

December 4, 2014

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
December 4, 2014

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

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

ALSO PRESENT:

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

CHAIRMAN STRAIN: Good morning, everyone. If all those yakking away there will just sit down, we'd appreciate it.

Well, Jim, I saw it was you, and I know that you're multitalented, so I wasn't sure what it could be about.

Everyone welcome to today's Collier County Planning Commission meeting Thursday, December 4th.

If everybody will please rise for Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Thank you.

If the secretary will please do the roll call.

COMMISSIONER EBERT: Yes. Good morning.

Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER EBERT: Mr. Chrzanowski?

COMMISSIONER CHRZANOWSKI: Here.

COMMISSIONER EBERT: Mr. Rosen is absent.

Ms. Ebert is here.

Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER EBERT: Ms. Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER EBERT: Mr. Doyle?

COMMISSIONER DOYLE: Here.

COMMISSIONER EBERT: And Ms. Roman.

COMMISSIONER ROMAN: Here.

CHAIRMAN STRAIN: Thank you.

And Mr. Rosen emailed me, he had an issue he had to take care of today so he has an excused absence.

Addenda to the agenda. We only have one consent and two regular items. I don't know of any changes that are needed.

Planning Commission absences. Our next meeting is December 18th. Anybody know that they're not going to be here, please say so now.

COMMISSIONER DOYLE: I will not be here.

CHAIRMAN STRAIN: Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: Then we'll still have a quorum. And I know Mr. Rosen will be back at that time.

Approval of minutes. We have our minutes from the October 16th, LDC meeting.

COMMISSIONER HOMIAK: Motion to approve.

CHAIRMAN STRAIN: Motion to approve.

Is there a second?

COMMISSIONER CHRZANOWSKI: Second.

CHAIRMAN STRAIN: Seconded by Stan.

All in favor, signify by saying aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

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

CHAIRMAN STRAIN: Thank you.

So that would be five in favor and one abstention.

BCC report and recaps. Ray?

MR. BELLOWS: Yes, on November 18th the Board of County Commissioners approved the LDC amendments that pertained to agricultural activities in the Estates, the hogs and crops. They also approved the Everglades/Randall subdistrict small-scale plan amendment and that was approved 4-1 with Commissioner Taylor opposing.

CHAIRMAN STRAIN: Okay, thank you.

Commissioner Taylor opposed the GMP but recommended -- was with 5-0 on the CU; is that correct?

MR. BELLOWS: That's correct.

CHAIRMAN STRAIN: Okay, thank you.

That takes us to Chairman's report. I really don't have anything to add to Ray's report so we'll move into consent agenda items.

There's only one. It's Item 8.A. It's PUDZ-PL20140000340. It's consent for the project known as Collier 36 RPUD.

Having received the information, does anybody have any concerns or changes noted or needed for that item?

(No response.)

CHAIRMAN STRAIN: If not, is there a motion?

COMMISSIONER EBERT: Mr. Mulhere is not here?

CHAIRMAN STRAIN: His assistant is. And I'm sorry, and you're Paula. Can you come to the microphone?

(Speaker was duly sworn.)

MS. McMICHAEL: My name is Paula McMichael, I'm a planner with Hole-Montes. I work with Mr. Mulhere.

CHAIRMAN STRAIN: And you're here representing the applicant?

MS. McMICHAEL: Yes.

CHAIRMAN STRAIN: Okay. Now, anything else?

COMMISSIONER EBERT: No, I just was wondering where Mr. Mulhere was.

CHAIRMAN STRAIN: Well, he would never miss a time to come here.

COMMISSIONER EBERT: Well, that's what I was thinking.

CHAIRMAN STRAIN: I did tell him we'd try to find some hard questions for Paula, but I couldn't find any. So anybody have any -- if there's no other comments, is there a motion to approve on consent?

COMMISSIONER ROMAN: So moved.

COMMISSIONER CHRZANOWSKI: Second.

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

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0. Thank you.

Next item up is our first advertised public hearing. It's PUDZA-PL20140000156. It's the Warm Springs RPUD on the east side of Collier Boulevard, approximately one mile south of Immokalee Road.

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

(All speakers were duly sworn.)

CHAIRMAN STRAIN: Disclosures on the part of Planning Commission.

Stan?

COMMISSIONER CHRZANOWSKI: I talked with Mr. Yovanovich about this project.

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: Mr. Arnold I spoke with.

CHAIRMAN STRAIN: Okay. And I too spoke with Mr. Arnold and Mr. Yovanovich and staff and reviewed all the files, of course.

Karen?

COMMISSIONER HOMIAK: I spoke to Mr. Yovanovich.

CHAIRMAN STRAIN: Brian?

COMMISSIONER DOYLE: I have spoken with Richard as well.

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: No contact.

CHAIRMAN STRAIN: Thank you.

Okay, with that, it's a presentation by the applicant.

MR. ARNOLD: Good morning. I'm Wayne Arnold with Grady Minor representing the owners of the Warm Springs property.

With us today of course is Rich Yovanovich who's our land use attorney. I have Mike Delate from Grady Minor who's the professional engineering that's working on the project. Jim Banks is our traffic consultant who is here, if you have questions. And Tim Hall is the biologist with Turrell, Hall and Associates. So our team is here if you have questions.

We're here to amend the previously approved Warm Springs PUD. It was approved back in 2005 for 450 multi-family units. It technically sunset under the county's provisions.

The sunset provisions have since changed, so it has technically has not sunset, but we were in the middle of a planned unit development amendment anyway so we've continued on because our thrust wasn't just to keep it alive but we wanted to change the unit mix and provide for the full range of dwelling unit types.

The market has changed considerably since 2005 and we're responding to those market conditions with products that reflect what's currently being built on the marketplace.

I have a colorized version of our PUD master plan that I'll walk you through.

Access to the project will be from Tree Farm Road, as previously approved. You can see that we have a large preserve area, there's about 25 acres of preserve on the 114-acre site.

CHAIRMAN STRAIN: Could you bring that up closer a little bit, Kay? Thank you.

MR. ARNOLD: Access to the property is going to be via Tree Farm, as I mentioned, that central location that aligns with the Canopy project that's being developed by Neal Communities to the south.

We have a centralized amenity center that you can see in the orange in the middle of the project and we have of course a central lakes system with a loop road and then the cul-de-sac.

So we have changed the master plan from the original. We've increased the development envelope to respond to the changing market conditions.

We have submitted for an environmental resource permit through the South Florida Water Management District and the Army Corps and I think we've made pretty significant progress in that regard.

As you all know, Tree Farm Road is partially constructed. The county has acquired the balance of what's necessary to connect it with the Woodcrest/Massey alignment, if you're familiar with that. I can go back to the aerial -- I'll put this on the aerial this way. I just have the color master plan.

The north-south road over there to the east is the Woodcrest/Massey alignment. And the county has a plan where Tree Farm Road will be connected to that and this will serve as a little collector reliever to Collier Boulevard eventually.

We're actually -- as part of our development agreement we are moving forward with design and permitting for the future connection of the Woodcrest/Massey to the alignment that you can see to the north. That's been -- I think the Bent Creek developer was responsible for those improvements that go south from Immokalee Road on that alignment.

We have asked for a series of deviations in the project. Sidewalks. For instance, we started out

asking for sidewalks on one side of the street only. After discussions with staff, we've sort of reached a compromise I guess and that is we're providing sidewalks in dual sides of the street on the southern part of the loop road and then single side to the north. And then the stipulation that staff asked for was to make sure that we could agree to plant canopy trees at intervals along that sidewalk to provide shade for the pedestrians using it, and we can agree with that.

We asked for another deviation with regard to our signage. Under the code we don't really qualify for a sign out on Collier Boulevard because it's not our entrance to the project, so we've asked for it to be called a boundary marker sign. And there's an exhibit in your packet that was supported by staff with regard to that.

I know, Mr. Strain, you had a question about the height, just clarifying it. But the sign elevation, sign heights are measured from the center line of the nearest road for those types of signs. So it's maybe a little oddly worded, but the elevation of the road is approximately 15 feet. The top of our signs are 25 feet. So we're not building a 25-foot tall sign, it's a 10-foot maximum height sign.

Different than the way we have to measure fences and walls, because those are measured from ground elevation.

But we also have a deviation in there to allow an eight-foot maximum height wall to be built on top of a berm. Because otherwise bringing in fill, if we had to place the fence height, would have to be much lower than eight feet because of the amount of fill that's being brought in.

And staff is supportive of that deviation as well.

Do you care to see any of those deviation exhibits? They're in your packet. I mean, I can certainly --

CHAIRMAN STRAIN: I think what we can do is as we move through it after your presentation, those that render questions you can respond with them at that point.

MR. ARNOLD: Okay.

CHAIRMAN STRAIN: Some of those deviations are pretty standard.

MR. ARNOLD: One that isn't standard that I would point out is a deviation we've asked for to reduce our 20-foot wide landscape buffer on Tree Farm Road to 10 feet for a segment of it.

This is the exhibit that we've prepared.

And it's not a matter of not having the space to actually put a 20-foot landscape buffer easement that the code typically requires, but the Planning Commission over the last couple of months has been asking us to create our landscape buffers as separate platted tracts. And by doing that as a platted tract and not allowing it to overhang partially on my lot, I can't get an adequate lot depth to put single-family homes on that southern portion in this location.

So we've asked for a deviation to go to 10 feet. It doesn't shorten the county or the public on the amount of landscaping, but since I'll be platting out as a tract I need to be able to do that as a 10-foot tract. So that explains that. It's a little non-standard, but it was either that or convince the Planning Commission that I should be allowed to have landscape buffer easements throughout.

CHAIRMAN STRAIN: Wayne, while we're on that subject, are you intending to put a wall on Tree Farm Road?

MR. ARNOLD: There will be a wall along -- let me ask Mike Delate, our engineer.

There will be a wall along a portion of Tree Farm Road. Primarily, I believe it extends from Collier Boulevard east just past our entrance.

CHAIRMAN STRAIN: Will the wall be on the north side or the south side of the platted tract landscape buffer easement?

MR. ARNOLD: It will be on the south side.

CHAIRMAN STRAIN: And the location where you have this particular change, is it still going to be on the south side then?

MR. ARNOLD: I don't think the wall extends that far south, Mr. Strain -- or east, I'm sorry.

CHAIRMAN STRAIN: Okay, thank you. That's all I need.

COMMISSIONER HOMIAK: Is the wall berm going to go along the preserve too? This says the overall PUD --

MR. ARNOLD: No, it will not. It's my understanding that the preserve area will not have a wall or

a fence.

COMMISSIONER HOMIAK: Okay. Even the 30-foot or 50-foot or whatever it is wide next to the

--

MR. ARNOLD: Our current design does not have a fence or a wall along that area.

COMMISSIONER HOMIAK: Okay, thank you.

CHAIRMAN STRAIN: Do you want to -- you can continue with your presentation if you'd like, unless you were finished.

MR. ARNOLD: I'm happy to conclude my presentation and open up for questions, if you'd like.

Again, I think the change is pretty benign overall. We've modified the master plan, we've reduced the number of total dwelling units from 450 to 400, asked for a variety of dwelling unit types. The types that you have -- find in your typical PUD submittals, we do have a couple of modifications we need to make with regard to our development table, and we had a meeting yesterday that involved the County Attorney, and the County Attorney's Office has asked us to make a few changes with staff. And I'm happy to go through those if you would like to walk through some of those changes. Or if you'd like to ask questions and then we can go -- some of those may be addressed in questions I know that you may have too, Mr. Strain.

CHAIRMAN STRAIN: If the changes are part of the text of the PUD, which I'm assuming they are, why don't we go through the PUD like we normally do and as we hit those pages you can interject your changes so we can see it in an orderly manner, if that works for everybody.

Okay. So then why don't we -- as this board, why don't we just go straight to the PUD or the entire presentation and application package.

Does anybody have any questions from the package or the PUD at this time?

COMMISSIONER CHRZANOWSKI: Can I ask a question about something Wayne said?

CHAIRMAN STRAIN: Sure.

COMMISSIONER CHRZANOWSKI: Would you repeat what you said about the elevation of the sign?

MR. ARNOLD: The sign heights under the LDC are measured based on the elevation of the adjacent roadway, the entrance signs. So our sign height isn't expressed -- Mr. Strain asked me this question. It says 25 feet elevation for our sign. That's the top of the sign at 25 feet NGVD, for instance.

COMMISSIONER CHRZANOWSKI: NAVD, NGVD?

MR. ARNOLD: It's NGVD on the survey data we have.

COMMISSIONER CHRZANOWSKI: I thought everything's supposed to be to NAVD now.

CHAIRMAN STRAIN: Well, I think the only concern we would have is what would be the ending difference between that -- of that 10 feet? It's 10 feet above the crown of the road. So if you measure in NGVD or NAVD it's still going to be 10 feet above the road. That's what --

COMMISSIONER CHRZANOWSKI: I was curious, because I've never seen signs done to a NAVD. It usually just says 10 feet above the crown of the road.

CHAIRMAN STRAIN: That's why I asked the question, Stan, when we met yesterday. Because it was written oddly and I thought they're putting a 25-foot high sign in front of this development? Doesn't seem to fit.

MR. ARNOLD: We are not.

CHAIRMAN STRAIN: So I think he did that purposefully to see if we'd have any questions.

COMMISSIONER CHRZANOWSKI: Okay. Well, I have no questions then.

MR. ARNOLD: Thanks.

CHAIRMAN STRAIN: Does anybody else have any questions?

Karen?

COMMISSIONER HOMIAK: Yeah, on Exhibit A under the principal permitted uses, residential principal uses, you have single-family attached, and it's not listed in the Exhibit B development standards table. It's not in the list. Is it meant to be or is it --

MR. ARNOLD: Yeah, I think that should have said probably two-family -- or single-family attached. I think single-family attached is two-family, right?

COMMISSIONER HOMIAK: You have two-family in that already.

MR. ARNOLD: Yeah, I think we should just delete the single-family attached reference that's there.

COMMISSIONER HOMIAK: Okay, thanks.

MR. ARNOLD: Good catch.

COMMISSIONER HOMIAK: And then for the footnotes, the asterisk number seven at the bottom of the development standards table, I don't see that used anywhere in the table, so I don't know --

MR. ARNOLD: This reference for footnote seven is the language that's been added to a couple of other PUDs recently that talks about the landscape buffer tract in lieu of it being an easement and then allowing us to reduce the setback where those buffer tracts are provided.

It's a little convoluted. I hope we can change the LDC to just bring some finality and clarity to that issue. I think it will be easier for all of us once it is, but --

MS. ASHTON-CICKO: Wayne, she just wants to know where you would put the asterisk and seven on the table.

COMMISSIONER HOMIAK: Yeah, I don't see where it applies --

CHAIRMAN STRAIN: Next to the word standards, if you put asterisk seven, it will apply to the whole table. I think -- wasn't that your intent, or not?

MR. ARNOLD: Yes. Yeah, it does need to apply to all the unit types.

COMMISSIONER HOMIAK: Okay, so it needs to be on the table somewhere.

CHAIRMAN STRAIN: See the word standard, upper left-hand corner?

COMMISSIONER HOMIAK: Yeah.

CHAIRMAN STRAIN: If it had the asterisk seven there it covers the whole thing and I think that will get it.

COMMISSIONER HOMIAK: Okay, thank you.

MR. ARNOLD: Do you want to just go page by page? Because, Mr. Strain, in our meeting with County Attorney, Heidi raised a question on Page 1 of 14 under accessory use item, number four.

CHAIRMAN STRAIN: We can start there and that would make sure everybody else -- has anybody else got any specific questions at this point?

(No response.)

CHAIRMAN STRAIN: Wayne, let me make sure my questions start with the PUD language, if you don't mind.

And it doesn't. So Page 7 of the staff report. In the deviation number one discussion -- and I know you clarified this for me yesterday, but I need the clarification for the record -- we have two things in that justification that are different. First of all it says you're requesting a maximum of 320 homes. And your first NIM said, and you told the people that attended, you were doing 320 homes. Then you had a second NIM and in the second NIM I didn't see in the minutes that you provided where you changed that number. But in the advertisement it clearly for that second NIM said that you were going to put 400 homes, which is still a reduction from the 450.

From staff's perspective, does that change anything from the justification for the deviation?

MS. DESELEM: No, sir, that was staff's error, in fact. So when we made the changes from the first petition, the way it was written, we neglected to pick that up when we did the deviation justification.

CHAIRMAN STRAIN: And then the second point is it says in the middle of that paragraph, the project is providing a maximum 50-foot wide preserve area along the northern boundary and approximately 40-foot in the property adjacent to the southern boundary, it was taken by eminent domain.

I know your South Florida permit and I believe your Corps permit require the 50 feet, but on your master plan you show 30 feet. And I understand your reasoning for that in discussions I had with you, but that discrepancy doesn't self explain itself. So I'd like you to tell us and I'd like Summer to confirm that what you're saying is how staff's going to look at it.

MR. ARNOLD: We started out with a 30-foot wide preserve. We have submitted for our environment resource permit with Water Management District. They have asked for this area to be a 50-foot wide area. I call it a preserve. It may not all be in a conservation easement at the end of the day, Mr. Strain, but we will have a minimum 30-foot preserve, which is the minimum width per county code.

The additional 20 feet that is going to be making up the 50 feet will in part be used for some

conveyance. I believe we're bringing water under that permit. We're bringing water under the Massey Street connection. We're going to pipe under Massey Street to connect Calusa Pines and be discharging through this area. So there's going to be some scraping and creation of a swale system and then some return to grade and things of that nature which wouldn't otherwise be allowed in a county preserve.

CHAIRMAN STRAIN: And the reason that you're careful in showing a 30-foot preserve versus a 50 is because the setbacks required by the county would start from the 30, not the 50.

MR. ARNOLD: That's correct.

CHAIRMAN STRAIN: Okay. And as far as what you're going to be putting in the tract, which one of the preserves are you putting as a tract preserve?

MR. ARNOLD: It will be the county's.

CHAIRMAN STRAIN: So Summer, if you wouldn't mind addressing that issue with us, I would sure appreciate it.

MS. ARAQUE: Good morning. Summer Araque, Principal Environmental Specialist, Environmental Planning.

What's your question?

CHAIRMAN STRAIN: Wayne's proviso that he is showing 30 feet on the master plan, because that's a minimum required by the county. And that by doing 30 feet in the master plan, a 25-foot requirement for a structure setback from the preserve only applies to 30 feet because that's the county preserve. We don't have setbacks from other governmental agency preserves; is that your understanding?

MS. ARAQUE: The setback is actually to any preserve is the way that the code reads. So --

CHAIRMAN STRAIN: So now we've got an issue then we need to talk about. Because if this is a dedicated preserve by the Corps or South Florida, is that then required to have the full setback?

MS. ARAQUE: Correct. If it's labeled as a preserve on the plans. So --

CHAIRMAN STRAIN: On what plans? Because we don't have it labeled as a preserve on this plan, on the master plan.

MS. ARAQUE: If it's labeled as a preserve on the construction plans and the plat.

Now I'm not really too familiar with this new addition, because I know that there's been some discussions with South Florida Water Management District in the last few months since this has been reviewed. So I think that --

CHAIRMAN STRAIN: What did you just mean when you said you're not familiar with this new addition? What does that --

MS. ARAQUE: In regards to what they're talking about, the swale. I think that's something that's been in discussions with the District probably in the last few months. Because I know that the District contacted us about this.

CHAIRMAN STRAIN: Well, but didn't you do a review on this project as the -- or who in environmental --

MS. ARAQUE: Right, in the last -- okay, basically in the last few months since I reviewed this project it's my understanding that the applicant has been in discussions with the District about adding this swale along that area to carry water. And so I'm not sure if that area is going to be called a preserve or what it's going to be labeled in regards to their permitting with the Corps and the District.

CHAIRMAN STRAIN: So if --

MS. ARAQUE: Those types of details would be worked out at the time of construction plans. But if they -- I have not been in discussions with them because they have not brought this information to me. I've reviewed what's in front of you. So I haven't reviewed the District permit because that's a newer development since this came about.

CHAIRMAN STRAIN: If you reviewed what's in front of us when you saw the discrepancy between the 30 foot and the 50 foot, because it's in the documents right in the front of us, and you saw their setbacks on the setback table, it would be obvious that the setbacks on the setback table wouldn't work if you used the 50 foot, so that's why they had to have the 30 foot.

How did you diagnose that? I mean, diagnose, that's a medical term. But how did you come to a conclusion that this was going to work?

MS. ARAQUE: Wayne, can you help me out here? I think maybe Wayne has more --

MR. ARNOLD: I'll try, Mr. Strain.

There are two things I think are important to point out. One, the 30 feet wide preserve we're showing is in excess of the preserve requirements for the county. We could have shown that not as preserve. We chose to. It makes a good buffer to our neighbors, and it was vegetation that we could retain and supplement. So the 30-foot minimum.

My concern though if I cull this out as 50 feet on the zoning plan, Summer's group under the review of the county's preserve requirements is not going to let me put the drainage improvements that I need in a portion of that to meet the Water Management District criteria.

CHAIRMAN STRAIN: But in our discussion you were concerned about where the 25-foot setback measurement was going to be from. Does that enter into the picture now?

MR. ARNOLD: No, I think that is a consideration for me. I would have to defer to Mr. Delate to find out. I just don't know if the District is going to make us cull out all that as a preserve or if part of it's going to become a drainage easement, Mr. Strain.

CHAIRMAN STRAIN: Okay, you've got a 15-foot rear setback and the code requires 25. Summer just said that the code would be measured -- we would measure that from any agency preserve. So if you're here today wanting the standards but not knowing if they're going to work for you, are you still comfortable with that?

MR. ARNOLD: Yes, we'll make it work. We will make that work. I mean, the 15-foot setback for an accessory structure, we'll make that --

CHAIRMAN STRAIN: Okay, because you're not asking for a deviation from the 25-foot setback requirement for preserves. So if these end up being called preserves and you get 25, you're going to have to come in and amend your PUD, if you want to get a deviation from that --

MR. ARNOLD: I'm not asking for a deviation from the setback.

CHAIRMAN STRAIN: Okay.

COMMISSIONER EBERT: It is labeled preserve right here.

CHAIRMAN STRAIN: No, that's labeled 30-foot preserve. They've got a 50-foot is what's going to be required by the agencies. That's the difference. So if they have to measure from 50 foot, they're going to be 10 foot -- or five-foot into the -- they're going to be too close to the preserves. They're not going to be the 25-foot setback.

COMMISSIONER EBERT: And now's the time to clarify it.

CHAIRMAN STRAIN: And Summer, I had one other question. And I'm going to have to seek your memory on this one. There was a project to the south on 951, it was on one of these strips of land. And they had originally come in to put a long linear preserve along the north side of that project. And I believe they were told that wasn't really a good way to do a preserve. It was -- I forgot how it was worded.

Do you recall that project? It was like the Collier 36 project.

MS. ARAQUE: Yes.

CHAIRMAN STRAIN: How is the narrow preserve on the north side of this project any different than that one; do you know?

MS. ARAQUE: Because this is in addition to the bulk of their preserve which is much, much wider. Whereas that other project, the only preserve that was going to be provided for the most part, from what I can remember, I don't have a site plan in front of me, the bulk of it was just a strip.

CHAIRMAN STRAIN: Do you know if the entire 30-foot strip east to west is excess? Is the whole thing excess?

MS. ARAQUE: I do not know.

CHAIRMAN STRAIN: I think the applicant's consultant is nodding his head yes.

The reason I'm asking is wouldn't they have been better off just leaving that as a buffer, not calling it preserve and not run into any of these issues they could possibly run into as --

MS. ARAQUE: That is an option. So --

CHAIRMAN STRAIN: Wayne, I mean, to be safe you might have just left that as a natural buffer. But you still have the issue if the agency preserves come into play, so --

MS. ARAQUE: And I'd like to clarify in that regards to the 30 and the 50 feet. What I'm referring to is I have not been part of the discussions in regards to the swale that's going in this area. That's a newer development that I was aware of that there's discussions on it, but I'm not involved in it because that's something that they're in discussions with the District, so --

CHAIRMAN STRAIN: And do you know how far that swale goes or is proposed to go? Or Wayne, could you --

MR. ARNOLD: We'll let Tim Hall address that, if you don't mind.

MR. HALL: The District had raised some concerns about -- I'm sorry, Tim Hall, for the record, with Turrell, Hall & Associates.

The District had raised some concerns about water along the proposed Woodcrest and Massey stacking up and has requested that we allow some of that water to go to the west and into our preserve. So it would go basically through that narrow finger, the swale would, and then stop where it opens up. So it would not go the entire length all the way to 951.

CHAIRMAN STRAIN: And Tim, is the additional -- this preserve at approximately when it's 50 feet for say the Corps in South Florida, is that a requirement of the Corps or something you just enhanced in your application? And wouldn't the Corps specifically require that 50 feet to be added for some volume or something they had to meet?

MR. HALL: The issue with the agencies usually is if you retain land, they have to look at it as either impacted or preserved. Or they like to look at it as either impacted or preserved. So if you're retaining the land and not proposing impacts on it, then they'd prefer for it to be included in the preserves so that they don't have to worry about you coming back later to ask for more.

CHAIRMAN STRAIN: Okay. But if you -- and contrary to that, if they didn't require you to retain the land for the purpose of preserves, what would you -- what would that mean to your project? Say that strip was dedicated -- was not considered a preserve but just merely a 30 or 50-foot wide buffer?

MR. HALL: It would probably result in increased mitigation costs, because they would look at it as an impact area.

CHAIRMAN STRAIN: Okay.

MR. HALL: And the reason, one of the reasons that the strip is there also is because the -- this preserve area and the preserve area to the north without that strip would be isolated from additional lands to the west. So this strip also provides a travel corridor for animals that may want to move through that area without getting into the residential.

CHAIRMAN STRAIN: When you strip that excess, that 20 feet down, because 30 feet you're not going to touch, you're potentially going to strip down 20 feet for a swale; is that right?

MR. HALL: The most recent discussion has been just to scrape down the upland areas. There are a couple of higher kind of ridges throughout that.

In my discussions with the Water Management District last week was to leave the wetland areas at ground level. When we take the exotics out of that stretch we're not going to replant anything, so we're going to minimize the amount of trees within that area, scrape down the uplands and just try to improve the overland flow without actually putting a conveyance in.

But they've asked for that area to be left out of the preserve so if there is still a flooding issue they have the ability to come back later and possibly put a conveyance in there if they deem it -- if they think it's needed.

CHAIRMAN STRAIN: So where the area's wetlands you're going to leave them alone.

MR. HALL: Yes.

CHAIRMAN STRAIN: Where the area's uplands you're going to scrape them down a bit.

MR. HALL: Right. I think it's about a 15-foot wide area.

CHAIRMAN STRAIN: Will the area that's the remaining wetlands that you're not going to touch, are they going to require those to be preserves or are they going to leave them as --

MR. HALL: I think right now they're leaning towards putting those into a drainage easement.

CHAIRMAN STRAIN: Okay. That's kind of where I was trying to find out to make sure that your premise under which you've asked your standards in the development table are going to end up working

based on what Summer had said.

MR. HALL: Right. And there's also -- the 25-foot setback is for the principal structures. The accessory structures can be closer to the preserves.

CHAIRMAN STRAIN: I understand. Thank you.

Wayne, let's go on. Let me see if I've got anything else before we get to -- yes, the wall issue that you brought up as a deviation for number four in your justifications where the language -- the height. And you're asking this to be an additional boundary sign, I believe; is that correct?

MR. ARNOLD: Yes. We're asking -- after meeting with Diane Compagnone, your sign reviewer, she suggested we call it a boundary sign, not an entrance sign. And then ask for the deviation for the boundary marker sign to be larger than the typical boundary marker sign. So that it's comparable to an entrance sign.

CHAIRMAN STRAIN: I just want to make sure that it's understood by everybody involved so you don't run into a roadblock when you come in for an application. The sign code seems to be the most difficult part of our code to get people to be able to understand what it means, and it's constantly causing problems at Developmental Services.

So are you satisfied with the sign you intend to be there will be allowed to be there by the deviation you're asking for here?

MR. ARNOLD: Yes, sir.

CHAIRMAN STRAIN: Okay.

COMMISSIONER EBERT: I have a question for you.

A boundary marker is something completely different than a boundary sign.

MR. ARNOLD: And your code has subsequently been revised since we started this application to put further clarification in your boundary marker signage as well. But I think the language as written is accurate and delivers the sign that we would like to have at the Collier Boulevard/Tree Farm Road --

CHAIRMAN STRAIN: You wouldn't by any chance consider this a ground sign? Because it's going to be attached to the ground, right?

MR. ARNOLD: I agree with Mr. Yovanovich, we'll call it a kangaroo if it allows us to build what we've depicted there.

CHAIRMAN STRAIN: The problem is there's so many changes, different interpretations, I just don't want you to get caught in that loop, because it's a waste of everybody's time.

MR. ARNOLD: Yeah, we can call it a project -- I'm comfortable that the deviation we've requested is going to result in the sign. I mean, it depicts the location, the height.

I mean, if you really feel differently, I'm happy to take your suggestions.

CHAIRMAN STRAIN: No, I've been watching what happens with signs and it's a nightmare and I just don't want to see people involved in that if they can help it.

I think I might be finally getting to the PUD.

Go ahead.

COMMISSIONER EBERT: I have a question for Tom.

Good morning, Tom.

MR. EASTMAN: Good morning.

COMMISSIONER EBERT: They're adding another 400 homes. This area is jumping so much here, is there enough school in here --

CHAIRMAN STRAIN: They're not adding 400 homes, Diane, they're reducing 50 homes. That's a difference.

COMMISSIONER EBERT: I understand.

CHAIRMAN STRAIN: Well, that's a big difference. Because from the public's perspective it's a 450-home product already approved. They're reducing it to 400. That's a really big -- I mean, that's -- I just want to make that clear for the record, they're not adding 400, they're reducing by 50.

COMMISSIONER EBERT: Is there any homes there right now?

CHAIRMAN STRAIN: They're approved for 450 homes.

COMMISSIONER EBERT: I understand, a lot of places are. I'm going to ask about the school.

Because all of a sudden this area has just exploded.

And is it -- which school will they be going to, Gulf Coast?

MR. EASTMAN: I believe Gulf Coast is the high school. The closest school in proximity would be Oak Ridge Middle for the middle school. That's right across the street to the north. And then Laurel Oak would be the elementary.

COMMISSIONER EBERT: Okay. And how is capacity at the schools right now?

MR. EASTMAN: There is capacity. But as you say, the development, in the forward looking, it's starting to peak out.

So Mr. Strain -- Chairman Strain actually hit on the key point. Previously this was approved for 450 units. At that time the school district has taken that into account from the previous approval. So this is actually a reduction in the numbers and forecasting for what we had previously.

COMMISSIONER EBERT: Okay. Well, it's just that, you know, some of these are adding more to theirs. They add 20 acres and add another 120 homes. So, you know, things change very rapidly.

CHAIRMAN STRAIN: But I want to clear the record up. We're not adding homes. Now that's important. Because if we were adding homes, this whole project would be looked at differently. This is a modification and a reduction to the number of homes already approved, already approved by the school board, by transportation, by utilities, by everybody. So there's a big difference there in the way we word it. And I don't want the misconception going to the public that we're throwing another 400 homes on Collier Boulevard, because we're not.

MR. EASTMAN: Correct.

I appreciate your concern. And the development in this area in the 951 corridor is intense and very dense, and it all seems to be coming at the similar time. We recognize that, and we have our eye on it.

COMMISSIONER EBERT: Okay, thank you.

CHAIRMAN STRAIN: Wayne, did you want to add something?

MR. ARNOLD: Not to belabor the point, but Ms. Ebert, Amy Lockhart is with the school district, she does review the zoning applications, and we've had correspondence from her. She's indicated there's capacity, as Mr. Eastman confirmed for you.

COMMISSIONER EBERT: No, no. But it's just everything is exploding there it seems like right now. That is why I was asking Tom on this particular one.

CHAIRMAN STRAIN: Okay, Wayne, we were going to -- you had started wanting to go into the document, the actual PUD language. And the questions I've asked outside of that document have been asked and now we can move into the PUD document.

On your first -- I guess we'll start -- what page are you going to start with?

MR. ARNOLD: One of 14. I know it doesn't match your PDF numbers, but it's 1 of 14 at the bottom of the Exhibit A.

CHAIRMAN STRAIN: Yep.

MR. ARNOLD: And that starts with the permitted use section. And Ms. Homiak had pointed out the discrepancy of the single-family attached in A-1. So I agree with her, we should strike that reference to single-family attached so it matches our development table.

And then one other change that we had noted based on our meeting with Heidi was under B.4, under accessory uses. The last phrase, and recreational facilities all designed to serve the residents and their guests, should be stricken. And the sentence should end after the word enclosures: Because we have a separate amenity tract there won't be community-wide recreational amenities within our residential tract. Those community-wide facilities will only be provided in our tract designated AA that's in orange on that color exhibit before you. And I can show you what that looks like.

The strike-through, if you can see the last phrase under number B.4, doesn't show that well, unfortunately, but it would be stricken in that.

CHAIRMAN STRAIN: I think it would be advantageous to show us the changes as we move through so we can try to avoid having a consent if it's not needed.

MR. ARNOLD: Okay. And you can see I struck with my pen at least under the A-1 single-family attached.

CHAIRMAN STRAIN: Okay, do you have any changes on Page 2?

MR. ARNOLD: Let me see. I don't think so, no, sir.

CHAIRMAN STRAIN: And Page 3?

MR. ARNOLD: Yes, our development table is Page 3, and we've got a couple of changes that we need to make. One was the reference to footnote number seven, that's a good catch to add it next to the word standards at the top of the page. I'll put my mark up there for you.

You can see, that's where footnote seven should be added. I also made a change -- I had a discrepancy, and my error. I had corrected it but failed to give it to Kay back when we had discussed this. But the building separation should be 10 feet, not 12 feet, as I had expressed on the table. That would be consistent then with our setbacks that are expressed above.

And Mr. Strain, you asked me a question about the townhome lot size. And after that question I went back and pulled a couple of other townhome products that we have worked on, and the lot size you questioned, the 1,000 square feet as being very small when you start trying to apply setbacks to that, and I concur, and we've suggested that we change the dimension on that from 50 foot depth to 80. So that we have a 20-foot by 80-foot lot, minimum 1,600 square feet. Kay's pointing you to the change that that would be in strike-through on the table.

CHAIRMAN STRAIN: Okay. It works.

Anybody have any questions on that page?

(No response.)

CHAIRMAN STRAIN: If not, how about Page 4? Page 4 we talked about asterisk 7.

Wayne, when we spoke I mentioned to you to please address the zero lot line window deviation issue that seems to have cropped up because of a new interpretation to the code.

MR. ARNOLD: Correct.

CHAIRMAN STRAIN: I don't know where you want to slide that in, if we have to add it as a deviation or whatever. But one way or the another we need to get that in now so you haven't got to come back and do it all over again.

MR. ARNOLD: I suggest, let me switch gears, what would become deviation 7.

And just to explain to the Planning Commission what's going on, the more recent interpretations of our Land Development Code have said that any time we use zero lot line product in a PUD it's subject to these cluster design criteria that are in the Land Development Code. But we're not really invoking the cluster design necessarily. And for the last many, many years, staff has never said, oh, you're subject to that requirement which says you can't have any windows. But in reality, the way many of these zero lot line product are developed, they're a form of detached dwelling units, so you end up with a 10-foot or 12-foot separation between units. And it seems really very restrictive when the building code would allow us to have those openings that the code and -- obscure part of it that we never thought applied tells us we can't. So probably a good suggestion until we can clarify the Land Development Code to add this deviation.

CHAIRMAN STRAIN: I would agree, and I'm glad you've written it up.

MR. ARNOLD: So I can certainly read that into the record, if you wish. I'll have to take it off the visualizer so I can read it.

CHAIRMAN STRAIN: Well, you might in case someone's -- in case just so the audio is complete. That's fine.

MR. ARNOLD: The deviation would read: Deviation seven seeks relief from LDC section 4.02.04.D standards for cluster residential design, which requires the zero lot line portion of the dwelling unit to be void of doors or windows where such wall is contiguous to an adjoining lot line to allow windows along portions of the principal building that is on the zero setback line. This deviation applies to the overall PUD.

CHAIRMAN STRAIN: Thank you.

The next page is your master plan, Page 5 of the PUD language. There's --

MR. ARNOLD: We do have some changes to that. After meeting with Heidi, she had suggested a modification to a couple of the notes that we have on the plan, as well as we've added the reference to the new deviation seven.

And to the left you'll see the reference on the notes, and that simply says -- that was a reference to the

buffers where we've asked for the deviation. It just notes that the otherwise expressed buffers do not apply in that area consistent with the deviation request in the exhibit.

And then you can see we've added under note three, Heidi wanted us to note that those apply to the overall PUD, and we've added the additional number seven there.

MS. ASHTON-CICKO: Actually you had that language and I asked that you put it in the text and take it off the map. So it should also be on the deviation table.

MR. ARNOLD: It is in the deviation table.

MS. ASHTON-CICKO: On the deviation page, I mean.

MR. ARNOLD: I did. Can I just leave it on this master plan as well?

MS. ASHTON-CICKO: Yeah, I'm okay with it being on the master plan, as long as it's duplicated on the deviation page.

MR. ARNOLD: That is on Page 7 of 14. That's the list of requested deviations.

What we have done is added "the deviation applies to the overall PUD", where it does. And this, again, I showed you the addition of deviation number seven.

CHAIRMAN STRAIN: Okay, Wayne, I think we're --

MR. ARNOLD: I have another change on --

CHAIRMAN STRAIN: I think we're on Exhibit E.

MR. ARNOLD: I jumped ahead of you. I made one change on Page 14 of 14 under landscape. This is consistent with the notation on the master plan. And what I'm suggesting is -- rewritten it a little. You had questioned the 10-foot, whether it should have been A or D-type buffer yesterday, Mr. Strain.

CHAIRMAN STRAIN: Right.

MR. ARNOLD: And it is correct that we have a 10-foot minimum buffer to the north. I think we should add a reference that says we'll have a 10-foot Type D landscape buffer provided in the area indicated on Exhibit E.5, deviation number six.

CHAIRMAN STRAIN: That's on the -- yeah, that's on the landscape page of your --

MR. ARNOLD: Right. That was the only other PUD document modification I had noted.

CHAIRMAN STRAIN: Okay, let me go back and see if we've missed anything, at least in my notes, and as we go along anybody else have anything they'd like to add.

John Pod. I just want a confirmation for the record that the trip count at 366 and how that is different from the previous trip count that may have been involved with this project.

MR. PODCZERWINSKY: Good morning, Commission. For the record, John Podczerwinsky.

And I apologize, I came in a few minutes late. I didn't get to swear in.

(Speaker was duly sworn.)

MR. PODCZERWINSKY: The question about the trip bank -- I'm sorry, the new trip limits that are listed in the PUD, those are up slightly from what we had before, but there is capacity on the roadway to accept all of that.

CHAIRMAN STRAIN: Do you know what was there before?

MR. PODCZERWINSKY: I believe it's 308.

CHAIRMAN STRAIN: Thank you. That's all I needed for confirmation, John.

COMMISSIONER EBERT: It was 308 and it jumped to 366?

MR. PODCZERWINSKY: Yes.

CHAIRMAN STRAIN: Multi-family has a lower trip generation than single-family.

MR. PODCZERWINSKY: It wasn't due to a unit count change, I believe it was due to a change in the type of unit that was --

COMMISSIONER EBERT: Okay. I do have one question, because I had your name circled here, John. You know I always have questions for you.

MR. PODCZERWINSKY: I always hate it when my name is circled.

COMMISSIONER EBERT: How do you know the peak hour trip? Do you put someone there to just count traffic?

MR. PODCZERWINSKY: You mean the peak hour trips for the project or the roadway?

COMMISSIONER EBERT: You have two-way trips mentioned here. How do you know that's

accurate?

MR. PODCZERWINSKY: Well, here's the way this works. Essentially what this approval or what this number limits is the number of trips that we would approve at the time of plat or SDP, however they proceed. And that would be based on a calculation that is related to the total number of units that they actually construct on the site. So it's not that there's somebody out there counting those, it's that we limit the number of units they're allowed to construct based on their trips.

COMMISSIONER EBERT: Okay, thank you.

MR. PODCZERWINSKY: Did that answer it?

COMMISSIONER EBERT: Yeah. You know that whole area is just getting swamped, so --

MR. PODCZERWINSKY: I understand that, yes.

CHAIRMAN STRAIN: Okay. The next item I wanted to get clarification on is from utilities. And it's Exhibit E.2. And I don't know if staff can answer it, or I see Chris is here, maybe somebody can. That detail shows -- if you can put it on the overhead, Wayne.

MR. ARNOLD: The street cross-section?

CHAIRMAN STRAIN: Yes, well, E.2. That's it.

That detail shows the sidewalk protruding into both the utility easement and the CUE. I just wanted to make sure from the perspective of utilities that didn't pose a problem.

MR. VanLNGEN: Good morning. Chris VanLengen, Principal Planner, Utilities.

Yes, that's fairly standard for us. We're happy to have sidewalks within our CUE. And we make no comment on the UE itself.

CHAIRMAN STRAIN: Thank you, Chris.

That takes us to the end of the PUD. Are there any other questions from the rest of the document that this Planning Commission may have?

(No response.)

CHAIRMAN STRAIN: I have just a few. And actually, Wayne, this particular one is under your description of why the rezone is necessary. I know you wrote this before the sunset provisions were eliminated, and they're gone, but you still went forward. Why?

MR. ARNOLD: We were obviously not just trying to reopen the PUD, we needed to amend it to add our dwelling unit types and change and put in appropriate development standards for the other development types. And we have obviously asked for a few other deviations, as we discussed.

CHAIRMAN STRAIN: I wanted to make sure you couldn't have stayed off the process.

Then the last questions I had have already been cleared up. They involved the items that were discussed at the NIM. And between the documents that we've received, they're all cleaned up and addressed so I'm comfortable with that.

Anybody else have any other questions?

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: I have a question on environmental that needed a review by the Planning Commission.

Tim, here it says -- and I can't tell you what page it's on, but it's in the environmental portion. There's a bald eagle protection zone on site here?

MR. HALL: Yes, ma'am.

COMMISSIONER EBERT: Okay. That's in the requirement. And then there is a -- in the preserve area there's a cypress pot ash?

MR. HALL: Pop ash.

COMMISSIONER EBERT: Pop ash, adjacent to the off-site preserve. That's really -- there just seems to be -- what other -- I didn't go through all the listed area, because this is normally not mine, it's normally Charlotte does it. But I was looking at this. Has this all been -- is there panther or anything out there?

MR. HALL: The property, about 84 or 85 acres of the property are within the secondary zone for the panther. So they're a secondary protection zone so there is mitigation requirements for the Florida panther

associated with the development. That's being coordinated through the Army Corps of Engineers permitting and the U.S. Fish & Wildlife Service.

COMMISSIONER EBERT: Okay. And that's not quite complete yet; is that correct?

MR. HALL: That permit has not been issued, it's still under review. Fish & Wildlife Service has all of the information and they're reviewing it now but they have not finished their coordination with the Corps.

COMMISSIONER EBERT: Okay, it was just some questions I have on the environmental. Okay, thank you.

CHAIRMAN STRAIN: Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Kay, do we have a staff report?

MS. DESELEM: Yes, sir. For the record, Kay Deselem, Principal Planner with Zoning.

You do have the staff report last revised 11/14/14, and it explains who the property owners and applicant's agents are; explains the requested action as you know already from the applicant's testimony; provides the written geographic location and the purpose and description of the project as they're proposing it; provides a written description of the surrounding zoning and land use, as well as a map similar to what the applicant had used to show you as well; shows the -- provides the Future Land Use Element/Growth Management Plan consistency review, along with the transportation element and the CCME, with a conclusion that this is consistent with the Growth Management Plan.

And staff has provided an analysis providing environmental review, transportation review and school board review.

And then it goes into the zoning service review and the deviation discussion, noting staff is recommending approval of all the deviations with no stipulations other than deviation one. And our recommendation for that is that the developer provide one canopy tree or canopy tree equivalent per 30 lineal feet of sidewalk and provide a sidewalk on one side of the streets ending in a cul-de-sac.

Staff also provides the findings and fact to support our recommendation. And we are then recommending that this petition be approved with the stipulation attached to deviation number one.

And if you have any questions, I'd be happy to address them.

CHAIRMAN STRAIN: Diane, do you have any?

COMMISSIONER EBERT: Yes, I have just one quick question, Kay.

MS. DESELEM: My name is circled too, just like Pod, huh?

COMMISSIONER EBERT: On Page 5 of 16 in the GMP they talk about a completely different thing in here, a Bayshore/Tomlinson. What is that?

MS. DESELEM: That would be my mistake. When you --

COMMISSIONER EBERT: I'm sorry, forget it.

MS. DESELEM: I do apologize. The text in the references are incorrect. However, the conclusion is correct. We are recommending that it be found consistent with the Growth Management Plan.

CHAIRMAN STRAIN: Any other questions of the staff report?

COMMISSIONER ROMAN: Yes, I have a question.

I heard the petitioner mention canopy trees on that sidewalk side and they're mentioning per the code canopy trees or equivalent. And I'd like to see if we couldn't just make the canopy trees, please.

CHAIRMAN STRAIN: I have no problem with that. Any problem from the applicant's side?

MR. ARNOLD: We would have no objection to that.

CHAIRMAN STRAIN: Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: If not, do we have any public speakers registered, Ray?

MR. BELLOWS: No one has registered.

CHAIRMAN STRAIN: Anybody from the public wish to speak on this item?

(No response.)

CHAIRMAN STRAIN: Okay. With that, I can't imagine, Wayne, you've got any rebuttal. And I think it's interesting that you have Richard silent this whole meeting. Probably somewhat of a relief for all of us, but --

MR. ARNOLD: In the holiday spirit, we thought we would --

CHAIRMAN STRAIN: Thank you.

Do you have anything else you want to add, though, Wayne?

MR. ARNOLD: No, I just wondered with the modification Ms. Roman offered on the canopy tree, should I modify the deviation?

CHAIRMAN STRAIN: I think just take the recommendation from staff and correct it there.

Because the recommendation would probably be part of our recommendation -- their recommendation would probably be part of ours. Does that work for you?

MR. ARNOLD: Fine by me.

CHAIRMAN STRAIN: Does that work for you, Kay?

MS. DESELEM: Yes, sir.

MS. ASHTON-CICKO: Can we just switch to owner instead of developer?

CHAIRMAN STRAIN: Can we switch what? Your speaker's not close enough to you.

MS. ASHTON-CICKO: On the stipulation, can we just put owner instead of developer shall provide one canopy tree, blah, blah, blah?

CHAIRMAN STRAIN: Okay.

MS. ASHTON-CICKO: Thank you.

COMMISSIONER HOMIAK: Blah, blah, blah?

CHAIRMAN STRAIN: Okay. It's that holiday season catching up with us here.

COMMISSIONER ROMAN: At least she didn't say ho, ho, ho.

CHAIRMAN STRAIN: Blah, blah, blah.

Okay, with that, we'll close the public hearing and entertain a motion. I have eight suggested stipulations. I'll read them in case someone wants to include that in the motion.

Number one, add asterisk number seven to the development standards table by the top where it says standards.

Change the townhouse lot depth to 80 feet and lot size of 16 feet. And all the building separations will be 10 feet, not 12.

MR. ARNOLD: Mr. Strain?

CHAIRMAN STRAIN: Yes.

MR. ARNOLD: One notation maybe I misunderstood, but I think the lot width was staying at 20 feet, not 16.

COMMISSIONER EBERT: 20 by 80.

MR. ARNOLD: 1,600 square feet.

CHAIRMAN STRAIN: Right.

MR. ARNOLD: I'm sorry, I misunderstood.

COMMISSIONER EBERT: 1,600, yeah.

CHAIRMAN STRAIN: Delete language B.1 for community-wide accessory and change A.1 to take off the attached for single-family.

Number four: Add a reference to zero lot line window issue as deviation number seven.

Number five: Modify the master plan for note one and add deviation number seven to the plan.

Number six: Modify some deviation language on the deviation page. There's a series of notes that were shown on the overhead to make those modifications.

Number seven: Modify the language for the landscape section to clarify that on the south side there will be a 10-foot D buffer in that one location on E.5.

Number eight: Include staff recommendations with a stipulation that it is canopy trees and that the developer will be changed to owner.

Those are the only notes I made. Does anybody else have anything else?

(No response.)

CHAIRMAN STRAIN: If not, is there any discussion?

Diane?

COMMISSIONER EBERT: Do we need an EAC approval on this?

CHAIRMAN STRAIN: No.

COMMISSIONER CHRZANOWSKI: Mark?

CHAIRMAN STRAIN: Yes.

COMMISSIONER CHRZANOWSKI: Not a discussion but the Turrell-Hall exhibits are some of the best I've seen come through here. When I get a packet from staff, first thing I do is I go down the list and I order a LIDAR from Tim Billings. And most of the time if it's something that I think you all should see, I have it copied through the staff.

What they did was they took the LIDAR and they superimposed the project on the LIDAR, which made it very easy to see. And I was wondering if Summer could possibly request that to be part of future submittals.

CHAIRMAN STRAIN: That may have been what happened.

MS. ARAQUE: What are you requesting?

COMMISSIONER CHRZANOWSKI: The LIDAR with the project superimposed on it.

COMMISSIONER EBERT: She's not listening.

COMMISSIONER CHRZANOWSKI: That makes it so -- like when he was talking about the buffer on -- the 30-foot buffer on the north and scraping down, I could see the two high spots that they're talking about scraping down. It makes it so easy to see what they're talking about.

And I know not everybody has access to LIDAR, but I know a lot of the projects do.

MS. ARAQUE: It's actually technically not currently part of our environmental data requirement. So we could request it, but not require it.

CHAIRMAN STRAIN: Wait a minute, that's done internally, right?

MS. ARAQUE: Or we could provide it.

CHAIRMAN STRAIN: I think the request is from the Planning Commission, please provide that information with all future packets. Is that what you're asking, Stan?

COMMISSIONER CHRZANOWSKI: I don't want anybody to go out of their way and buy a \$2,000 GPS program from the Property Appraiser, but if somebody has access to it, this is excellent.

CHAIRMAN STRAIN: Well, I think you've been asking for those all along. So rather than make Stan ask for them each time, why don't we just include those in the packet from now on?

COMMISSIONER ROMAN: Yes, that --

MS. ARAQUE: Okay.

COMMISSIONER CHRZANOWSKI: I try to judge where everything is. You know, sometimes I just stick it on a window and take a look if I can see through it. But the way they did it by computer, you can see everything.

MS. ARAQUE: Okay, we can discuss it off line. I'm sure we can work something out, since previously Stan brought those to the EAC.

COMMISSIONER CHRZANOWSKI: Yes, Stan still makes sure they get to the CCPC.

MS. ARAQUE: To answer Diane's question, yes, technically an EAC review should be required, because there are how many feet of bald eagle buffer on your property?

CHAIRMAN STRAIN: Well, before you go too far, why in the analysis then did you say one wasn't required?

COMMISSIONER ROMAN: Yeah, exactly.

MS. ARAQUE: I think that was staff's error. Because my understanding, that that buffer was not going to be on the project when this -- on this project.

CHAIRMAN STRAIN: Well, let's back up then, we'll reopen the public hearing. I want to understand this detail. If you guys know you've made a mistake, why don't you tell us up front so we don't have to get an after-the-fact question?

MS. ARAQUE: Because Diane just brought it up.

CHAIRMAN STRAIN: You didn't know that change from the staff report 'til now until she just brought the question up?

MS. ARAQUE: Repeat that again?

CHAIRMAN STRAIN: You didn't know that your staff report was in error for the months or days

or weeks it's been written in regards to an EAC review until she just brought it up now.

MS. ARAQUE: In the last 10 minutes, yes. Otherwise I would --

CHAIRMAN STRAIN: Okay, well, now we've got an issue -- Heidi, do we have an advertising issue, since this should have gone to the EAC from what I'm now hearing?

We are the EAC, but it --

MS. ASHTON-CICKO: You sit as the EAC, and we don't do any special advertisement in --

CHAIRMAN STRAIN: I just want to make sure, because generally if we sit as the EAC on a project, we have to vote as the EAC as well.

MS. ASHTON-CICKO: Correct. Correct.

CHAIRMAN STRAIN: Tim, did you want to add something?

MR. HALL: Well, yeah, just for your review, I think we should. The -- I've got a couple of exhibits here.

When we made the submittal -- this is the eagle nest location and the 660-foot buffer. You can see just barely goes across the western -- or I'm sorry, the eastern boundary of the property.

In the last three weeks the eagle's moved. They built a new nest in a different site on that preserve. We just got this information on Friday? I think it was last Friday.

So having coordinated with the staff or anything on this, this was new to us. And you can see that the eagle buffer zones impact a much larger portion of the project right now. So we're having to reinitiate our coordination with the Fish & Wildlife Conservation Commission to modify or come up with an eagle management plan that addresses this.

The intent would still be to construct to the project as it's being proposed, but we are most likely going to get some restrictions as to when the construction within those areas of the buffer could be undertaken.

CHAIRMAN STRAIN: The fact that you've got this diagram and this research done, you didn't decide to bring it up to staff until today, 'til 10 minutes -- 'til Diane asked the question? Summer said she didn't hear about it 'til just now.

MR. HALL: I had not, no.

CHAIRMAN STRAIN: So how did you see this proceeding to the Board without having acknowledged that to this body in regards to our question? You didn't bring it up. We were closing the public hearing. We were going to go forward and make a motion on this without this information had Diane not asked that question. I'm just curious as to how you saw this process working out.

MR. HALL: I don't -- I mean, I don't know. I had brought the information here to present it and just --

CHAIRMAN STRAIN: So only if we questioned it you were going to present it. Otherwise you were going to stay silent. Because that's apparently what happened.

MR. HALL: Well, that is what happened. That was not my intent.

CHAIRMAN STRAIN: Okay. I guess then I'm going to have to ask staff if there would be any additional reevaluation from staff's perspective of this project because of the proximity of this eagle nest, both a -- you've got a primary and secondary zone now hitting some of the lots. Would that be -- would that involve additional criteria or stipulations put or recommendations provided by staff in regards to this issue?

MS. ARAQUE: Just looking at this right now I would say that this should be able to all be addressed through the construction plans. I mean, we have eagles move around all of the time, so they have to follow federal and state guidelines. And if this -- if an eagle moved into an area after the zoning, then the applicant would have to follow the state, federal and local regulations in regards to when they can build.

CHAIRMAN STRAIN: Okay. You know this shell game where we hide everything until we pick the right shell, that isn't fair. This board tries to be forthright and if you've got information that needs to be divulged, we're not here to stop you. We're here to make sure we get the best product out of what you're asking to do with your property. So I would appreciate it from now on if you just talked about this early on in the meeting so we could have an open discussion on it and make sure it doesn't involve the criteria we're dealing with.

MR. HALL: Yeah, I understand that. Like I said, this is not -- this is information that I was provided

over the weekend. I haven't even actually verified that the eagle nest is there. But based on the consultants that are working on the adjacent property, they sent this information to us. I got the exhibit done on Monday and I looked at it yesterday, I brought it to the meeting -- looked at it on Tuesday and brought it to the meeting today. In hindsight I should have sent it to Summer ahead of time and I apologize for that.

CHAIRMAN STRAIN: Well, thank you, Tim. We're going to add a stipulation.

Summer, I'd like to make sure the stipulation is correctly addressed.

At what point in time should we stipulate that this eagle issue be resolved? Either my eagle management plan or whatever outcome environmental staff would normally expect?

MR. HALL: It has to be resolved before we do any clearing.

CHAIRMAN STRAIN: Okay. Well, that's fine. I just want to make sure we put a time frame and a stipulation. I know it's in the code, but I would be more comfortable since this came in at a late point and it's not in the staff report that the Board knows it was addressed at this level. That's the intention of adding it as a stipulation, to simply say address the eagle's nest overlay at the time of clearing plan application. Does that work for everybody? I see everybody nodding their heads.

MR. HALL: Yeah, that's fine.

COMMISSIONER HOMIAK: Let's add it under item --

MR. ARNOLD: Mr. Strain, if I might. Wayne Arnold for the record.

I think to appropriately capture that we have under Exhibit F, these are the developer commitments. And item number three is environmental that talks about our preservation area. That probably should be renumbered 3.A. And then B could become the stipulation that you just discussed.

CHAIRMAN STRAIN: I have no problem where you put it in the document. It will be added as a stipulation. And you and staff like you normally do work that out to make sure it gets included in the --

MR. ARNOLD: Could you repeat what you read into the record?

CHAIRMAN STRAIN: Address the eagle nest overlay at the time of clearing plan application. Obviously that needs to be smoothed out, but that's the general gist of the stipulation.

And I've seen staff nod their heads in consensus that that works.

MR. ARNOLD: Okay.

CHAIRMAN STRAIN: And Charlette, since you're our environmental representative, how does that -- does that seem to work for you?

COMMISSIONER ROMAN: I'm a little uncomfortable in how this thing unfolded for us this morning. And even the environmental consultant has said he hasn't verified that diagram that he was presented over the weekend, so no, I'm not comfortable with this.

CHAIRMAN STRAIN: From environmental staff's perspective, regardless of the stage that this would have been, even if this was provided in your staff report, would it have changed your staff report in any manner other than what we've already addressed or stipulated? How impactful would this have been to your staff report?

MS. ARAQUE: Well, I would say -- take a step back a minute. In regards to our review of the project that we would have consulted with FWC. I mean, if we were provided with this information say even yesterday or the day before, that probably would not have been enough time to coordinate with FWC. But if this was -- you know, the eagle probably just moved here. We're in November, they probably -- you know, the nesting starts in October.

So if the eagle was already there during the review, then -- because my understanding is last year they were in the other nest that was much further away. If they were there during the review, then most likely we would have had at minimum some type of alternate site plan that contemplated that eagle. Which probably would have shown maybe even -- I'm not sure because I haven't reviewed it. But, you know, between that -- in that 330 area there may be even some limited type of construction that could go on there. I'm not sure. Tim may have already contemplated that. But those are the types of things that we would look at. It could have possibly changed the site plan, but I don't know.

MR. YOVANOVICH: I didn't want to talk but you brought it up.

CHAIRMAN STRAIN: I can't imagine you sitting through a whole meeting without saying something, Richard.

MR. YOVANOVICH: First of all, I think we take a step back. I think I would have been under my rights on behalf of my client to come in and with the bald eagle right in the middle of the project. I could have shown that and I would have been subject to the regulations that apply to bald eagles. Didn't mean I could build it today. There might be certain things that would have to happen in order for me to build it if the nest was smack dab right in the middle of the project.

And we're in the same situation. Whatever the regulations apply to the bald eagle will apply to us. Just because our master plan shows at some point in the future we're going to have residential on the east side of the property doesn't mean I could build that today. We'll be subject to whatever regulations apply to the bald legal.

Just like if the bald eagle wasn't there, you approved it and it moves smack dab in the middle of the project tomorrow right after it's approved, I'm subject to whatever the bald eagle regulations would be and we would be required probably to give a bald eagle management plan at some point to staff.

It's unfortunate, and I apologize, I wasn't aware that this was new information, or else I certainly would present it. But we kind of are where we are. You know, mistakes happen. It was Thanksgiving. You know, there were a lot of reasons probably why people forgot to present this information.

But from an approval standpoint, I think it has absolutely no impact. Because it is what it is with the bald eagle. When the bald eagle gets there, if it gets there, we're subject to the rules, we can be shut down. If the bald eagle moves for whatever period of time it has to move, we don't have to worry about that. So an alternative site plan is totally unnecessary. Because we may or may not be able to build it out immediately. But we could build it at some point.

CHAIRMAN STRAIN: I think what bothers me the most is the timing of all this. Had you started out your presentation today by saying hey, we discovered something new, we want to talk about it, I'd have been much more comfortable. I don't like these surprises.

Diane, how did you know that this was an issue?

COMMISSIONER EBERT: Because right here it says that EAC review is required. And when I saw bald eagle and I know there's stormwater and I knew panther.

MR. YOVANOVICH: Let's just for a second, Mr. Strain, let -- the mistake happened. Yes, the eagle moved. But we probably had to go to the EAC anyway where the eagle was.

CHAIRMAN STRAIN: But not according to the staff report.

MR. YOVANOVICH: I understand that. There are a couple of mistakes that happened here, and we're all human and mistakes happen. Staff didn't recognize that we needed to say this was in the EAC for where they thought the eagle was.

We would still need an EAC consideration for where the eagle is today. Errors happen. I don't think it was intentional, it just happened. We're showing you -- right now you're considering that. But I don't think it changes the review or the requirements under the law.

CHAIRMAN STRAIN: And that's where I'm trying to get to. You need to get confirmation of a couple of things so we can get there.

Summer, it goes back to your position that the eagle nest overlay will be reviewed at the time of the clearing plan application.

Will that review be the same as the review you would have done had you known this two months ago for this particular board?

MS. ARAQUE: First of all, I concur with what Mr. Yovanovich said. Yes, it does not change this. Because like I said before, eagles move. So -- and looking at this a little further now, if an eagle moves in, that could possibly change their construction plans and we will review that at the time of construction plans.

Does that answer your question?

CHAIRMAN STRAIN: No, so I'm going to ask it again.

MS. ASHTON-CICKO: Mr. Chair? If I may interrupt for a moment?

CHAIRMAN STRAIN: Go ahead.

MS. ASHTON-CICKO: EAC is required if there are bald eagle nests on the site. Now, you've been provided no information related to the EAC review. So I hate to suggest this, but you might need to continue that until January so that you can complete your EAC review.

MR. YOVANOVICH: Can I ask Heidi --

CHAIRMAN STRAIN: Well, wait a minute. I'm trying -- and that was the point of my discussion with Summer is to try to find out how different the review would be at the clearing plan application versus now. If it's going to get the same review, then we're not losing anything. The process is still capturing all the issues. If it's not going to get the same review, then we have the problem that you're I think leading to.

Richard?

MR. YOVANOVICH: I just have -- is it eagle nest on site or an eagle zone?

CHAIRMAN STRAIN: It's not on site, it's a zone. You have a piece of primary and a piece of secondary.

MR. YOVANOVICH: I know. But what Ms. Ashton just said, the EAC is required if the eagle nest is on site.

COMMISSIONER ROMAN: We don't know because the environmental consultant said that he did not verify that information that he got this weekend.

CHAIRMAN STRAIN: He didn't verify that it moved to that one location. He didn't --

MR. HALL: I know that it's not on site. I can't verify that it's exactly where it is on the document that we showed. I know that it's in --

MR. YOVANOVICH: It's on someone else's property.

MR. HALL: It's on the property on the other side of Woodcrest.

COMMISSIONER ROMAN: Because the diagrams we have in our packet that were reviewed was your previous diagram where they were just touching the edge of the property.

MR. YOVANOVICH: The zones were.

COMMISSIONER ROMAN: That diagram is in our packet.

MR. HALL: Right, and --

COMMISSIONER ROMAN: How do you know they're not on the property but not know where they are? That's what I'm trying to wrap my head around.

MR. HALL: Because when the people next door said that the eagles had moved, we resurveyed our property to make sure that they had not nested on our site. And the information that we got was that through their observations they had located where they were renesting was further north from where it had been, still within that Indian Hills preserve area.

COMMISSIONER ROMAN: So that diagram you were given this weekend was from not something that you actually surveyed but was provided to you.

MR. HALL: Correct. It was actually provided to the engineer and the engineer put it on the --

CHAIRMAN STRAIN: Okay. Then --

MR. HALL: -- overlaid it on the site plan.

So I am confident that the nest itself is not on our site. I'm confident that the zone -- I'm pretty confident that the zones do come onto our site, but whether it's to the extent that's shown here or a little more or a little less is what I can't actually confirm. Because I haven't been on anybody else's property to do the actual survey location. I'm taking it that it's accurate that what we were provided is accurate.

CHAIRMAN STRAIN: I'd still like to get back to my question of Summer.

Summer, could you use the mic? Could you come to the mic?

MS. ARAQUE: I was waiting for Tim to move.

CHAIRMAN STRAIN: At the time of the clearing plan application, will staff do the same review for the eagle's nest involvement on this project as they would have done for the staff report that's in front of us today?

MS. ARAQUE: Yes. And probably more of a review.

CHAIRMAN STRAIN: Then that's -- so no matter what, whether we involve this in our decision today or not, staff's still going to look at it and the outcome's still going to be as though it would have come today. The only difference is this board would have had the information earlier today to probably discuss it as if we went through the process.

MS. ARAQUE: Correct.

CHAIRMAN STRAIN: Okay, thank you. That's what I was trying to find out.

COMMISSIONER EBERT: And Mark, the only reason I brought it up is because the packet did say we needed an EAC review on this.

CHAIRMAN STRAIN: What says that?

COMMISSIONER ROMAN: What page, Donna?

CHAIRMAN STRAIN: That's your handwriting, that is --

COMMISSIONER EBERT: No, that's not my handwriting.

CHAIRMAN STRAIN: Whose handwriting is that?

COMMISSIONER EBERT: I have no idea. That's on the back of this page.

COMMISSIONER ROMAN: Which page, Diane?

CHAIRMAN STRAIN: I don't get backs, I only get fronts, so --

COMMISSIONER ROMAN: What page? I would like to see that page.

COMMISSIONER EBERT: Well, it's -- I don't see a page number on here. It's in their packet after the list of people that attended the meeting. And --

COMMISSIONER ROMAN: Where, at the NIM?

COMMISSIONER EBERT: Collier County Appraiser's property report. It's in the application, I think.

And the only reason I brought it up is because this is a little more sensitive land there. It's the panthers, it is the stormwater. And we don't have all the reports. And Fish and Wild-- I mean, there were just some things I thought were missing. It's the only reason I brought it up.

CHAIRMAN STRAIN: Before we -- where did you -- I mean, I'm --

MS. ASHTON-CICKO: She's looking at the pre-app.

COMMISSIONER ROMAN: It's a handwritten note here on --

MS. ARAQUE: It's on the pre-app note.

MS. ASHTON-CICKO: It's the pre-app checklist, item 30.

COMMISSIONER ROMAN: It's a pre-app. It's on the pre-app. And this might be your writing. Here, Summer.

MS. ARAQUE: Yeah, they showed it to me. Yes.

COMMISSIONER ROMAN: But it's not in the environmental report per se and it's not in the staff report.

MS. ARAQUE: So you have all the information that was provided to me. I understand this has been provided to you, the environmental supplement?

CHAIRMAN STRAIN: Yes, we've got it.

COMMISSIONER ROMAN: Because since that was in the pre-app, it could technically have changed along the process.

CHAIRMAN STRAIN: Well, that's what happens. In the pre-app, the questions are asked --

COMMISSIONER ROMAN: Yes.

CHAIRMAN STRAIN: -- and in the staff report the questions get refined why they're --

COMMISSIONER ROMAN: Absolutely.

CHAIRMAN STRAIN: -- not as required.

So the staff report is the final document that's in our packet. The staff report says an EAC review is not required.

COMMISSIONER ROMAN: Exactly.

CHAIRMAN STRAIN: So we're back to that. And basically now if this change of the eagle nest was verified prior to the meeting you probably would have then added something to the staff report to address it or you would have addressed it at the meeting from the beginning and not had gotten into this --

COMMISSIONER ROMAN: Exactly.

CHAIRMAN STRAIN: -- whole convoluted discussion.

So with that in mind and the fact that staff is going to look at it as equally detailed as they would for this meeting, I think addressing the eagle nest overlay at the time of the clearing plan application as an added stipulation confirms that that's going to happen. And it kind of brings closure to the staff report's omission of discussing it.

So at that point that's nine stipulations we have in regards to this project. So we'll close the public hearing again, unless there's more questions from the panel.

(No response.)

CHAIRMAN STRAIN: Then we'll entertain a motion. We've previously read off eight stipulations, with this additional ninth.

If there's a motion to approve, the motion maker may want to consider these. If there's a motion to deny, then whatever you decide.

Is there a recommendation?

COMMISSIONER HOMIAK: I'll make a motion to approve with all the stipulations that you listed.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER CHRZANOWSKI: I'll second.

CHAIRMAN STRAIN: Motion made by Karen, seconded by Stan.

Discussion?

COMMISSIONER ROMAN: Well, I'm not sure what this language says. I'd like to see what that actually says regarding this ninth stipulation that we just added.

CHAIRMAN STRAIN: Okay. Well, let's get it on the overhead.

Wayne, we need to craft the language and add it to the paragraph so it's shown tonight.

MR. ARNOLD: Can I read what I've written? Because my handwriting is pretty illegible.

CHAIRMAN STRAIN: Sure.

MR. ARNOLD: Let me try to read it and see if we can all follow.

This would be a new 3.B under Exhibit F, the environmental section. And it would say: The bald eagle nest zone is to be addressed by staff at the time of clearing and construction plan review.

COMMISSIONER ROMAN: The question I have from Summer is on this addressing of the bald eagle implications, if it's just the zone or if it's the nest itself, and it may just be the zone, what further coordination, who are the stakeholders that have to weigh in in terms of permitting and everything else?

MS. ARAQUE: U.S. Fish and Florida Fish and Wildlife would -- we would get technical assistance from them in regards to the permitting. And it sounds to me like they -- have you already been in contact with them? Or they definitely would need to be in contact with -- the applicant would need to be in contact with those agencies in order to permit this project.

COMMISSIONER ROMAN: Has your experience been that there's a bald eagle management plan that accompanies then the development project?

MS. ARAQUE: It would be required with the construction plans.

COMMISSIONER ROMAN: Does that need to be added in this statement? Did you see the statement that Wayne just read?

MS. ARAQUE: Yes. I mean, at this time the way the code is written they would be required to have a bald eagle management plan. But that's required by the Land Development Code.

I'm fine with the way that it's written. I mean, that's your decision on how that's written. But we will make sure that the Land Development Code is followed.

COMMISSIONER ROMAN: But what I'm asking you for is I'm asking you to read what Wayne has written quickly there and concur that that covers all the bases to protect the environmental portion of this regarding the bald eagle nest and what we don't know.

MR. YOVANOVICH: Why don't we just add the phrase in accordance with state, federal and local regulations. We'll address any potential bald eagle projects issues in this project in accordance with state, federal and local regulations. Because it could come up when we do the construction the nest is gone, you know, or it moves somewhere else. I mean, we're restating what the law already requires me to do. And we've been trying to be very careful not to do that in PUDs.

And I understand how this came up, but we would be required to do that anyway. So we're happy to say in accordance with state, federal and local regulations.

CHAIRMAN STRAIN: What happens, that becomes redundant language. Because whether you state it here or not, you've got to do it. So that's why we generally try not to add that language. But whatever makes Charlette comfortable, I'm willing --

COMMISSIONER ROMAN: Well, see, the whole thing is there's so many unanswered questions. And I would agree with you, but the way this thing came up today and --

MR. YOVANOVICH: You know, that's -- you know, I've worked with Tim for a long time. This was not any intentional let's hide this fact. Because we were stuck with this fact anyway.

So I agree, I wish either the consultant hadn't sent it to us or had sent it to us early enough where we'd have sent it to Summer and said Summer get this in the package or we include it in our presentation. We didn't. We're here in front of you. We're talking about those issues. And I don't think the analysis would change. The manner in which the discussion started I wish had changed, but the end result would have still I believe been the same, that we'd have to still meet the ordinances and regulations that apply to the bald eagle.

And it's unfortunate to how the discussion started. We'll take responsibility for that. But at the end of the day the regulations would be the same whether we opened with this discussion or ended with this discussion. I think the analysis would be the same.

COMMISSIONER ROMAN: And I think there's a part of it too, yes, you own part of it, but staff owns part of this too.

MR. YAVONOVICH: And it's okay. You know, I make my share of mistakes, I'm sure Summer's made her share of mistakes, we all have, and that's simply what it was, it was an oversight. It really was.

COMMISSIONER ROMAN: If Wayne could read that again please or put it on the overhead.

MR. ARNOLD: I'll try to read that slowly.

It would say: The bald eagle nest zone is to be addressed by staff at the time of clearing and construction plan review in accordance with federal, state or local requirements.

COMMISSIONER ROMAN: And Mr. Chairman, you're saying that that's redundant, federal state and local?

CHAIRMAN STRAIN: Well, just because we -- if we didn't put it there, they'd still have to do that, so that's the only reason I'm suggesting the addition of those references as redundant. That's why we normally don't do that.

But Charlette, if that's what makes you feel comfortable with this, that's fine.

COMMISSIONER ROMAN: Well, I want to make sure that the areas are addressed. You know, this is an EAC review, even though we didn't know it.

The part about this is when I studied the packet I looked at all the attachments, I saw that my questions were addressed, I was comfortable, and now all of a sudden, you know, this information comes and we've got a couple of oversights. And I want to be sure that the maximum protections are taken in regard to what is required by law. And I think I could feel comfortable with it as the statement is written.

CHAIRMAN STRAIN: Okay, then that's the way it should be stated.

One point I do like to make though is this was recently discovered. If there was the EAC in place instead of this board taking their position, they still would not have known about this based on the time frames that I've heard you disclaim today, so it still would have been the responsibility of this board to review it in the same light we're reviewing it now. And I think that intention's fine.

So I'm comfortable with the language you've written. We've got a stipulation that says that language will be added to the PUD.

And so with that in mind, there was a motion made and seconded. This was discussion. And the motion was consistent with all the stipulations. Is there -- and by the way, was the motion-maker making the motion on behalf of both the Planning Commission and the EAC?

COMMISSIONER HOMIAK: Yes.

CHAIRMAN STRAIN: And the second?

COMMISSIONER CHRZANOWSKI: (Nods head affirmatively.)

CHAIRMAN STRAIN: Yes. Okay, a nod of head.

COMMISSIONER CHRZANOWSKI: Yes.

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

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

COMMISSIONER CHRZANOWSKI: Can I ask something?

CHAIRMAN STRAIN: Yes.

COMMISSIONER CHRZANOWSKI: I assume somebody's going out there like pretty quick?

CHAIRMAN STRAIN: We're breaking for 15 minutes.

COMMISSIONER CHRZANOWSKI: No, no, no, I don't mean like today.

Charlette, are you going out there? I'd like to go out there and see what --

COMMISSIONER ROMAN: Well, let's all go.

COMMISSIONER CHRZANOWSKI: -- we're talking about.

CHAIRMAN STRAIN: No, we can't.

COMMISSIONER CHRZANOWSKI: Well, we can't all go.

CHAIRMAN STRAIN: Only one at a time. You can't do that.

COMMISSIONER CHRZANOWSKI: Because if you're going, I'm not. But if you're not going, when you go out, Tim, I'd like to go with you.

MR. HALL: I'd be happy to let you guys know through Summer when I go out there, if any of you do want -- give me a chance to actually find it.

COMMISSIONER CHRZANOWSKI: Only one of us can go out.

MR. HALL: Right, but I don't mind going out, if I have to go out multiple times. We're going to have to do some monitoring on it anyway to try to see what kind of flight paths it has and everything else, so --

COMMISSIONER CHRZANOWSKI: I don't want to go blindly walking through the woods looking for a --

MR. HALL: That's what I said, let me find it first and then I'll let you guys know and I'd be happy to take whoever wants to go out there out.

COMMISSIONER ROMAN: And just for the record, Tim, any time you have a field trip on any of these projects, I'd be more than happy to go with you and Summer.

MR. HALL: Okay.

CHAIRMAN STRAIN: Okay, with that --

COMMISSIONER HOMIAK: How about consent?

CHAIRMAN STRAIN: Oh, that's a good point. Thank you for reminding me.

At this point the applicant's put everything on the overhead, we've got clean stipulations.

Staff is comfortable with everything that's been said?

MS. DESELEM: Yes, sir.

CHAIRMAN STRAIN: Okay. I don't believe we need a consent. Is that fine with everybody else on the panel?

COMMISSIONER CHRZANOWSKI: Fine with me.

CHAIRMAN STRAIN: Anybody think we need a consent?

(No response.)

CHAIRMAN STRAIN: Okay, consent is not necessary.

And with that, we'll take a break until 10:45 and resume with our last item up today.

(Recess.)

CHAIRMAN STRAIN: Ray you want to crank it back on?

Okay, everybody, if you'll please take your seats, we'll resume the meeting.

The last item up today is PL-20130001109/CPSP-2013-6. It's the adoption of the 2011 Evaluation and Appraisal Report EAR-based amendment.

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

(All speakers were duly sworn.)

CHAIRMAN STRAIN: And since this is the adoption hearing, these are the items that we reviewed once before at transmittal. We had comments, as did the state. And I'm hoping Corby's going to tell us where all those comments or questions lie, and then we'll get on with it.

So Corby, it's all yours.

MR. SCHMIDT: Good morning, Commissioners.

Just as a reminder as I work through the presentation, at transmittal it was for the resolution to transmit a single motion and a single action. For the recommendation on the adoption of these by ordinance, each element to be revised will require a separate motion and vote.

Well, you did see these staff proposed amendments from staff. You reviewed them in May of last year -- or I should say earlier this year. And they were approved in July by the Board, transmitted to the Department of Economic Opportunity, responses came from them and other reviewing agencies in the state, and there were some changes to be made.

There were changes to multiple elements, but the change was a singular item that affected a listing that appeared in multiple places. Those elements that had no changes, since you saw them in transmittal, include the Future Land Use Element, the recreational and open space element, the transportation and -- and the transportation element. They are exactly as they appeared for you at transmittal.

Those elements with changes include the Conservation and Coastal Management Element, the CCME; the Capital Improvement Element, the CIE; the Stormwater Management Sub-Element of the Public Facilities Element. Those are the elements that had that multiple location similar change. And that was a simple change referring to a document that was named with a name that we place-held purposely as we knew it at the time. It was yet to be approved by the state.

It has since been adopted, the name has been formalized, and that name has been inserted in a number of places. And that's your exhibits where you see it in double underlined form.

The only other change that took place happened in the CIE, or the Capital Improvement Element. And it was a retraction of proposed text changes where language refers to school documents that are adopted outside of the Comprehensive Plan and referred to here. And each year those documents are renamed in accordance with the newest versions adopted by the school district.

In this case we would put them in -- we had attempted to put them with these batch amendments to update those documents, but we took care of it a month ago, along with the Annual Update and Inventory Report and the CIE update there. So the change proposed there is no longer necessary. And that's the school facilities projects language seen in the CIE.

That's it. A couple of changes, one of them multiple times. Both straightforward and all else as you saw it in the transmittal.

CHAIRMAN STRAIN: Okay, so I guess we'll start out with the very first one. And I'll ask, does anybody -- since we have seen this on transmittal, does anybody have any questions on the -- what's in front of us today?

(No response.)

CHAIRMAN STRAIN: Corby, I've just got one. And I don't think anybody here today would probably be able to answer it. And fortunately I didn't realize I had the question until today. Kind of like Summer didn't realize she had an eagle's nest issue until today.

And that involves the Capital Improvement Element and the level of service -- and maybe we'll give it a try here, level of service with drainage. There was a recent activity with a drainage easement in Collier County and the use of that drainage easement. And it was downstream from the weirs that the county oversees. I talked to some agencies trying to figure out who would understand the volume, the capacity elements that involve that drainage easement. Because the flow could be modified by some of the activities that were being considered and I needed to know would that flow cause a problem for the level of service.

Level of services that we talk about in these basins under the county stormwater management systems are in our code. And right now we're looking at the EAR where they're changing simply a reference to how you say U.S. 41. I'm not sure how valuable that is.

But I did find out in my research that our stormwater management department doesn't review the

hydraulics or the capacities downstream of the weirs. And yet we have a level of service that I try to wonder from your perspective if you know, you may not be the one to answer this, and so if that's the case, that's just fine.

MR. SCHMIDT: Fair enough.

CHAIRMAN STRAIN: Does this level of service take the drainage of the basin comprehensively, meaning not just what's above the weir but to make sure that the flow going past the weir can be sufficiently handled by the waterways that are past the weir, the channels? Have you any insight into that?

MR. SCHMIDT: Some but not enough to answer here today.

CHAIRMAN STRAIN: Okay. And I was afraid of that. And I'm going to follow this up on my own anyway. But I was just curious when I caught the EAR reference to level of service and the drainage basins and knowing that there might be a discrepancy between who's looking at what, because the Big Cypress isn't looking at the portion below the weirs either. And I'm not sure who is. I'm trying to find that out.

But okay, thank you, I appreciate that.

MR. SCHMIDT: I'll assist in looking to answer that for you at a later time.

CHAIRMAN STRAIN: Thank you, that would be very helpful.

Now, based upon the way we need to make motions, let me pull up the ones I think we're going to have to deal with. Capital Improvement Element, the Conservation and Coastal Management Element, the FLUE, the recreation and open space element. And what else?

MR. SCHMIDT: You've listed them out of my order, so --

CHAIRMAN STRAIN: I've listed them in the order they're presented to us, so I don't know what order you've got yours in.

MR. SCHMIDT: I'm working from the staff report. And yes, the FLUE, the recreation and open space, transportation element and then also the Conservation and Coastal Management Element, the CIE and the Stormwater Management Sub-Element.

CHAIRMAN STRAIN: Okay. So we're going to be making seven motions, from what I can see. I'll read them off and if anybody wants to make the motion, we're good.

The first motion, to recommend approval of the adoption of the EAR element for the Capital Improvement Element.

Anybody wish to make a recommendation to approve the --

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

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER CHRZANOWSKI: I'll second.

CHAIRMAN STRAIN: Karen and Stan.

All those in favor, signify by saying aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Recommendation to approve the EAR submittal for the Conservation and Coastal Management Element.

COMMISSIONER ROMAN: So moved.

CHAIRMAN STRAIN: By Charlette. Seconded by?

COMMISSIONER CHRZANOWSKI: Second.

CHAIRMAN STRAIN: Stan.

Discussion?

(No response.)

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

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Recommendation to approve the EAR changes to the Future Land Use Element.

COMMISSIONER HOMIAK: Motion to approve.

CHAIRMAN STRAIN: Motion made by Karen.

COMMISSIONER CHRZANOWSKI: I'll second.

CHAIRMAN STRAIN: Seconded by Stan.

Discussion?

(No response.)

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

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Motion to recommend approval for the EAR changes to the recreation and open space element.

COMMISSIONER DOYLE: Motion to approve.

COMMISSIONER EBERT: I'll second.

CHAIRMAN STRAIN: Brian, seconded by Diane.

Discussion?

(No response.)

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

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Motion for -- recommendation for the EAR changes to the Public Facilities Element.

COMMISSIONER CHRZANOWSKI: I'll move to approve.

CHAIRMAN STRAIN: Stan.

COMMISSIONER EBERT: Second.

CHAIRMAN STRAIN: Seconded by Diane.

Discussion?

(No response.)

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

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

And we're changing people, you notice, just to confuse you. Cherie's looking around like, okay, who's going to do this next.

Did we do -- I think we're at Stormwater Management, is that correct?

COMMISSIONER ROMAN: Yes.

CHAIRMAN STRAIN: Recommendation to approve the -- no?

MR. SCHMIDT: Stormwater management was part of Public Facilities.

CHAIRMAN STRAIN: Then we're good.

MR. SCHMIDT: All that's left now is transportation.

CHAIRMAN STRAIN: Transportation.

Okay, recommendation to approve the EAR changes for adoption for the Transportation Element.

COMMISSIONER ROMAN: So moved.

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Made by Charlette. Seconded by Karen.

Discussion?

(No response.)

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

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER ROSEN: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Motion carries 6-0.

Okay, that takes us to the end. Corby, that probably was the fastest one I think you've ever brought to us, so --

MR. SCHMIDT: You're welcome.

CHAIRMAN STRAIN: -- thank you, we appreciate it.

With that, is there a motion to adjourn?

COMMISSIONER ROMAN: So moved.

CHAIRMAN STRAIN: Seconded by?

COMMISSIONER CHRZANOWSKI: Second.

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

December 4, 2014

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 10:56 a.m.

COLLIER COUNTY PLANNING COMMISSION



MARK STRAIN, Chairman

These minutes approved by the board on 1-15-15 as presented or as corrected .

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