to earlier.

CHAIRMAN STRAIN: That's the map, yeah.

MR. JOHNSON: Okay. In addition, you had a map showing some telemetry locations within and adjacent to the site, which I do not have.

CHAIRMAN STRAIN: That was all -- no, these are -- the two maps I had were from your PUD.

MR. JOHNSON: Oh, from the PUD. Okay.

CHAIRMAN STRAIN: Right.

MR. YOVANOVICH: It's the same report.

MR. JOHNSON: Different report, but -- regarding the panther and the black bear -- and just for the record, we're not in the environmental resource permitting process just yet, so we haven't engaged with the South Florida Water Management District or the U.S. Army Corp of Engineers, and in turn, we haven't fully engaged with the state or federal wildlife agencies.

But what I will say is we've been very proactive about meeting with folks prior to submitting an ERP for the project. One of those agencies was the Florida Fish and Wildlife Conservation Commissioner, which we met with on October 21, 2014.

This is something I like to do particularly for projects that have a lot of raw land and are adjacent to areas that have a lot of, you know, wildlife activities such as panther and black bear.

So during that meeting, that October 21st meeting with FWC, we really looked to them, we kind of outlined the project for them and looked to them for kind of guidance as to what they would be looking for. And their big push is to minimize human/wildlife conflicts. And one of their suggestions was -- can you put the map back up that shows the preserve on the project.

MR. WEEKS: PUD?

MR. JOHNSON: PUD, yes, master plan.

You can see the preserve areas located in the northeast corner of the project. One of the recommendations that FWC had when we met with them is to provide some fencing between the preserve area and the adjacent development, and also -- they also recommended running that fencing not only internal to the project but along the project boundary on the east side where the preserve, you know, meets off site -- Willow Run's off-site preserve down that eastern boundary all the way to the southern property line.

And that's basically not only to deter wildlife species such as panther and bear to enter the project site but really to deter their prey species, just as white tail deer and hog, from getting in the property. Because if the panther, specifically, don't see deer or hog, they're unlikely, you know -- in the project development they're unlikely to want to go in the development, especially with the fence there. So we have met with FWC, and that was one of the recommendations.

Another one of the recommendations was to provide the homeowners with education material regarding the use of, you know, bear resistant and wildlife resistant trash receptacles.

Regarding the fencing, I don't want to indicate that anything has been committed at this point, but I want to say that FWC's recommendation as far as fencing is being highly considered at this point as something that we would potentially incorporate into the project design.

CHAIRMAN STRAIN: They did that with the intention of keeping off not only animals that the panther or black bear would be -- or panther would be feeding on, but to keep the panther off as a net result.

MR. JOHNSON: Both, correct.

CHAIRMAN STRAIN: Okay. So we don't lose just 103 acres of potential preserves that was on this project or the golf course that panthers do frequent periodically in different parts of the county, we lose 100 percent of the project's preserve for use as panther, because the fence going up would block everything from coming in.

MR. JOHNSON: I'm sorry. I didn't mean to confuse you. The fence won't preclude panther or bear from entering onto the on-site preserve.

CHAIRMAN STRAIN: I thought you said you were going to put it on the eastern boundary line north and south between --

MR. JOHNSON: I'll show you on the map.

CHAIRMAN STRAIN: -- Willow Run and this project.

COMMISSIONER ROMAN: That's what I heard, too.

CHAIRMAN STRAIN: At least my hearing's not --

COMMISSIONER ROMAN: Yeah. That's what I understood, too.

MR. JOHNSON: The fencing -- the fencing -- the recommended fencing location was basically,

again, between the proposed preserve area and the development along here, it would hit the eastern boundary here, and then run down the eastern boundary to the south boundary and terminate here.

COMMISSIONER ROMAN: And that was one of my concerns that I had shared with Rich when I talked with him. I know that we're not discussing the Site Development Plan, but we have an opportunity here. We have a pristine preserve on that boundary that's located in Willow Run.

And when I read the documents, they reflected that we wanted to locate this preserve north -- on the northern edge towards Forest Glen. And these houses here on this southeast corner would be right up against that Willow Run preserve.

And I'm uncomfortable with that maybe for some of the same reasons that the chairman is uncomfortable with it, because you're putting houses right up against that preserve, of Willow Run's preserve.

MR. JOHNSON: Just a quick note on the preserve area. And I know the PUD has yet to come in front of you and be approved. But we've been working pretty closely with Collier County environmental staff on the location of the preserve. And as you're well aware of, the LDC has a very specified set of criteria for the preserve location within a project. And at this point we've met those criteria.

CHAIRMAN STRAIN: Anybody else?

COMMISSIONER ROMAN: If you see Forest Glen at top of the screen there, it's in --- you know, it's close to that northern boundary of San Marino. And you're, you know, planning on locating the preserve at that -- in that area.

But we're going to have houses further south right on that eastern boundary adjacent to that Willow Run preserve, and in my view, it's not making the best use of that pristine and the contiguous acreage, and especially if they're going to put a fence down that property line.

MR. JOHNSON: Your point's noted. Again, I don't want to rehash what I just said, but we're working closely with staff. They've agreed to the location of our preserve to date.

And we've met so far -- for the PUD process, we've met our native vegetation preservation requirement for the site.

MR. YOVANOVICH: If I can, I'm trying to make it where you can see both at the same time. I'm not doing it very well.

COMMISSIONER ROMAN: Yeah.

MR. YOVANOVICH: But --

COMMISSIONER ROMAN: Maybe you could slide it over the top of the other one.

MR. YOVANOVICH: This is Willow Run, okay.

COMMISSIONER ROMAN: Slide it over the top. Move the housing area over. There you go.

MR. YOVANOVICH: So hopefully you can see, kind of, both.

What you have -- and that's not oriented the same way.

COMMISSIONER ROMAN: It's pretty close, I think.

MR. YOVANOVICH: You actually have the Willow -- you have a Willow Run lake -- thank you. That's perfect. You have a portion of the Willow Run lake, not preserve, adjacent to the houses that you were referring to. There is a portion where there are houses that are adjacent to the Willow Run preserve, and that's where the fence will be. But not all of it is preserve. Some of it is lake in that -- which direction -- southeast corner, if that makes sense.

COMMISSIONER ROMAN: Yeah. Do you have that drawn in on -- and what I'm looking at --

MR. YOVANOVICH: This is Willow Run.

COMMISSIONER ROMAN: -- the preserve? Right. But what is drawn in here? Is that the houses here in your San Marino property here?

MR. YOVANOVICH: Where you see this?

COMMISSIONER ROMAN: Yes.

MR. YOVANOVICH: This is the houses. I don't have the houses on that plan, but where they are.

COMMISSIONER ROMAN: I understand, but roughly, roughly. There you go, okay.

MR. YOVANOVICH: So there is this portion, if you will.

COMMISSIONER ROMAN: And that's the portion I'm concerned about.

MR. YOVANOVICH: Well, we -- again, it's early on the PUD master plan, and I understand that

concern. And we'll address that through the permitting process. But from an environmental standpoint, we really haven't received any "don't do this. We're going to fight you to the death."

COMMISSIONER ROMAN: I understand that, but we have an opportunity here. We have an opportunity to extend that preserve into the adjacent development, you know, if it's an option, and that's what I'm looking at.

MR. YOVANOVICH: We can look at that between now and the adoption hearing. We can look at that.

CHAIRMAN STRAIN: Okay. Anybody else. Stan?

COMMISSIONER CHRZANOWSKI: Shane, is that preserve, the corner where the preserve is, is that lower than the area to the south?

MR. JOHNSON: Lower in elevation?

COMMISSIONER CHRZANOWSKI: Yeah.

MR. JOHNSON: I don't have a topo map with me. I think the topo, I want to say, is probably pretty consistent throughout the site, but I don't know for sure.

COMMISSIONER CHRZANOWSKI: I put a LiDAR over there. It just looks -- I probably should have had him do that to a different elevation, but it looks to be a little wetter than the area to the south. I don't know if that affects anybody here.

MR. JOHNSON: As far as --

COMMISSIONER CHRZANOWSKI: As far as elevation of the ground. It will hold water a lot longer than the area to the south.

MR. JOHNSON: In terms of flooding or --

COMMISSIONER CHRZANOWSKI: No, in terms of groundwater recharge. In terms of just being a different type of ecosystem.

MR. JOHNSON: It looks like -- from the LiDAR, it does look a little bit lower.

COMMISSIONER CHRZANOWSKI: I'm just curious.

CHAIRMAN STRAIN: Stan or -- Mike, go ahead.

COMMISSIONER ROSEN: Shane, would you repeat, did you say that staff had no objection to your proposal so far?

MR. JOHNSON: In the PUD process, yeah, I was speaking to, specifically, no objections.

COMMISSIONER ROSEN: Yeah. I have a little bit of a different take on this that's going to probably surprise everybody. But we did some extensive studying years ago on panther habitat when we were working out in the rural land stewardship area, and my different take is that I think that allowing this to be, I'll call it a corridor, you know, to 951 for panthers is very dangerous. I think right across the street on the west side of 951 is an existing golf course development; is that right? I can't see the name from here, but it looks like it is.

You know, that's something that a lot of the environmentalists and NGOs have been contemplating for years that there's going to be, you know, human/panther contact one day, and that's going to be very dangerous. And this, to me, is an isolated corridor, and putting the fencing up, as you've articulated, to me makes a lot of sense. We did this or we discussed this out in the Rural Land Stewardship Area by creating almost moats around some of the future developments out there to keep the panthers out of those developed areas that are allowed to be developed because they're animals of prey. And whether they smell a hog or white-tailed deer, or what nobody ever wanted to talk about years ago and still doesn't want to talk about, is if they smell a little child, you know, and that would be dramatic.

And I think that setting up that fencing as you have articulated to block off, you know, the wildlife from coming to the west from the east and the east being the habitat for the wildlife makes perfect sense to me.

MR. JOHNSON: All right. Thank you.

A couple comments on that. That is something that FWC expressed in our meeting when we met with them on October 21st. That's something I didn't mention before, but regarding access to 951, they prefer that they not provide any sort of encouragement toward 951.

COMMISSIONER ROSEN: That makes sense. It sure does.

MR. JOHNSON: That's it, thank you.

CHAIRMAN STRAIN: Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. Thank you. Stan?

COMMISSIONER CHRZANOWSKI: I've got something else for Rich.

Rich, what's the -- why is Habitat for Humanity interested in this project?

MR. YOVANOVICH: Well, they're not, unfortunately. This is a little bit of a painful subject even for me.

COMMISSIONER CHRZANOWSKI: Okay. Then don't go there. I just saw the name.

MR. YOVANOVICH: They're the current landowner. They, along with Waterways Development, originally acquired this property when there was the boom. And right now Habitat is not developing on this property, but they are partly an owner, I believe.

COMMISSIONER EBERT: They're what?

MR. YOVANOVICH: They're partly -- they're a percentage owner of the property, correct?

UNIDENTIFIED SPEAKER: Minority.

MR. YOVANOVICH: Yeah. They're a minority owner, but it's not a Habitat project. They just bought the land probably in two -- I want to say 2006 or '7, they bought the land.

COMMISSIONER CHRZANOWSKI: Yeah. I figured if they were the developer, you'd have said it here somewhere, but I was just curious what -- interesting.

MR. YOVANOVICH: Yes. They are the unfortunate minority owner of this piece of property.

UNIDENTIFIED SPEAKER: They're not going to give at all.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. Thank you. Is there a staff report?

MR. WEEKS: Mr. Chairman and Commissioners, while Corby's coming up, I'll just touch on what Rich had said.

There was a past Comprehensive Plan amendment request for this site, and Habitat was the applicant or one of the applicants involved in that. That's how -- my understanding is how they got involved with the property in the first place.

CHAIRMAN STRAIN: How many units were they asking for, do you know?

MR. YOVANOVICH: Oh, I do.

CHAIRMAN STRAIN: I just -- I wanted to know if David knew.

MR. WEEKS: I don't recall.

CHAIRMAN STRAIN: Okay. Rich, do you know?

MR. YOVANOVICH: I want to say it was probably about -- I think we were asking for an eight-unit-per-acre bonus. That rings a bell for me. I didn't go back and look exactly, but it was a substantial density bonus.

CHAIRMAN STRAIN: Okay. Thank you.

MR. SCHMIDT: Good morning, Commissioners.

CHAIRMAN STRAIN: Good morning.

MR. SCHMIDT: Good to see you again. For the record, Corby Schmidt with the comprehensive planning department for the county.

No real presentation, but I would like to respond to some of the comments presented by the agent.

And, certainly, first, just a note to be careful about what you're hearing and what you're making your decision based on.

You've heard presented to you a number of details about a potential development that might occur on this property that is part of a PUD application which has yet to be fully reviewed. For instance, your fencing, your protection, your environmental issues, not part of this.

The density does not change those protections. If the property is developed at a certain density or another density, those environmental protections would still be in place. So be careful not to mix things up

here.

Now, one of the other issues I wanted to talk about is how the idea that the transitional area that was set up years ago along 951 no longer has any merits. They could show you a number of reasons why it doesn't for their client.

The TDR program doesn't seem to be working. I have heard the agent tell you that the TDRs are not available at the cost or at the price that their client is willing to pay. Well, we know they're available, we know they're available in the qualifying area within a mile of the property, and we know that there's adequate numbers available elsewhere.

The issue of cost is something else. Some of you already brought it into your thought process and that matters, but this is not a situation, in comprehensive planning's view, of why you would decide to abandon the program and go along with a single request to change that. And you would change it drastically here by allowing for -- well, you have one developer who will use TDRs sooner than they would be used otherwise, because the theoretical is there that they would be used. The program is set up to be successful.

Now, in so many words, the staff has attempted in the staff report to point out that there's no net gain to the TDR program by approving this. There might be a gain to this developer and for this property, because they'll take some of those TDRs from other locations and use them now. But what actually happens is that then they're not available for where they were planned to be available at a later date.

There's no net gain to the program. If you make them available in one place, they're unavailable to someone else where they were planned to be available.

So don't get caught up in the argument that all the benefits are here because they're before you now. That's my second warning.

I guess I'm somewhat glad to hear that they've reduced the requested density from 4 to 3. -- or 3.5. But keep in mind we've, again, heard some of those soft numbers to make it seem like it's less of an impact than it is.

I believe it was a request from 1.5 to 2.5 or 2.5 to 3.5 or whatever the number is. Keep in mind what's really being asked for here. On 196 acres of property, you have permissions now to use one TDR per acre to develop this property. One. Whatever is above that is the math. Those are the figures that you should be keeping in mind.

So if it is one unit per acre that permissions are to have TDRs transferred from distances within a mile to be used to gain that 196 residential units, then it's the number above that that's the new density and the new request, and that's 2.5. That's still 2.5 more than it is now.

I guess, just for those pitfalls I wanted to speak; otherwise, I'll answer your questions.

CHAIRMAN STRAIN: Anybody have any questions? Stan?

COMMISSIONER CHRZANOWSKI: No questions. Just a little -- I know spell check's a wonderful program, but I don't think you want to call this the density saving program, unless you really want to satisfy something.

MR. SCHMIDT: We'll look for that.

COMMISSIONER CHRZANOWSKI: Bottom of Page 1 --

CHAIRMAN STRAIN: Anybody else?

COMMISSIONER CHRZANOWSKI: -- on the new report and the old one.

CHAIRMAN STRAIN: Corby, I'm trying to understand the numbers. The original report, I think it said 843 total for the San Marino PUD. Then I'm now -- I believe it's 747. I mean --

MR. SCHMIDT: I haven't done the math on the fresh numbers.

CHAIRMAN STRAIN: Well, you made it very clear we should consider the difference between what is currently allowed versus what they're asking for. What is that number? I mean, if we're supposed to understand it, how have you understood it to be?

MR. SCHMIDT: Right. They're asking for a total number of 395 units. That's what I heard earlier this morning.

CHAIRMAN STRAIN: Well, no. You've got 350 already on San Marino, so now they're at 395 plus 350 is what your belief is?

MR. SCHMIDT: That's my understanding, yes, sir.

MR. YOVANOVICH: That's what I said.

CHAIRMAN STRAIN: Well, you know, I can't do anything without --

COMMISSIONER HOMIAK: Seven forty-five.

CHAIRMAN STRAIN: Okay. I was 747, so I was close.

So out of 745, they could put 588 on the property right now with just TDRs. So they're looking for a bump of 157; is that the number that you believe? Or am I -- that's what I'm trying to understand. I see you shaking your head no, so maybe you can clarify.

MR. SCHMIDT: No, I don't think so. I'm not working from the larger number. I'm working from the small.

CHAIRMAN STRAIN: Well, this is one PUD. So we look at things from a PUD, and we calculate density based on the PUD. So if they're asking for 747 or '45 -- let's say 745 -- is that what you just said?

COMMISSIONER HOMIAK: Seven forty-five.

CHAIRMAN STRAIN: Seven forty-five, and they're allowed to do 588, then they're looking for a difference of 157; is that where we're at?

MR. SCHMIDT: Sounds about right, yes.

CHAIRMAN STRAIN: Okay. So that's the delta you were telling us to be aware of before when you were speaking?

MR. SCHMIDT: (Nods head.)

CHAIRMAN STRAIN: Okay. So by going from one more density unit, which is a total of 2.5, up to 3.2, we pick up the 147?

MR. SCHMIDT: (Shakes head.)

CHAIRMAN STRAIN: That's why it's not making sense. I'm trying to --

MR. SCHMIDT: It does not, because 3.2 is thrown out there, but the factual number that relates to the 2.5 is the 3.5.

CHAIRMAN STRAIN: Okay.

COMMISSIONER ROMAN: I have a question.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER ROMAN: Doing math in the air is always a challenge. Page 2 is what I'm looking at, this chart, in the staff report.

MR. SCHMIDT: Yes.

COMMISSIONER ROMAN: All right. In your statement, you're speaking of the total number of acres, 235.

MR. SCHMIDT: In the first part of that chart, yes.

COMMISSIONER ROMAN: When Rich talks about it, he's talking about 196. So can you clarify that for me? Are we subtracting out what's been used already, or why 196 that I keep hearing all the time?

MR. SCHMIDT: Yes. Even before the paperwork came through the door, we've subtracted out the acreage, which has already been used. The only focus -- some of these calculations are here to provide you background or for whatever reason, but the acreage to be focusing on now is 196.

COMMISSIONER ROMAN: Okay. So 196 has a base dwelling unit of acre -- acre of 1.5? With TDRs, it would add one, for a total of 2.5 dwelling units an acre for the 196 acres; is that correct?

MR. BOSI: (Nods head.)

COMMISSIONER ROMAN: Okay. Now, when I calculated that -- I've got my little calculator out here -- that the base density was 294. And then when you add the other one unit per acre, you add another 196 to that.

MR. YOVANOVICH: Correct.

COMMISSIONER ROMAN: So it's 294 plus 196.

MR. SCHMIDT: Again, fresh numbers. Those numbers --

COMMISSIONER ROMAN: Four ninety.

MR. YOVANOVICH: That was that -- again, can I -- since we're talking about math.

CHAIRMAN STRAIN: Before you go out of turn.

MR. YOVANOVICH: I'm just asking a question.

CHAIRMAN STRAIN: Generally, staff gives us everything analyzed on the PUD-wide basis. This has been a frustrating part of trying to understand this project from the day I saw the paperwork.

I even commented to Richard, I didn't appreciate the fact that all the exhibits conveniently excluded the existing San Marino buildout area and just tried to focus on the 196 because they didn't own the other one or they couldn't take rights away from them. We don't care about that at this stage. We're trying to understand the raw numbers and the basic facts.

And what you just went through with Charlette produces a different number than what I just went through.

COMMISSIONER ROMAN: Exactly.

CHAIRMAN STRAIN: So now I don't know where we are. And it shouldn't be this difficult. And, Richard, you had your time. You can have a rebuttal.

Go ahead, Mike.

MR. BOSI: Mike Bosi, planning zoning director. Let me try to cut through a little bit of the confusion with these numbers, because I think we're getting kind of wrapped around the axle here.

The problem and reason why there's such a discrepancy is because this Growth Management Plan is not for the entire acreage of the PUD, as we've talked about. There's 39 acres that are not part of this GMP amendment; the 39 acres where that apartment complex sits is not part of this GMP amendment. This GMP amendment only focuses upon the 196.

They're asking -- currently, under the regulations, that 196 can go from 1.5, which is -- currently has been entitled to, to 2.5. So that's 196 units that could be today, could be requested by the applicant if it utilized the TDRs to get there.

What this -- what -- the revision that they made this morning, what they are asking for is to be able to go from 2.5 to 3.5, so that's 196 and 196. So they're asking for an additional 196 units above what they currently are allowed. That is what this GMP amendment is -- application is for.

Whatever the calculation is for the PUD, we'll calculate that at the PUD during adoption hearing if this was recommended for approval. But for this hearing today, they are asking for 196 units to go from 2.5, which they're currently allowed utilizing TDRs, to 3.5. That's the essence of this GMP amendment. Because we were getting -- and I think that's where the focus of the CCPC should be.

CHAIRMAN STRAIN: Well, Mike, this board has repeatedly had been presented with densities relative to either straight zoning or PUDs. We don't get densities hacked up into pieces of PUDs. I've not seen this before. I don't understand how we can, in the end, say we understand -- we're accepting something that you're putting on the table here today, but when you come back in four months from now with the PUD, it's going to be totally different, but somehow it's going to be the same, and we're suppose to understand that.

I don't see that, and I don't see the need for separating this out as it has been. I understand the legal reasons. That's what attorneys are for. They can play with that all day long. But for this board's answering on what's going on, it's not making clear sense.

Now, based on your description, we're getting closer to the same number. We've got 742 or 745, roughly, with your description. We're still not at the same number that I think that we're -- we got by adding the previous numbers up.

There's 352 units allocated to the current San Marino project where the apartments are at, but they only built 350. That leaves -- that leaves -- well, that leaves two left over there, but then it's 196 twice is what's being asked for on the property we're looking at now, which brings it up to 742, plus the two left over would be 744, approximately. Is that the number we're talking about?

MR. BOSI: That is the number.

CHAIRMAN STRAIN: So when the PUD comes out and says "total residential density allocated to this PUD is," it will be a number close to that?

MR. BOSI: The number will be close to that. And remember, this is only for the GMP amendment

--

CHAIRMAN STRAIN: I understand.

MR. BOSI: -- and the GMP amendment only covers the 196. That is why -- and I didn't know it's customary where we talk about the density with the PUDs, but we are -- and I know it's hard to do, but this

GMP amendment has to be viewed upon what it's asking for, and it's only on the 196. It does have the relationship -- and, Mark, I think the -- or, Chair, you're correct, the total would be the number that you had, because it basically --

CHAIRMAN STRAIN: Somewhere around 745, 742, something like that.

MR. BOSI: But the amendment is asking to go from 2.5 to go to 3.5 on the 196. That is -- that's the essence of this request as well as the removal of the restriction from the one-mile area. That is the two major components of this amendment.

COMMISSIONER ROMAN: Now, I'm 59 units off from your number.

CHAIRMAN STRAIN: I'm worse.

COMMISSIONER ROMAN: Okay.

CHAIRMAN STRAIN: But, Mike, what you just said was the amendment's asking to go to -- from 2.5 to 3.5 on the 196. That's 686 more units on top of the 352 they already have. So now we're back into that same confusing circle again.

MR. BOSI: Here's where I think the Planning Commission is -- has not done -- or is not doing the math correctly. The one point --

CHAIRMAN STRAIN: No, it's just me. Don't blame it on the rest of the --

COMMISSIONER ROMAN: No, no. I think I'm doing the wrong math, too.

MR. BOSI: That 196 -- that 196 has already had the 1.5 spoken for.

CHAIRMAN STRAIN: I know.

MR. BOSI: It's already spoken for.

COMMISSIONER ROMAN: That's 294 units.

MR. BOSI: Yeah. That's part of -- those units have been -- that's part of the 352 that's originally established within the San Marino PUD. They're asking to go from 1.5 to 3.5 on the 196. So the 1.5 on the 196 has already been allocated.

CHAIRMAN STRAIN: Okay. But they're asking to go from 2.5 to 3.5 on the 196, but they're taking -- but they're not going to double dip and get the 1.5 that's already been allocated to the overall PUD. That's not part of the question of the GMP plan. Oh, this makes a lot of sense.

MR. BOSI: Correct. They're asking for, basically -- they're asking for 392 units.

CHAIRMAN STRAIN: Okay.

MR. SCHMIDT: And --

CHAIRMAN STRAIN: And --

MR. SCHMIDT: -- your total number of units all done, all said, should this be approved as proposed, would be somewhere around 744, yes.

CHAIRMAN STRAIN: Yep. Now, that number -- do you see how we're getting there, Charlette?

COMMISSIONER ROMAN: Okay. I've got two numbers. They're asking for 392 units based upon --

CHAIRMAN STRAIN: Additional units.

COMMISSIONER ROMAN: -- additional. So if I add 392 and 294 --

CHAIRMAN STRAIN: Well, no. They're not -- they're asking --

MR. YOVANOVICH: One ninety-six.

COMMISSIONER ROMAN: Six eighty-six.

CHAIRMAN STRAIN: Richard, this is not your rebuttal. Let us work through this with staff, because staff's got to manage it. And if we understand it as staff does, not as you do, we'll better understand what the question is.

COMMISSIONER ROMAN: I understand the 392 and where that's coming from, but what I don't understand is what's currently on the 196 acres. I thought it was 1.5 dwelling units an acre.

MR. SCHMIDT: What is currently developed there?

CHAIRMAN STRAIN: Well, no. What happens, Charlette, on -- currently, the entire project was looked at as one; 225 acres times 1.5 gives you 352. That's -- of which 350 is built on the current San Marino Apartment area.

COMMISSIONER ROMAN: Okay.

CHAIRMAN STRAIN: Now they're saying, that's built, we want to take not only the additional one density unit that we could have gotten with TDRs, but we want to take two additional density units to get with TDRs on the 196. That's how we get to 392.

COMMISSIONER ROMAN: Okay. I've got -- I've got that clearly in my head. What I don't have, Mr. Chairman, is what -- the base number we're working on. I thought it was the 196 acres that is base density of 1.5 unit an acre.

CHAIRMAN STRAIN: No. The base -- if you go to Page 2 of the staff report --

COMMISSIONER ROMAN: Okay.

CHAIRMAN STRAIN: -- the first existing conditions, that's what we're working on. If you notice, it was a total number of development units available to the project today is 588 units; 352 of them have already been allocated to the current San Marino project, leaving the balance, which is something like 288, 238 --

COMMISSIONER EBERT: Two thirty-eight.

CHAIRMAN STRAIN: -- unless they come in and -- for the -- including the San Marino acreage, though.

COMMISSIONER ROMAN: Yes. That's -- I thought I understood this chart until we started 196. So when I subtracted 352 from 588, I got 236.

CHAIRMAN STRAIN: That's correct. That's if you use the gross acreage overall and apply the balance that they could have gotten without a GMP amendment on their own through TDRs.

COMMISSIONER ROMAN: So they have 236 left?

CHAIRMAN STRAIN: Right. But now they're saying, we'd like, on just the 196, to add another layer of one TDR for the same 196, so that's how we're getting to the higher number.

COMMISSIONER ROMAN: And that's the 392 that you add to this?

CHAIRMAN STRAIN: That's correct. And the reason it's a little different is because they're not taking the density of the additional one or two units that could go onto the San Marino currently built-out area. They're only allocating it to their 196 area, because that's the only part they control.

COMMISSIONER ROMAN: When I add 236 and 392, I get 628.

CHAIRMAN STRAIN: One ninety-six -- 196 twice is 392, plus the 352 is 744. Three fifty-two is what's already allocated to the current San Marino. That's done by the 1.5 times the gross.

COMMISSIONER ROMAN: Times the gross, not the 196. That's what I was doing.

CHAIRMAN STRAIN: Well, when you -- initially, when they did the project, it was times the gross because they owned -- the whole thing was common.

COMMISSIONER ROMAN: That's what I was missing.

CHAIRMAN STRAIN: Okay. So what we're looking at, when this would come back, is the PUD, if it were to be approved, their maximum number is going to be somewhere around 744 within pennies. Is that --

COMMISSIONER ROMAN: I got 768.

CHAIRMAN STRAIN: -- where staff is at now?

MR. SCHMIDT: It is.

CHAIRMAN STRAIN: Okay. Well, I think we're all on the same page, then, as far as how we got there.

COMMISSIONER ROMAN: Yeah, thank you. But it was -- sometimes it was split, and sometimes it was together. It was very difficult to understand.

CHAIRMAN STRAIN: And especially when the applicant's representatives tells us seven different numbers. Just kidding, Rich.

MR. SCHMIDT: Just wait until they're explaining the TDRs.

CHAIRMAN STRAIN: Okay. Anything else, Corby?

MR. SCHMIDT: No.

CHAIRMAN STRAIN: Any other questions of Corby?

Go ahead.

COMMISSIONER EBERT: I do. Corby?

MR. SCHMIDT: Yes.

COMMISSIONER EBERT: Should this project be looked at as the 235 acres, because that's what originally it was looked at?

I can't help that the other portion was sold. This was all approved at 235 acres -- is where they could have the 588 units total, correct? If one owner had it, he could add the one more, a bonus density, and come up with 588 units on this 235 acres.

MR. SCHMIDT: That's correct, if the same landowner had control over the entire property. But that's no longer the case, and that's background information, and that figure is parenthetical somewhere else.

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

COMMISSIONER ROMAN: I have a question just for clarity.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER ROMAN: I mean, how do we normally go about doing this when -- I understand that when Rich was giving his portion, he talked about presenting something on land he doesn't own. And in a way it kind of makes sense to me where he separated that part because he doesn't own it; he doesn't control it.

So what's the way that this is normally done? I mean, should we be looking at 196, or should we be looking at 235?

MR. SCHMIDT: We should be looking at 196. In order for the 235 to be a number to consider -- and you have had situations in the past where multiple landowners or multiple developers and larger developments work together and you use different acreages or the larger numbers. That's just not the case here. The buyer of the smaller piece where the apartment complex exists just is not participating. And so we're not given those additional acreages or those calculations to work with.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay, Corby. Thank you.

MR. SCHMIDT: Thank you.

CHAIRMAN STRAIN: Are there any members of the public that wish to speak on this item?

(No response.)

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

MR. BELLOWS: No one has registered.

CHAIRMAN STRAIN: Rich, do you want a brief rebuttal? Because we need to take a break. I'd rather finish this before the break.

MR. YOVANOVICH: I have a -- believe it or not, I have a question for staff. Because as I read the staff report, staff was not objecting to expanding the area in which you can buy TDRs. But based on Corby's presentation, I'm not sure that's still staff's recommendation.

CHAIRMAN STRAIN: Well --

MR. YOVANOVICH: I just want to make sure, because I think he might have said something different.

CHAIRMAN STRAIN: You've got three-quarters of comprehensive planning here, so I'm sure we'll get the answer.

MR. SCHMIDT: One of the recommendations -- alternate recommendations that staff does support is to allow for those TDRs to come from a distance if they're divided up between qualifying and unqualified areas.

MR. YOVANOVICH: Then I have a question for staff.

MR. WEEKS: Let me jump in, please.

MR. SCHMIDT: Yes.

MR. WEEKS: Let's back up. The staff recommendation on the request before you is for denial. We do not support the increased density and the ability to grab all of those additional units from beyond one mile, those non-qualifying TDRs areas. We would support allowing -- not allowing the density increase, simply allowing the applicant to use the one-unit-per-acre increase by TDRs that they're presently allowed by the plan -- no plan amendment needed -- but we would support allowing them to obtain those TDR credits from

beyond one mile.

So staff doesn't support their request as submitted. We would support their request to grab the already allowed one-unit-per-acre increase by TDRs from beyond one mile. That's the same thing that's occurred with Hacienda Lakes, same thing that's occurred more recently with Naples Reserve.

What Corby was just referring to as an alternative, an additional alternative, that would be if this body is going to recommend approval of their modified request, then we would suggest to you that there be a percentage applied to where the TDRs can come from. Require the one unit per acre already allowed to be qualifying TDRs, that is from within the one-mile sending-lands corridor, and then allow additional, now one, not one-and-a-half -- additional one unit per acre density increase to be allowed to be obtained from beyond one mile. So a split as to where those credits come from.

COMMISSIONER DOYLE: Do we have a percentage that we're asking for?

MR. WEEKS: It would now be 50/50; 50 percent qualified, 50 percent unqualified.

MR. YOVANOVICH: Can -- am I allowed to talk?

CHAIRMAN STRAIN: Are you done? Are you finished, David?

MR. WEEKS: Yes.

CHAIRMAN STRAIN: Yeah, go ahead, Rich.

MR. YOVANOVICH: The problem with that 50/50 requirement is I can't get any of them right now from within that one-mile area. So you're effectively saying denial -- if you give me the increase of one unit per acre and you require that the first 196 of those units come from the qualified area and then the new units come from beyond the one-mile area, you've effectively denied the entire request, because I can't get the initial 196 from the one-mile area, which was the basis of one of the first amendments.

The second additional one acre is to make the project both financially economically viable for the developer but also allow for additional TDRs to be acquired.

So -- and I don't even know where they came up with that number. And I've asked that question. And originally the number was 40 percent. Now I recognize the changes because I lowered my number of units. But I never understood the basis for the number in the first place. It's not in your staff report.

Second, by way of rebuttal, Corby made comments about certain things, like we know they are available, and referring to the "they" was TDRs. I don't know how he knows that. I know that they're theoretically available, because you have areas designated as sending. But there's a difference between theory and application.

From a practical standpoint, TDRs are not available under the current configuration of your Growth Management Plan. That is why there is a group studying it right now. We discussed this at the Naples Reserve hearing. People are studying the sending lands program right now. Why are they studying it? Because it's not working.

So what we're proposing is, you have a particular piece of property in the urban area designated urban residential fringe. We think it's a good policy decision to allow this 196 acres to get one more TDR.

So let me make the numbers really clear. On the 196 acres that my client controls, we want to build 395 units. That's what we want on our 196 acres. There are 350 that already exist. So if you want to go with 745 over the entirety of the 235 acres, your PUD will show a density of 3.18 units per acre from a PUD standpoint. My property, the 196, will have a density of 3.5, to further confuse the math. That's all we're asking for.

Of those 395 units, we already have the right to do 198 -- 198, because we still own those two others. We already have the right to do 198 of them. So we're asking you for an additional, basically, 197, 196. We'll fix the math when we get to the PUD stage. That's all we're asking for; one additional unit, and let us get it from wherever we can find it from sending lands. That's this.

CHAIRMAN STRAIN: Okay. Thank you. Is there any final questions?

COMMISSIONER DOYLE: Just -- Rich, so no percentage; just let us get them from wherever we can?

MR. YOVANOVICH: Yeah. We would like to say to sending landowners, we're a willing buyer. Are you a willing seller? And if we can reach an agreement on price, the guy who's got the sending-land designation on his property can now sever the TDRs or sell TDRs he's already severed.

COMMISSIONER DOYLE: How does staff feel about that?

MR. WEEKS: We disagree. We would recommend that 50 -- we don't support the request, but if you're going to approve that increased density, we would recommend that it be a 50/50 split.

And one response. If I heard Rich correctly -- maybe I didn't. I thought I heard him say that if this project is approved as requested, they would, but with the staff recommendation of 50/50 split as to where those credits come from, that the developer would first have to acquire the qualifying TDRs, and --

MR. YOVANOVICH: That's what you said.

MR. WEEKS: Is that our language?

MR. YOVANOVICH: That's what you said.

MR. SCHMIDT: I'm sorry. What's the question?

CHAIRMAN STRAIN: Dave's asking you a question. We're not. So let Dave finish his question of you so you can answer that. Then Richard can get up here and finish up, and we'll see where we go.

MR. SCHMIDT: All right. Let's, perhaps, loosen up the conversation and clarify.

As proposed, the buyer of TDRs could buy the cheapest ones from anywhere in the county. Now, they range from \$25,000 for your base TDR to any negotiated amount for the other bonus TDRs. We've heard in other testimony during other presentations that they're offering somewhere around 26 grand, \$27,000 for a pair.

So whether you buy all the cheap ones first or only the expensive ones first makes no difference. He wants to get them from any location.

One of the alternative staff recommendations is to have a percentage associated with the existing allowed density which, with the old numbers, is 40 percent of the requested density, to come from where they are now required to come from within one mile.

If you would approve additional density and to allow them from -- to be transferred from more distant sending lands, then allow that at that ratio.

But the cost figures don't have anything to do with location. Those TDRs are available within one mile, and they're available outside of that mile.

CHAIRMAN STRAIN: Okay. Thank you, Corby.

Richard, I've got a question of you. Why do you need so much density for this project? I mean, if you had the ability to buy your TDRs from anywhere, would that help in your request to -- maybe you don't need as much density?

MR. YOVANOVICH: Well, Mr. Strain, part of it has to do, as you know, with economies of scale. We're putting all the infrastructure in the ground. If we can apportion the cost of the infrastructure over more units, it brings the price of the home down and more competitive for what's a satisfactory price in that area.

Okay. So that -- but we've looked at it, and we -- originally if you'll notice, the request was for 490. We've looked at it, and -- we've looked at it, and we've said we can do a single-family nice project, solely single-family, which brought the request down from our original request of 490 on our property to 395.

So we have, in effect, brought that number down, and we're saying -- but in order for any of it to work, we can't be hamstrung by looking just in this one-mile area for the ability to buy TDRs, because I don't care what your staff says, they're not in the trenches trying to buy these TDRs.

You know, we've got to buy them, and we've got to buy them at a price that we can afford for us to build a good-quality home, sell it, and make money. So we need more than just the one I can do today.

We had originally asked for one-and-a-half more units per acre. We're now down -- now that we've done it and we've done the study, what we think we can sell, to just needing one initial additional unit per acre.

CHAIRMAN STRAIN: Is your purchase contract based on density, or is it a lump sum?

MR. YOVANOVICH: I don't know the answer. If you'll give me moment, on a break, I can get that answer. I don't know.

CHAIRMAN STRAIN: Okay. We're going to take a break and come back at 10:45. Thank you. (A brief recess was had.)

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

Since the applicant's not here, it's a good time to vote on this. No, we're back on air, Richard, so

please come on in.

MR. WEEKS: Mr. Chairman?

CHAIRMAN STRAIN: Yes.

MR. WEEKS: One thing I want to get on the record additionally is part of the staff recommendations. If this body approves any version of this amendment, you'll notice, starting on Page 11, staff has some recommended changes that are not substantive. It's restructuring of their language and also eliminating the lengthy legal description they provided in providing a shorter explanation or reference, excuse me, to the subject site. We would ask you to include those non-substantive changes should you approve any version of the plan amendment today.

CHAIRMAN STRAIN: Thank you, sir.
Richard?

MR. YOVANOVICH: Okay. I think your question to me was how was their purchase contract structured?

CHAIRMAN STRAIN: Right.

MR. YOVANOVICH: It was structured based upon a flat number. But as you know, that flat number factored in number of units to arrive at the flat number.

So what I basically said -- I think everybody who was at that NIM wants a developer of the quality of Stock to develop this piece of property. So I basically said, give me your bottom-line number of units that you need to develop this property or you're going to walk away and some other developer will come in and develop this property. And that bottom-line number for Stock to move forward with this -- and they've kind of talked about the terms of that is 300 units on that piece of property.

So that's a half a unit, basically. It's -- don't hold me to the exact math. Let's just go with the 300 on that piece of property, but they've got to be able to buy the TDRs from wherever they can find them.

CHAIRMAN STRAIN: So now we're talking 64 units above what was originally allowed on that property.

MR. YOVANOVICH: But I can't -- I'm not assuming I had the right to any -- yes, you're right.

CHAIRMAN STRAIN: With the TDR provision. And the reason I asked you the question is because if you get a break in the TDRs, it helps your bottom line, which means if you needed density to create the bottom line at a higher rate. If you've got -- if you reduce your density but increase your margin per unit because of a benefit from a cheaper TDR, you're still good. And I think you've just confirmed that, so I'm fine with that. I understand what you're saying now.

So, basically, we wouldn't be looking at 744. We'd be looking at 652 as a maximum.

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: Okay. Anybody have any other questions?

(No response.)

CHAIRMAN STRAIN: And there's no public testimony. Staff has finished. So with that, we'll close the public hearing, and we can have discussion for a motion.

So I don't know what -- I've made some notes that we might want to consider. Although, based on the applicant's discussion that we just had, this project started out with a 843- or '45-unit request, and that's now been -- that's gross, and that's gone down to 652, which is only 64 units above the 588.

My concerns over the project's density are not as intense when we get into that number, so I'm not as concerned about seeing this not go forward based on that. So that's my feelings on it, but I don't know the rest of yours.

And as far as the TDRs go, I have long advocated that we should not provide anybody with a monopoly like we have with this qualified and nonqualified TDR program. It simply should be open and let them buy anywhere they need to, as it should be for everybody. But that's my thought.

Diane.

COMMISSIONER EBERT: Can I ask Mark a question?

CHAIRMAN STRAIN: Can you ask Mark a question?

COMMISSIONER EBERT: Yes. I'm going to ask you a question.

CHAIRMAN STRAIN: Yeah, you can ask me a question.

COMMISSIONER EBERT: This was approved by the BCC, is that correct, the TDR program?

CHAIRMAN STRAIN: Yes, they have to approve everything. It was approved in 2002 at the request of the governor, on a governor's order that began in 198 (sic), and there was a lot of stakeholder meetings and involvement that resolved to the program that came out in 2002.

COMMISSIONER EBERT: Okay. From what I -- is it true, from what I understand, originally there were a lot of big landowners in the area, and they were just going to trade between them?

CHAIRMAN STRAIN: No. You're getting mixed up with the RLSA, which happened at the same time. The RLSA, which is the eastern lands, had 195,000 acres of which it primarily was owned by half a dozen or so big landowners. That was the one where they were internally moving their credits in their sending and receiving areas.

In the RFMUD, it had just the opposite problem. There were thousands of small property owners. There were numerous class action -- there was one class action suit, maybe, and then another suit over some of the designations of the properties --

COMMISSIONER EBERT: I remember.

CHAIRMAN STRAIN: -- but there were lots and lots of landowners.

COMMISSIONER EBERT: Okay. But this was approved by the BCC.

CHAIRMAN STRAIN: Not the current BCC, by the way.

COMMISSIONER EBERT: So -- but they've known about this. This should be brought back -- I'm going to ask staff. This should be brought back to the BCC? I mean, because we're going --

CHAIRMAN STRAIN: It is being brought back.

COMMISSIONER EBERT: And they didn't change it.

CHAIRMAN STRAIN: No. The problem that -- and Richard alluded to it. There's been a group that's hired their own professionals to rewrite and create a white paper on how the changes to the TDR program should be made to make it a more, maybe, beneficial program for everybody concerned. They're producing that, and as we speak, it's starting to make its rounds. It's not public yet. It will be made public at some point and go before the board for direction to staff to then look at changing the TDR program, but that's going to take a while. It could take a couple of years to get that accomplished.

COMMISSIONER EBERT: So the reason staff is denying it is because they're following the BCC rule, correct?

CHAIRMAN STRAIN: No. Staff's got to follow both the GMP and the code as it's written today.

COMMISSIONER EBERT: That's correct. And so that's why they're denying this?

CHAIRMAN STRAIN: Well, I think David has stated on the record why they're -- their position. It is a density position and the TDR qualified and unqualified position.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: Anybody else? Go ahead.

COMMISSIONER EBERT: Well, I was just going to put in, because of this, I would -- I'm going to go with staff's request and deny this.

CHAIRMAN STRAIN: Is that a motion?

COMMISSIONER EBERT: That is a motion.

CHAIRMAN STRAIN: Okay. Staff's -- now, staff had two parts to their request. One was the denial based on density and another was a denial based on distance for TDRs. Are you suggesting both of them or one of them?

COMMISSIONER EBERT: No, just one of them, the density.

CHAIRMAN STRAIN: Okay. So we're going to have to vote on this as one vote, but we can take a straw vote on where the board lies before the motion's made.

So is anybody else in favor of saying no to this project because of the density that it's now resolved to, which is 64 more units on top of what they could already get all through TDRs? No?

COMMISSIONER EBERT: Let me restate that. They've come down in the density quite a bit, but if they would do the 50/50 on the TDRs, that would make more sense at this point.

CHAIRMAN STRAIN: Okay. But let's -- you started out with a density. Anybody have any problem with the density that they're suggesting now, which is -- they started out at 191 units more than what

they are suggesting now. They're down to 64 units above what they could have gotten before they came here today.

They were asking for 191 more than the 64. They're down to 64 on top of the 2- or the 196 that they came in with. Does anybody have any problems with that?

COMMISSIONER EBERT: So it brings it to the 300, correct?

CHAIRMAN STRAIN: Yes. They're asking for a total of 300 on the 196 acres.

COMMISSIONER EBERT: I have no problem.

CHAIRMAN STRAIN: Richard, if that's a wrong statement, clarify it now.

MR. YOVANOVICH: I just want to -- I wasn't sure when I'm allowed to talk. That is -- on the 196

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CHAIRMAN STRAIN: When you're asked a question, if we can control it that way.

MR. YOVANOVICH: It was rhetorical.

On the 196 acres before you today, we are asking for a total of 300 units.

CHAIRMAN STRAIN: And you would have been entitled to actually 238 by the gross calculation of the PUD.

MR. YOVANOVICH: PUD, correct.

CHAIRMAN STRAIN: Okay. So out of that 238, we're looking at 62 units above what you theoretically could have had anyway.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: So that's what the bottom line is.

And, Diane, are you comfortable with that?

COMMISSIONER EBERT: I am very comfortable with that.

CHAIRMAN STRAIN: Everybody else?

(No response.)

CHAIRMAN STRAIN: Then the next thing is TDRs. Where do we stand on the TDRs?

Again, I've already expressed my opinions. Does anybody else have any concerns?

COMMISSIONER ROMAN: Yeah. I'll make one comment in terms of the TDRs. The intent of the policy for the TDR program is to protect the county's most sensitive sending lands. So, to me, where you get -- where he gets the TDRs is coming from some of those sensitive sending lands and meets the intent of the policy so, therefore, I could support the fact that he could get the TDRs wherever he could purchase them.

CHAIRMAN STRAIN: Okay. Anybody else have any comments?

COMMISSIONER HOMIAK: I feel the same.

COMMISSIONER ROSEN: I would agree with that.

CHAIRMAN STRAIN: Okay.

COMMISSIONER CHRZANOWSKI: I would agree, too. We've been asking about this TDR program for a long time. And, like you say, it's going to be a long time before somebody does something, and I think we have to start showing that we're dissatisfied with it.

CHAIRMAN STRAIN: I agree.

Okay. So that boils it down to what David alluded to or actually stated before we started talking. He wants to make sure that if this is approved -- and it looks like it will be -- in any form that the non-substantive changes to the GMP language suggested by staff remain intact.

Richard, do you or your group see any problems with that based on the fact that we would recommend approval for the additional -- for 300 units on the 196 and for the TDR program coming from anywhere in the area?

MR. YOVANOVICH: That's exactly what we've been asking for all along, obviously, with a higher number, but, yes.

CHAIRMAN STRAIN: And, David, from your perspective, because we don't have another meeting till December, this was going to try to not be on a consent. Is staff absolutely clear then on what would come out of this meeting? Because if you're not, let's talk about it now.

MR. WEEKS: I'm clear on the approval would be for 300 dwelling units. I thought I heard you say a math figure that I couldn't get to work.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: But if it's -- if it's above the one unit per acre that the 196 acres are presently allowed via TDR credits, they're asking for, by my math, 104 additional units to get up to 300.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: That's what I thought I heard you say.

CHAIRMAN STRAIN: Okay. Well, then let's go over it, because if you look at the gross calculation on the property, they're allowed 588 units. That's for 235 acres. That's using both the 2.5 -- here we go with numbers again.

Mike, you're shaking your head no.

MR. BOSI: Mike Bosi, again, director of planning and zoning. You can't include the 235. You have to stick with the 196. The essence of their arrangement, as you've described it, would be basically lifting the limitation of density from 2.5 to 3.03. That's the essence of this request.

CHAIRMAN STRAIN: Okay. But --

MR. BOSI: Because it's 300 -- 300 is the units; 196 is the acreage. You divide that, and you'll get -- that produces -- that produces 1.53.

CHAIRMAN STRAIN: I just want to make it clear what we're approving. We're approving 300 units on the 196 acres that currently have had -- could have, by right, an additional density bonus for one TDR across the gross 235 acres, which would have given them two hundred and -- well, they've got two unbuilt -- 237 more units they could have built. They're asking for 300. So we're, what, 63 units off or something like that?

MR. BOSI: You can't include the 39 acres for the PUD. This is for a GMP amendment that only includes 196 acres.

CHAIRMAN STRAIN: Okay. So are you saying that the developer for the remaining 39 acres that's the current San Marino could still come in and ask for more density on that piece of property?

MR. BOSI: If he sought to.

MR. YOVANOVICH: One unit an acre.

CHAIRMAN STRAIN: How would he get that when he's -- if you're concentrating on that one piece of property. He's already above eight units per acre.

MR. BOSI: That part -- that -- it would have to be -- it would be looked at as what the specifics of that application would be. It's a hypothetical. I'm not sure what --

CHAIRMAN STRAIN: Well, because it's important. I'm looking at how much density we're adding to the system.

MR. BOSI: Yes.

CHAIRMAN STRAIN: And right now the system could have 238 more units on the gross property.

MR. BOSI: Yes.

CHAIRMAN STRAIN: So the applicant's saying, if you give me 300 units and let me do the TDRs, everything will work out.

MR. BOSI: Correct.

CHAIRMAN STRAIN: Okay. Now, they've committed to some things here today which I expect we'll all see in the form of the PUD. And one will be the concern over the fencing on the preserve, the single-family home application that they talked about, because right now that's not how it reads. But we will get to see that when it comes back for adoption. We can make sure what was said here today is held to during that process.

Now, based on those things, this becomes a better project. And it doesn't trigger the violations or concerns that I had when we started at almost -- over 200 units more than what they're now down to. So that gets us in a better perspective.

I just want to make sure from staff it's worded correctly. So when we word this for our language that David's got to come back with, how does he address the density?

MR. BOSI: He has to address it at 196. He can't -- we're not talking about the PUD. This is for a GMP amendment. The PUD is later. It's a separate companion item.

CHAIRMAN STRAIN: I understand that, Mike, but you're taking --

MR. BOSI: This is for a GMP amendment. They are -- right now they're restricted to 2.5 units per acre on that 196.

CHAIRMAN STRAIN: Right. Now they're going to go to 3.0 units per acre on that.

MR. BOSI: Now they want to go to 3.03. That's -- that is the request that has been -- that has been adjusted by the applicant.

CHAIRMAN STRAIN: Okay. We're going to use that, then.

David, does that clarify -- I mean, it probably clarifies it as clear as mud, but does that help with --

COMMISSIONER ROMAN: Mr. Chairman, you're confusing me when you use numbers from the 235 versus the 196, because it could give the -- give the appearance that it's a better reduction than maybe it is. So I think we need to stick to the 196 when we're having our discussion, because -- I'd like to see those numbers, because when you see it in light of the 235, it may look better than it is.

MR. YOVANOVICH: Can I --

MR. SCHMIDT: I can answer that.

CHAIRMAN STRAIN: Go ahead, Corby.

MR. SCHMIDT: Corby Schmidt again from the comprehensive planning department. This is somewhat complex math. But to break it down, the additional density they're asking for to reach 300 is 298. They've got those two reusable from the other acreage.

MR. YOVANOVICH: We're not asking for 298. We already have --

CHAIRMAN STRAIN: No, no. Richard --

But, Corby, I think this board is only concerned about what it is they have -- they're asking for above what they have by right.

So of the two -- of the 300, there's a -- that's what I'm trying to understand. I know what the answer is, but I want to hear Corby's way of describing it.

What's the difference between what they could have gotten by right by not coming here today versus what they're asking for now that we've boiled it down to 300 units for the 196?

MR. SCHMIDT: I almost didn't follow the question that time.

MR. WEEKS: I think I got it. It's, today, 196 units. That's what they're eligible for right now.

MR. YOVANOVICH: Plus my two base.

MR. WEEKS: Plus his two base.

MR. YOVANOVICH: One ninety-eight.

CHAIRMAN STRAIN: Richard, I know.

MR. YOVANOVICH: I'm sorry.

CHAIRMAN STRAIN: I was just going to make that correction. You're very anxious, and that's good for your client, but we're going to get there.

COMMISSIONER ROMAN: David, can you kind of spell that out so I'm following as well, please.

MR. WEEKS: I'm going to try, because I may have a question about those two units approved in the PUD.

If they're asking for 300 units and they're eligible for 196 right now without this plan amendment, 300 minus 196 is 104. The question I have is where do those two units presently approved in the PUD but not built fall. If they fall to this applicant, then it's 300 minus 196 minus two equals 102 dwelling units being requested through this amendment.

And I see Rich shaking his head yes.

CHAIRMAN STRAIN: Okay. I hate to ask you this now, David, because right now the project is approved for 352 units. Can we all agree on that? The whole project, the whole San Marino PUD. This board deals with zoning on a PUD level. The GMP gets us there. So let's figure out, on our level we've got to deal with this next, how we get to the number we're going to be using at the PUD level.

It's currently approved for 352 units. They're going to come in and ask for approval for 652 units; is that a correct statement?

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: Okay. If you take the San Marino PUD times 2.5, which is 235 acres times 2.5, you get 588 units; is that correct? I mean, I've got the math, but you guys --

MR. WEEKS: Yes.

CHAIRMAN STRAIN: Okay. Now, you previously acknowledged, and they did too, they're asking for six -- it's going to be 652 when you add their 300 to what there exists. They could have gotten 588. The difference is 64. So if that's the case, basically, we're looking at an impact of an additional 64 units to get a single-family product like they're proposing today; is that right?

MR. BOSI: That's correct, Chair, but this is a GMP amendment application. And we have to focus upon --

CHAIRMAN STRAIN: No.

MR. BOSI: -- what the amendment's asking for, because that's what we're going to be proposing to the state.

CHAIRMAN STRAIN: But we have to focus on what they're going to be asking for when they come back in and ask for zoning, because we have to understand.

MR. BOSI: GMP application is supposed to be heard by itself, on its own, with its own individual merits. And the way that we construct the language to the State of Florida will not be referencing a PUD.

CHAIRMAN STRAIN: I don't care what we reference into the State of Florida. I don't really care what the State of Florida needs to understand, what those people up there want to try to understand. I want this board to understand what it is we're voting on today when it comes back to us in the form we're consistently used to, and that is a PUD.

MR. BOSI: And I appreciate that. What I'm saying is, we have to be clear about what we're going to transmit to the state, because what -- the description here, it will be what ultimately is going to be discussed at the PUD. We just want to make sure that we're clear upon what is being transmitted to the state that ultimately gets you to the number that you're discussing.

CHAIRMAN STRAIN: And I want to make sure that David understands what we're looking at so when he writes that language and fine tunes it as a result of this meeting, he's on the same page. That's the only thing that generated this discussion.

So, David --

MR. WEEKS: I'm there.

CHAIRMAN STRAIN: You're there. Thank God for small favors.

Anybody else have any questions?

MR. WEEKS: I'm healthy and I don't plan on dying soon.

CHAIRMAN STRAIN: Stan.

COMMISSIONER CHRZANOWSKI: If this keeps up, I might vote to approve just for spite.

CHAIRMAN STRAIN: Go right ahead.

So does anybody want to make a motion on this at this point?

COMMISSIONER ROSEN: Mr. Chair, I would.

COMMISSIONER HOMIAK: I would like to --

CHAIRMAN STRAIN: Go ahead, Mike.

COMMISSIONER ROSEN: I'd like to move to approve Petition CP2014-2/PL2014-0000113 of the Growth Management Plan with the stipulation that there are -- I want to give you a number, because this is what we talked about before. That the TDRs can be purchased anywhere and that there be a total of 652 units. And if you want to correct me on the unit count -- that's what we talked about last time.

CHAIRMAN STRAIN: I think the wording, the problem with the wording is that they need the units expressed purely on the 196, so it would be 300 units cover -- on the 196 acres.

COMMISSIONER ROSEN: Okay. So I'll change my motion to 300 units, then.

CHAIRMAN STRAIN: Okay. Is there a second?

COMMISSIONER HOMIAK: I'll second.

COMMISSIONER CHRZANOWSKI: I'll second.

CHAIRMAN STRAIN: Second by Karen.

Discussion?

COMMISSIONER EBERT: Yes. There's some language in there, though, that it was going to have to change legally a little bit here.

CHAIRMAN STRAIN: Well, David's already been -- he understands the changes. I think that may be an amendment to the motion, then. If the motion maker and second would accept the fact that staff has recommended some non-substantive changes to make the language more consistent, they're going to make those changes as well.

COMMISSIONER ROSEN: I would agree as the motion maker.

COMMISSIONER HOMIAK: I want to hear what he has to say.

MR. STONE: Just to be clear, the transmittal should be referenced in terms of additional TDRs. Right now the resolution states that they're increasing the density from 2.5 maximum allowable units per acre to 4. Obviously, now it is 3.5. So rather than --

CHAIRMAN STRAIN: No, it's now 3.

MR. YOVANOVICH: 3.03.

CHAIRMAN STRAIN: Barely -- just a little over three. But David was going to do all that in the language -- in the changes to the language.

MR. STONE: Okay.

CHAIRMAN STRAIN: That's what we were getting at. That's why this addendum to the -- that both the first and second accepted. The motion is 300 units on the 196 acres, and the addendum to allow David to make the non-substantive changes to the language to make it all consistent, and that the TDRs can be utilized from anywhere in the rural fringe sending -- from any rural fringe sending area. Is that consistent with the motion maker and the second, then?

COMMISSIONER HOMIAK: Yes.

COMMISSIONER ROSEN: Yes, sir.

CHAIRMAN STRAIN: Okay. Further discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER ROSEN: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

MR. YOVANOVICH: Thank you.

CHAIRMAN STRAIN: That was a struggle. I would hope that we don't have to do this ever again.

COMMISSIONER HOMIAK: Yeah, right.

CHAIRMAN STRAIN: And, staff, this is the first time I've seen one split up like this. I'm probably not realizing there may have been others, but, boy, I wish there was a simpler way to attack this one.

So thank you all for your attendance.

COMMISSIONER EBERT: And, Brian, congratulations. Brian's getting married next week.

CHAIRMAN STRAIN: Condolences.

COMMISSIONER EBERT: So condolences.

MR. YOVANOVICH: If we weren't on the record, I'd say something.

CHAIRMAN STRAIN: ***Okay. The next item up is PUDZ-PL20140000340. It's a project known as Collier 36 RPUD located on the east side of Collier Boulevard at CR 951 north of Buck's Run Drive.

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

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

COMMISSIONER CHRZANOWSKI: None.

CHAIRMAN STRAIN: Mike?

COMMISSIONER ROSEN: None.

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: No. I just talked to Bob just briefly before.

CHAIRMAN STRAIN: And I had some discussions with staff and then Bob yesterday and George on the phone.

Karen?

COMMISSIONER HOMIAK: Nothing.

CHAIRMAN STRAIN: Brian?

COMMISSIONER DOYLE: Very limited with Bob.

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: None.

CHAIRMAN STRAIN: And, Tom?

MR. EASTMAN: None.

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

MR. MULHERE: Thank you.

Good morning. For the record, Bob Mulhere. That was a highly informative item before me. I hope this one's not quite as complicated and a little bit quicker.

In fact, that's a good nexus. I think this is really a rather simple project.

CHAIRMAN STRAIN: Is there any math involved in this one?

MR. MULHERE: Very little. And I was never good at math anyway, so -- on the visualizer is a -- is an aerial that shows the subject property, which is right here, and the surrounding development.

When we started -- is that on? Yeah. When we started this project, there was not a contract for purchase. But subsequent to being in the process, a contract for purchase came to be with D.R. Horton, who is also developing this Tuscany Pointe PUD, which is immediately adjacent to the subject property.

And with me today is Wayne Everett from D.R. Horton; also George Hermanson, if there are any civil engineering questions; and Paul McMichael, also with Hole Montes.

So this is a 10-acre parcel. We're asking for the four units per acre that the Comprehensive Plan allows, a total of 40 units.

I want to put the master plan on so you can see the interconnectivity between the two.

The project is accessed off of Collier Boulevard. This is the access that will lead into the Tuscany Pointe PUD -- again, same developer -- with a shared access leading north into the subject property, Collier 36 PUD.

There are several deviations that we've requested, all of which are supported. And I know that when I met with Mr. Strain yesterday afternoon, there were a couple of -- there's some cleanup language that needs to occur. And rather than go through that, I think I'll just defer to any questions that you have, and those will come up, I'm sure, as part of the discussion.

With that I'm open to responding to any questions that you have.

CHAIRMAN STRAIN: Okay. Does anybody have any questions on the project? Diane.

COMMISSIONER EBERT: I have a question. Has Tuscany Reserve been already -- is the infrastructure in, and has that been started?

MR. MULHERE: It is. It's under construction right now. I'm not sure exactly where they are in the process. I drove by not too long ago. They're building the infrastructure now.

COMMISSIONER EBERT: Okay. Because I was just going to ask, as long as they've purchased this other 10 acres, why don't they just combine it and make it one.

MR. MULHERE: It kind of is going that way, but we were so far into the zoning process that it made no sense to spend extra money to start all over again to amend that PUD. As you know, we do share a common access, which was a condition of Tuscany Pointe, and it will be developed, you know, basically as the same kind of -- same project.

I did -- I'm glad you asked that question, because you reminded me. I neglected to say we did have a neighborhood information meeting. There were two people in attendance. They were from Vanderbilt Beach

Country Club. They had a few questions, but there was really no substantive issues. And you can see that no one has any concerns with this project.

COMMISSIONER EBERT: Yeah. The only question I believe they asked was because of the equipment barn located by this property for the --

MR. MUDD: Their golf course.

COMMISSIONER EBERT: By their golf course, and --

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Bob, you had submitted an alternative language for a deviation. Could you walk us through the differences between what's on record and what you had asked for clarification.

MR. MULHERE: Are we -- which one are we talking about, Mr. Strain?

CHAIRMAN STRAIN: I think it was Deviation No. 2 about the hammerhead.

MR. MULHERE: Oh, yes, thank you. I appreciate that.

The -- we had been reviewed by the staff, including the fire reviewer and recommended for approval; however, the language in the PUD, as a condition under developer commitments, which I will get to in just one second -- if I can find the PUD. Here we are.

Under developer commitments, No. 6 on Page 10 of 10 on the draft PUD, the language reads hammerhead turnaround shall comply with Collier County fire code official/Collier County requirements of the 25-foot radius inside, 49-foot radius outside, and 150-foot maximum length of the dead end.

That's exactly the deviation that we're asking for. So those dimensions don't make sense because they are for a cul-de-sac, and what we're asking for was the ability to deviate as depicted on the master plan with a hammerhead design, which the reviewing was approving. I think maybe this was just standard language that they had put in, not realizing it conflicted with the deviation we were asking for.

We tried to reach the reviewer. They're all out at a seminar through today, come back tomorrow. We can certainly clarify this with that person prior to coming back, I'm sure, for consent, but we're pretty confident the language that I proposed should address it, which is to read, "Hammerhead turnaround shall comply with Collier County fire code official/Collier County requirements," period. New sentence, "The developer shall provide detailed drawings to the county for review at the time of subdivision plat approval."

CHAIRMAN STRAIN: Okay.

MR. MULHERE: It's pretty simple. And, you know, we've got to submit that anyway, and they'll get another shot at reviewing it. But I'm sure that's going to be accepted.

CHAIRMAN STRAIN: Well -- but before we go too far with this, Kay, the language in the GMP -- or the LDC that's trying to be changed is 6.06.01(j), which prohibits dead-end streets.

So basically he's having -- he's asking us to change language involving hammerheads. How is that described in the LDC? Isn't that a fire code?

MS. DESELEM: I believe it is a fire code.

CHAIRMAN STRAIN: Okay. We can't change fire codes. I mean, they're set by the fire marshal. If we could change fire codes, this world would be a lot better place.

MS. DESELEM: That's my understanding, yes.

MR. MULHERE: And I agree. The deviation's, actually, for the length of cul-de-sac.

CHAIRMAN STRAIN: Right. So why don't we stick to the language of the deviation subject to what the LDC is describing.

MR. MULHERE: Fine.

CHAIRMAN STRAIN: Whatever the fire marshal and the fire code in their convoluted ways of analyzing things come up with, you're going to be stuck with that anyway.

MR. MULHERE: We have to meet the code.

CHAIRMAN STRAIN: There's no way you can appeal that, so we can't deviate from it.

MR. MULHERE: Well, we could strike through No. 6 entirely.

CHAIRMAN STRAIN: That's -- well --

MR. MULHERE: It doesn't have to be in the PUD. We have to submit design plans for their review and approval anyway.

CHAIRMAN STRAIN: Right. So that's where I'm coming from. Your No. 6 is in the PUD, but Deviation No. 2 is the one that discusses it.

MR. MULHERE: It's absolutely right.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: That's correct.

CHAIRMAN STRAIN: So Deviation No. 2, though, you still need that --

MR. MULHERE: Yes.

CHAIRMAN STRAIN: -- for the dead-end street issue --

MR. MULHERE: Yes, because it exceeds --

CHAIRMAN STRAIN: -- but then we take out all the hammerhead language.

MR. MULHERE: Correct.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: So No. 6 comes out.

CHAIRMAN STRAIN: Are we good on that, Kay?

MR. MULHERE: Under developer agreements.

MS. DESELEM: Yes, sir.

CHAIRMAN STRAIN: Okay. And while we're on deviations, No. 5, you talk about zero lot line and allowing windows on the zero lot line side, which has been a very common issue lately, but it says, to allow windows in a contiguous wall. It's a lot simpler to said as you just want to allow windows on the zero lot line side of the unit instead of a contiguous wall, because I'm not sure how contiguous any of these walls are. Why don't we just leave it simple. Is that okay with you?

MR. MULHERE: Yes. So it would read, "Where such wall is contiguous to an adjoining lot line to allow windows on the zero lot line side of the lot," yes?

CHAIRMAN STRAIN: Yes, that's it. I'll make a note when we stipulate.

Okay. On Deviation No. 6, it's more of a question I have of environmental staff than I do of you, Bob, but I'm hoping Summer can answer it and supplement the answer. It's to allow a preserve of 1.5 acres in size to be done off site.

Currently, there's a one-acre limit. And I'm not trying to say it's right or wrong, but if this happens and it's a precedent, where do we go from here? Does that mean -- where does it stop? How far above one acre can we go? And maybe you can tell me.

MR. MULHERE: Actually, to my knowledge, this has been -- there have been also other mitigation approved above the one acre. Actually, this came at the suggestion of staff because, you know, to leave the .35 acres didn't make any sense, and I think -- we met with Steve Lenberger.

So, I mean, I don't have an answer for you in terms of what makes sense. I'm sure if it was, you know, rare and endangered kind of flora and fauna, we would probably be requested to say if it was something very unique. But in this case, it's going to serve very little value, if any. And, as a result, it was suggested that we would be better off to mitigate off site.

CHAIRMAN STRAIN: I would like, Summer, if you could comment on this one.

COMMISSIONER ROMAN: I also had a question regarding this as well, Mr. Chairman, and it was regarding the staff report, so Summer can address that as well.

Page 4 it talks about the calculation, and there's a notation of 25 percent. I don't know if that's a typo or not. I'm doing math again, but 25 percent of 8.9 acres is not 1.35.

MR. MULHERE: There's -- that 25 percent is not of the entire size.

CHAIRMAN STRAIN: Summer, do you want to come up? I'm going to have to drag her up here.

MR. MULHERE: It's based on the native vegetation, not the entire acreage of the PUD. I mean --

CHAIRMAN STRAIN: That PUD is completely wooded, or it looks to appear --

MR. MULHERE: No. There's some areas up by the front by the canal that are not. That number is actually lower. It's not the entire acreage. It's a little bit lower.

CHAIRMAN STRAIN: Okay. Then maybe Summer can explain to us how she found approval with this one so we're comfortable.

MS. ARAQUE: Are we talking about the deviation or the calculation?

CHAIRMAN STRAIN: Deviation No. 6, which will then come into the calculation, because it's for a specific size.

MS. ARAQUE: Okay. Summer Araque, principal environmental specialist, for the record.

So in regards to this particular project, due to the lack of connectivity is definitely one reason that we would recommend approval for a deviation on this one.

Also, given the thresholds of -- you know, currently we have a threshold of one acre for residential and two acre for commercial and industrial. So it's kind of still within that range. But I would say mostly because of the connection, it's not too far above one acre, and there's no listed species.

And due to the shape of this project, the preserve was going to be quite linear because this is a linear property. And, essentially, the preserve would kind of end up becoming, like, a landscape buffer.

And initially they were requesting reduced setbacks because they were trying to fit the lot, the lake, on this linear property.

So does that answer your question?

CHAIRMAN STRAIN: It answers part of it. Let's talk about the calculation. I think that's another issue.

MS. ARAQUE: Okay. It's 25 percent of the native vegetation existing on the site. And I believe the calculation is on the site plan.

CHAIRMAN STRAIN: Well, no, I understand. Charlette had a question about it, so -- and it was more or less that the project looks pretty much totally vegetated. And when you do a gross calculation, you come up with a lot more acreage than 1.35. So how did it get down to 1.35?

MR. MULHERE: The amount of existing native vegetation is actually 8.98 acres.

COMMISSIONER ROMAN: And if you do 25 percent of that, I don't come up with 1.35.

MR. MULHERE: Well, I think it might be a -- that might be a miscalculation. Is it 15 percent? It's 10 acres.

MS. ARAQUE: Let me look at the site plan.

COMMISSIONER ROMAN: I was just going by the staff report.

MR. MULHERE: I think it is 15 percent. Yeah, 10 acres or less, I think it's 15 percent. That's probably a -- incorrect in the staff report.

MS. ARAQUE: It should be right on there.

MR. MULHERE: You've got to find that for me. Somebody find the calculation, 15 percent times 8.98. I forget how we got there. Yeah, it's 15 percent. It's 15 percent. That's the requirement.

COMMISSIONER ROMAN: So that was incorrect in the staff report?

MR. MULHERE: Correct.

CHAIRMAN STRAIN: Well, you may agree with it, but we need Summer to be on record agreeing that her staff report has an error in it so we can get the record clean.

COMMISSIONER ROMAN: It is Page 4, I think, I -- yeah, Page 4 of 17.

MS. ARAQUE: That's correct. It would be 15 percent, not 25 percent.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: Fifteen percent times 8.98 comes out to be what we are preserving.

COMMISSIONER ROMAN: Which is 1.35?

MR. MULHERE: Yes.

COMMISSIONER ROMAN: Which, getting back to the chairman's question, is over one acre or eligibility for off-site mitigation.

CHAIRMAN STRAIN: Which is why they're asking for the deviation.

MR. MULHERE: And that's why we're asking for the deviation.

CHAIRMAN STRAIN: Justification for the deviation from both staff and the applicant has been for the linear nature of this particular project. We'd only end up with a long, linear preserve.

COMMISSIONER ROMAN: I heard that. Yeah, I heard that. Thank you.

CHAIRMAN STRAIN: So that's kind of, I think -- does that get to all your issues on that, Charlette?

COMMISSIONER ROMAN: Yeah. You know, the numbers today, I guess it's my numbers day.

CHAIRMAN STRAIN: Oh, it's a number day.

COMMISSIONER ROMAN: They're not all adding up.

CHAIRMAN STRAIN: We've going to have to calculate the density on this one, too, so --

COMMISSIONER ROMAN: I'll need a new battery for my calculator.

That's easy, 10 times 4.

CHAIRMAN STRAIN: Yeah. Is that on gross or net, Bob?

MS. ARAQUE: And then just one more thing. I mean, we did provide our analysis and recommendation on Page 10 at the top on why we recommend approval of the deviation.

CHAIRMAN STRAIN: I understand.

MS. ARAQUE: Okay. Thank you.

CHAIRMAN STRAIN: Bob, Deviation No. 7.

MR. MULHERE: Yes.

CHAIRMAN STRAIN: Could you put -- could you show us on the overhead how that's applying?

MR. MULHERE: Yes. We requested this deviation. Let me reduce this a little bit so you can see. It applies in two places. So this is ag zoned property to the north of us. Most likely in the future that will go residential because that's the only thing under the Comp Plan that they would be able to do up there. But right now it's being used as a nursery operation.

And the way the Land Development Code reads, it requires you to apply your setback based on use, current use, and staff noted that in there.

We meet the required buffer all the way through here. We're a little bit short here and a little bit short there. It's actually 10 feet in width. Here I don't think it matters, and we asked for the deviation. We've got the lake, and there's no residential lot. So nobody's being affected there.

Here there's -- we would lose one lot if we provided -- and, really, one lot is important on this project. We agreed to provide the same native -- excuse me -- the same landscaping vegetation so, really, we're only really talking about a reduction in this area here, although it actually does apply in both areas, but in terms of impacting.

Since no one has purchased yet, anyone that comes in, they're going to know what they're getting when they buy that lot. And, again, I still think this will be residential up here, in case they're going to provide the same kind of buffer, which would actually only be 10 feet if it's residential. So that was the basis.

CHAIRMAN STRAIN: Okay. But the deviation says you will require a 15-foot-wide Alternative B buffer. You're showing a 20-foot-wide buffer in the other area. And that's fine. It's more. Are you --

MR. MULHERE: Yeah, that was --

CHAIRMAN STRAIN: That was your choice?

MR. MULHERE: Yeah.

CHAIRMAN STRAIN: Okay. Because it's on the master plan, and that's what you'll be following going forward.

MR. MULHERE: Yeah. Okay. Charlette?

COMMISSIONER ROMAN: Yes. I had a question along the same lines regarding a NIM comment that was made regarding a berm with that landscape buffer. Is there going to be a change of elevation or what?

MR. MULHERE: That's a very good question.

CHAIRMAN STRAIN: I had the same one. It was coming up on the NIM notes.

COMMISSIONER ROMAN: Oh, really? I finally got ahead of you.

CHAIRMAN STRAIN: I don't think they realized when they put that in there how obvious it was --

MR. MULHERE: You know, I have to say, I wasn't at the -- I had a conflict. I wasn't there, but I did talk to George, who was there. Do you want to respond?

MR. HERMANSON: Sure.

CHAIRMAN STRAIN: Well, that's good, because you didn't respond to the gentleman who asked the question at the NIM. That wasn't a response. Is there going to be berm? Well, there's going to be a change in elevation. Well, that doesn't answer the guy's question, so why don't we answer it here today.

MR. HERMANSON: George Hermanson.

The minutes of the meeting were not clear. What the question had to do was with the Tuscany Pointe

project, which was under construction.

These folks at the meeting were from Vanderbilt Country Club, and they were involved in some of the stipulations for Tuscany Pointe because they border Tuscany Pointe. They do not border this project. They only touch at the corner, and that's where their maintenance building is.

But since they know D.R. Horton was involved in both projects, they raised the question. The berm they're talking about is on the north side of Tuscany Pointe at the rear portion of the project. And the answer was yes, we're building the berm there, and also on the east end, too, where they border.

So it wasn't made clear in the minutes, doesn't refer to this project. We will put berms where we have to put berms for drainage and so forth, but not necessarily as a buffer, because that was not their question.

CHAIRMAN STRAIN: Well, the question was, will there be a berm in the landscape buffer, and the answer that you gave was, yes, there will be a change in elevation. So I think the "yes" is what we're concerned about. When you said that, what was your intention and how -- I mean, you didn't -- you weren't very descriptive in what you responded to.

MR. HERMANSON: Well, on the north of this project, yes, the rear of those lots that border that buffer will have to be filled at the rear, so that will necessarily raise the buffer also. But at the same time, at the outside edge of the buffer, we will have to taper down to existing elevation.

So it will have the appearance of a buffer starting at the property line, going up into the landscape buffer, and at the rear of that lot. Then the lot will slope toward the street.

CHAIRMAN STRAIN: You seem to like to avoid the question. The question was, will there be a berm in the landscape buffer? I don't care about filling it to grade. That's not a berm. And you said, yes, there -- basically there will be a berm, but you said it a little differently. Yes, there will be a change in elevation. That is not a specific answer to the gentleman's question or to the lady, whoever answered (sic) the question.

And I'm now trying to find out -- and I think Charlette's trying to find out, too -- when they asked you if there was going to be a berm and you said "yes," tell us how that berm is being constructed. And it isn't something filled to grade. That's not a berm.

COMMISSIONER CHRZANOWSKI: Mark?

CHAIRMAN STRAIN: Yes.

COMMISSIONER CHRZANOWSKI: Unless they specify a height of the berm, a 6-inch berm is a berm. I mean, we see that all the time on drawings.

CHAIRMAN STRAIN: He's not even saying that. He says they're going to fill it to grade.

MR. HERMANSON: Are you asking the same question as the people at the NIM?

CHAIRMAN STRAIN: Yes.

MR. HERMANSON: That was not this project. They were asking about the adjacent project.

COMMISSIONER CHRZANOWSKI: George, will there be a berm on this project?

MR. HERMANSON: Yes.

CHAIRMAN STRAIN: Okay.

MR. HERMANSON: It may only be 6-inch, but there will be a berm.

COMMISSIONER CHRZANOWSKI: Thank you.

CHAIRMAN STRAIN: Thank you, Stan. I don't know why we can't get through some of these things.

MR. MULHERE: Something -- is it a full moon?

COMMISSIONER HOMIAK: Yes.

COMMISSIONER CHRZANOWSKI: I think it is.

COMMISSIONER HOMIAK: It is.

CHAIRMAN STRAIN: Probably Stan bringing all that sugar.

COMMISSIONER ROMAN: Yeah, that's the problem.

COMMISSIONER CHRZANOWSKI: There's doughnuts up there if anybody wants any, please.

MR. MULHERE: Mr. Chairman, I know you had also some questions, and we need to make a couple of changes to the development table.

CHAIRMAN STRAIN: I'm just now getting into the PUD, unless somebody else has any questions they'd like to ask first.

COMMISSIONER EBERT: I do have a couple questions on deviations.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: Deviations No. 3 is where it has to do with buffer yards. Is this project or are both projects going to be single-family?

MR. MULHERE: Yes.

COMMISSIONER EBERT: Okay. That makes a difference, because on Page 16 --

MR. MULHERE: Page 16.

COMMISSIONER EBERT: -- uh-huh, of the staff report, it says should multifamily structures, townhouses, be developed on the track? That's why I just wanted to make sure, the No. 2 on Page 16. So it is going to be all single-family?

MR. MULHERE: We're designing a single-family plat right now.

COMMISSIONER EBERT: Okay. And in Tuscany Pointe is also single-family?

MR. MULHERE: It is.

COMMISSIONER EBERT: Okay. Very good. That answers it. One more is, Deviation 4, sidewalks, my favorite subject. You only want it on one side of the street. And I turned it over, and I'm looking at it. Is the blue going to be the sidewalks?

MR. MULHERE: Yes.

COMMISSIONER EBERT: So there is sidewalks on both sides?

MR. MULHERE: It's only in those few circumstances that are in yellow.

CHAIRMAN STRAIN: Those are on the plan --

COMMISSIONER EBERT: I know. Those are end yards. That doesn't bother me, but you really are having sidewalks, then, on both sides of the street.

MR. MULHERE: For most of it, yes.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: Page 1 of the PUD document, under accessory uses, you have a little piece in that sentence that could be taken differently than what I think your intention was. You're talking about accessory uses. It says, including recreational facilities.

Right now you're allowed any accessory uses typical to the residential. I wouldn't want that to be construed as a rec center, clubhouse, and the rest of it. I know that's not your intention. I don't see that you need those three words in there.

Do you have any problem taking those out?

MR. MULHERE: Absolutely not.

CHAIRMAN STRAIN: Okay. Let's go to the table, Exhibit B. There are two lines in there that we have tried to look at in a better way in regards to how you state things.

First of all, about a third of the way down you say "minimum lake setback," and then you have a series of numbers. Then second up from the bottom again under accessory, you have "minimum lake setback." I suggested that when we met that you strike those two lines --

MR. MULHERE: Agreed.

CHAIRMAN STRAIN: -- and put an asterisk where your rear yard is saying that when you're up against an LBE or an ME, the setback is --

MR. MULHERE: Zero.

CHAIRMAN STRAIN: -- zero, and that works because those are automatically setbacks.

MR. MULHERE: Because what we're doing now, just for -- to clarify. So what we're doing now is -- and starting maybe, I don't know, probably right after the Tuscany Pointe was approved, we're now always creating a separate tract on the plat for a landscape buffer or a lake maintenance easement. So they're not going to be part of the lots. And in order to still maintain the lot area, where that situation occurs, we go down to a zero setback. But, otherwise, those setbacks apply. So we don't have a problem with that.

CHAIRMAN STRAIN: You're going to do that, then, by asterisk and by taking off those two lines?

MR. MULHERE: Yes.

CHAIRMAN STRAIN: Okay. Under maximum building height zoned, you have 25 feet not to exceed two stories. This may be just nomenclature, but could we say two stories not to exceed 25 feet?

MR. MULHERE: Yes.

CHAIRMAN STRAIN: Okay. And then on the first line, minimum lot area, under single family -- you have single-family detached is 5,500 square feet per unit. And so that means your unit's not 5,500 square feet, but the lot itself is.

So the second one over is the one that caught me; single-family attached and townhouse, 1,800 square feet per unit. Now, your units can be as small as 1,200 square feet, but your lot, then, is only going to be 600 feet bigger than your unit.

MR. MULHERE: Well, yeah, except -- I mean, what -- so this is for single-family attached, so there would be a minimum of two.

CHAIRMAN STRAIN: Right, duplex.

MR. MULHERE: Which means we'd have 3,600 square feet.

CHAIRMAN STRAIN: Right.

MR. MULHERE: If it was, like, a four-unit townhome, you'd have 7,200 square foot minimum lot size.

As it turns out, we're preparing and designing a single-family detached subdivision plat anyway. But when we started this process, like every other PUD, we left in the flexibility of different kinds of land uses, but --

CHAIRMAN STRAIN: Okay. I just wanted to make sure that I was reading it correctly, because -- that's awful small. But, you know, if it's doable, it's doable.

COMMISSIONER EBERT: So then you're saying we could really cross out the attached townhouse and the multifamily.

CHAIRMAN STRAIN: Well --

MR. MULHERE: I think we probably want to just leave it in there. I'm not suggesting we're going to develop that, but you don't know what's going to happen 10 years, 20 years, 30 years.

COMMISSIONER EBERT: Well, just -- you just told me that they were going to be single-family.

MR. MULHERE: They are. But, I mean, it's pretty substantial changes. I think it just is -- we put on the record we're preparing a plat, we're getting ready to submit a plat for single-family. This is no different than any other PUD. They all have these different standards.

CHAIRMAN STRAIN: On Exhibit C1, which is your right-of-way section --

MR. MULHERE: Yes.

CHAIRMAN STRAIN: -- I notice you have a 4-foot CUE on each side of the roadway.

MR. MULHERE: Yes.

CHAIRMAN STRAIN: And Kris VanLengen's here, so I'm hoping that he doesn't have a problem with it. And if he does, he can always walk up to the podium. But if he doesn't, I'll assume he's okay with that.

So you've got a 4-foot CUE outside the right-of-way on each side of the 42-foot right-of-way. Then you're going to have to do a 10-foot u-ey for FP&L, Sprint, Comcast, any of those other guys that want to go into those. So that means you've got 14 feet from the right-of-way back into the adjoining lot; is that right? I mean, George is saying yes.

MR. MULHERE: Yes.

CHAIRMAN STRAIN: Okay. Now, that brings me back, then, to where you have side lot line language for those units that are on -- have two frontages and your front ability to go down to 10 feet with a side-entry garage. If you've got 14 foot taken up by utilities, how are you going to do that? Or are you going to put a note that says something to the effect, you cannot intrude any utilities?

MR. MULHERE: Yes. We'll put a note in there. In which -- except where there is a utility easement, in which case the setback may need to be increased to accommodate that easement.

CHAIRMAN STRAIN: If you could add that, that would be great.

MR. MULHERE: I think we'll put that as a footnote right on that table.

CHAIRMAN STRAIN: Good. That will work. Let me see what's left, Bob.

By the way, that u-ey -- you have the u-ey and those issues occur on all your road sections, so --
On your Exhibit C3 --

MR. MULHERE: Yes.

CHAIRMAN STRAIN: -- this one shows how you're going to abut Tuscany Pointe, and it's the same developer, so that makes it a lot easier. On the Tuscany Pointe side, you have a 10-foot LBE, which basically means you have a 10-foot setback. I don't remember what your standards table says, but you can't go into that LBE --

MR. MULHERE: It's actually a little bit bare. I think it's another 5 feet, so it's --

CHAIRMAN STRAIN: Well, on the north side, you don't have an LBE because you're asking to have it out because it could be -- it's owned by the same developer --

MR. MULHERE: Yes.

CHAIRMAN STRAIN: -- but yet you have a 5-foot minimum setback for accessory structures.

MR. MULHERE: Yes, we do.

CHAIRMAN STRAIN: So you're saying that the guys on the south side are going to be 10 feet off the common property line, but the ones to the north are only going to be 5 feet off?

MR. MULHERE: No, they're --

CHAIRMAN STRAIN: He's shaking his head yes and you're saying no.

MR. MULHERE: No, I can answer this.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: The setback is the same. It's 5 foot for an accessory structure and 10 foot for a principal structure in both PUDs.

CHAIRMAN STRAIN: Right.

MR. MULHERE: The only relief from that is when we abut a lake maintenance easement or a landscape buffer. That's not the case here. Well, it is for the Tuscany Pointe folks, right?

So they -- they have that 10-foot landscape buffer. That's actually part of the lot now --

CHAIRMAN STRAIN: I know.

MR. MULHERE: -- in that case.

CHAIRMAN STRAIN: But it's a -- you can't -- your setback, though, even if you got 5 foot on Tuscany, you still can't go closer than 10 feet to that common property line.

MR. MULHERE: With the principal structure, correct.

CHAIRMAN STRAIN: Or accessory. You can't put an accessory in a buffer.

MR. MULHERE: No, you can't in the landscape buffer easement. That's 10 feet.

CHAIRMAN STRAIN: Right, okay. So what I'm trying to point out is, the neighbors to the north aren't going to have -- are going to be able to go 5 feet --

MR. MULHERE: Correct.

CHAIRMAN STRAIN: -- from that property line, while the people to the south are limited to 10. And it's --

MR. MULHERE: It's because they have a platted landscape buffer. So, I mean, everybody enjoys the benefit of that landscape buffer. That's why we didn't feel it was appropriate to have --

CHAIRMAN STRAIN: But do you think that the buyer in the south thinking it's the same developer -- and basically most people would think it's the same PUD -- is expecting to have that unit -- those units that much closer together when they're not allowed on the south side?

MR. MULHERE: I mean, they're going to be separated by that landscape buffer.

CHAIRMAN STRAIN: Ten feet.

MR. MULHERE: Yeah. So they're going to have -- they're going to have either -- for a principal structure, they're going to have a 20-foot separation, 10 of which will be a landscape buffer on Tuscany Pointe, and for an accessory structure, yeah, they're going to have an additional 5 foot in Tuscany Pointe because they can't go into the landscape buffer. But both parties benefit from that.

It doesn't work -- if we lose five feet, those lots don't work. That's why we asked for that deviation.

It's very, very tight. It's narrow and long.

And no one's -- we haven't sold any lots. We haven't sold any -- we have on Tuscany, sorry. We haven't sold any lots on --

CHAIRMAN STRAIN: Well, I mean, it's your product to sell. It's internal to the two projects, but I just thought it was odd that you were doing it differently when it's supposed to be the similar developer, same project, kind of, so that didn't --

MR. MULHERE: We just didn't have -- we didn't have the depth to be able to get those lots in there. That five foot just --

CHAIRMAN STRAIN: But, see, if you took the 20-foot on the north boundary and took five foot off of it, because you only need a 15-foot buffer, and slide the whole project north, you'd have at least 10 feet on the south side to accommodate those single-family homes, but --

MR. MULHERE: He's not understanding, so let me just share a minute with George so he can understand what -- so we can have a conversation.

CHAIRMAN STRAIN: Kay, the point is, you know, people coming into these two developments are probably going to be marketed, advertised, and everything else the same. So people are going to assume that the standards are the same. And when these houses are closer together, it may just be --

MR. MULHERE: So -- but, Mark, in most typical -- and we made this argument. We asked for the deviation. In most -- if this was the same PUD, and I know it's not because of the timing, but in most single family -- my single-family lot abutted right up to another single family.

CHAIRMAN STRAIN: Bob, you're not -- it's not inconsistent with code. I'm simply pointing out something different between the two projects --

MR. MULHERE: We're okay with that.

CHAIRMAN STRAIN: -- that you, as owners and marketing people, may want to understand. Because you're not marketing one product is not the same as the other.

MR. MULHERE: Maybe the one in Tuscany Pointe will have a slightly higher value.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: But, no, we're okay with that.

CHAIRMAN STRAIN: Okay. Then let's move to Exhibit F, which is Page 9 of 10.

MR. MULHERE: Okay.

CHAIRMAN STRAIN: 2B and 2C, both of them are going to need easements.

MR. MULHERE: Correct.

CHAIRMAN STRAIN: And you may -- I don't know -- where'd our county attorney go? He sat there all day, and now we need him, he's gone.

MR. MULHERE: So I think we just -- Mr. Chairman, how about if we say a stub out, comma, with any necessary easements, comma.

CHAIRMAN STRAIN: Yeah. That -- whatever -- we need some language in there to indicate we're going to need easements there.

MR. MULHERE: Yes. And the same thing -- and we'll have a second sentence to say the developers shall provide any necessary easements on C.

CHAIRMAN STRAIN: Okay. He disappeared, okay. Native vegetation, and that's on Nos. 5 and 6, it would be on Page 10. Both of these are deviation requests. I just want to make sure that we fix those consistent with -- we did not end up changing No. 5, but we did change No. 6, and I think you want to just take 6 out completely.

MR. MULHERE: Take it out.

CHAIRMAN STRAIN: We can't deviate from fire code in the PUD. There's no reason to have it there.

MR. MULHERE: It's not necessary, right.

CHAIRMAN STRAIN: And that takes me to the end of my questions.

Anybody else have any follow-up?

(No response.)

CHAIRMAN STRAIN: Bob, I guess that's all you have for now?

MR. MULHERE: That's it.

CHAIRMAN STRAIN: Is there a staff report, Kay?

MS. DESELEM: Yes, sir. You have a staff report that is last revised 10/15/14. The staff report explains about the requested action, tells where the property is located, describes the property, provides information on the surrounding land uses and zoning, has an analysis of the Growth Management Plan consistency, and provides information from transportation and environmental staff, and comes to a conclusion on the GMP stating that staff recommends it be found consistent with the Growth Management Plan.

You also have an analysis, and in that analysis environmental review has indicated that EAC review is required for this project because of the deviation that's being sought.

You have the deviation discussion beginning on Page 5 of the seven deviations. You have findings of fact to support the request. Staff is recommending approval of the petition, as I said, finding that it is consistent with the Growth Management Plan. We have offered two conditions for your consideration.

And if you have any questions, I would be happy to entertain them.

CHAIRMAN STRAIN: Okay. Anybody?

COMMISSIONER CHRZANOWSKI: What was the comment about the EAC? I thought we did away with the EAC.

MR. MULHERE: You are the EAC.

CHAIRMAN STRAIN: On, no, no.

COMMISSIONER CHRZANOWSKI: We are the EAC --

MS. DESELEM: You are the EAC.

COMMISSIONER CHRZANOWSKI: -- but why --

CHAIRMAN STRAIN: When we vote --

COMMISSIONER CHRZANOWSKI: Why even mention that?

CHAIRMAN STRAIN: Well, because we --

COMMISSIONER CHRZANOWSKI: We always do this as the EAC.

CHAIRMAN STRAIN: But we didn't -- the EAC was never eliminated. It was simply their responsibilities were moved to us. And if we have projects that specifically require EAC review, when we make our motion, we are supposed to make it as both the EAC and Planning Commission. That's the only difference.

COMMISSIONER CHRZANOWSKI: Thank you.

CHAIRMAN STRAIN: Okay.

COMMISSIONER CHRZANOWSKI: I've probably asked that question before every time.

CHAIRMAN STRAIN: I've been trying -- I may not have caught it every single time.

COMMISSIONER CHRZANOWSKI: I'll probably ask it again.

CHAIRMAN STRAIN: Anybody else have any questions of staff?

(No response.)

CHAIRMAN STRAIN: Are there any public speakers on this item?

(No response.)

CHAIRMAN STRAIN: Ray, no one's registered?

MR. BELLOWS: Correct, no one has registered.

CHAIRMAN STRAIN: Do you want to rebut anything, Bob?

MR. MULHERE: Absolutely not. Thank you.

CHAIRMAN STRAIN: Okay. Then we need to talk about two things. First of all, there are enough changes here, I think it would be beneficial for this to come back on consent.

MR. MULHERE: Yes, sir.

CHAIRMAN STRAIN: And also, I'll read some notes I made, and if there's a motion, that needs to be made as both the EAC and the Planning Commission.

MR. MULHERE: That would be your next --

CHAIRMAN STRAIN: Our next meeting would be December 6th --

MR. BELLOWS: Fourth.

CHAIRMAN STRAIN: -- 4th, whatever day of the week, yeah.

Okay. We talked about the deviation about dead-end streets and the hammerhead. We're going to clean that language up. The zero lot line deviation, we're going to take out the word "contiguous" and reword that. We're going to add language that MEs and LBEs will be separately platted, and there will be an asterisk to indicate that it will be zero setbacks for the structures in those locations.

We're going to support staff recommendation No. 2, which addresses the different types of units you could be (sic) there in compatibility to the project to the south. We would not support Staff Recommendation No. 1 because it's a fire code issue, not something that needs to be discussed here. So that all that reference to the fire code will be dropped.

We would drop the reference to including recreational facilities under the accessory uses for the residential. We would change the table to eliminate the lake setback standards because they're not needed. It's going to be done by asterisk.

We're going to identify the conflict between the utility easements and the setbacks when those occur, and we're going to provide easements for the utility and sewer connections that are referenced within the PUD document or language to indicate those easements are going to be needed.

MR. MULHERE: Yes.

CHAIRMAN STRAIN: Okay. Anybody have any other comments?

COMMISSIONER EBERT: No. Did you want something from Scott? He came back.

CHAIRMAN STRAIN: Oh, it's too late now. We took care of it. We bypassed the legal. Your shining moment, Scott.

COMMISSIONER EBERT: And you were gone.

MR. STONE: I'm so sorry.

CHAIRMAN STRAIN: No problem.

MR. STONE: I'll never let it happen again.

CHAIRMAN STRAIN: Okay. With that in mind, is there a recommendation for denial or approval as the EAC and the Planning Commission?

COMMISSIONER CHRZANOWSKI: I'll move in favor of approval with all the changes that Mark just listed.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Motion made and seconded.

Discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

MR. MULHERE: Thank you.

CHAIRMAN STRAIN: Thank you. We'll see you on consent in December.

MR. MULHERE: Thank you.

CHAIRMAN STRAIN: Okay. That takes us to the pleasant end of the day, and I don't see anything else on our agenda. There's no old or new business.

And is there a motion to adjourn?

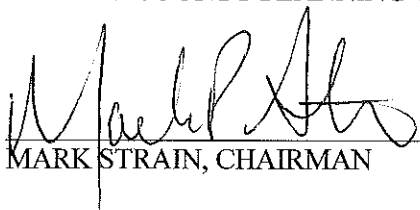
COMMISSIONER ROMAN: So moved.

CHAIRMAN STRAIN: By Charlette. Seconded by --

COMMISSIONER HOMIAK: Second.
CHAIRMAN STRAIN: -- Karen.
All in favor, signify by saying aye.
COMMISSIONER CHRZANOWSKI: Aye.
COMMISSIONER ROSEN: Aye.
COMMISSIONER EBERT: Aye.
CHAIRMAN STRAIN: Aye.
COMMISSIONER HOMIAK: Aye.
COMMISSIONER DOYLE: Aye.
CHAIRMAN STRAIN: Okay. We're out of here. Thank you.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 11:49 p.m.

COLLIER COUNTY PLANNING COMMISSION


MARK STRAIN, CHAIRMAN

ATTEST
DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 12-18-14, as presented or as corrected _____.

TRANSCRIPT PREPARED ON BEHALF OF
GREGORY COURT REPORTING SERVICE, INC.,
BY TERRI LEWIS, COURT REPORTER AND NOTARY PUBLIC.