

December 18, 2014

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
December 18, 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 (Absent)
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: We good? Okay, good morning, everyone, welcome to the December 18th meeting of the Collier County Planning Commission.

If everybody will please rise for the Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Roll call by the secretary, please.

COMMISSIONER EBERT: Yes. Good morning.

Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER EBERT: Mr. Chrzanowski?

COMMISSIONER CHRZANOWSKI: Here.

COMMISSIONER EBERT: Mr. Rosen is gone, Ms. Ebert is here.

Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER EBERT: Ms. Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER EBERT: And Ms. Roman?

COMMISSIONER ROMAN: Here.

COMMISSIONER EBERT: Thank you.

CHAIRMAN STRAIN: Okay. First of all, Brian had an excused absence, he noticed us last time.

And I'm sad to report to everybody that Mr. Rosen had resigned his position on the Planning Commission on Monday.

And we do appreciate all the time, Mike, if you're watching, that you had provided to us in your guidance. We're going to miss you. But I understand your situation, and we'll be looking forward to a new member soon.

So that will leave us with the five here today for the voting purposes.

Agenda to the addenda. There's Item 9.D on our agenda. It's for the automobile service station distance discussion for an LDC amendment.

You might recall, we had gotten this back earlier two, three months ago. It went to the Board. The Board had requested it to be rereviewed with some more definition. Staff's been working on that, but we didn't know what to anticipate time-wise today, so that needs to be continued until the January 15th meeting, rather than try to schedule it today.

Can I get a motion to that effect?

COMMISSIONER ROMAN: So moved.

CHAIRMAN STRAIN: Second?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Second by Karen.

Discussion?

(No response.)

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

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 5-0. Thank you.

The second item that I wanted to discuss is Items 9.B and 9.C. They're companion items for a PUD amendment for Tamiami Crossings.

I'm not going to -- we're not having a time -- I was asked if we could do a time certain because some of the people involved have to fly in and fly out of town. What I did commit to was that we will hear that

case no later than 1:00. Because I did not know how long the first case will take. And that particular case would not be a very lengthy case. So when we break for lunch, when we come back the first thing up will be wrapping up the PUD amendment for Tamiami Crossings and then go right back into whatever's remaining on the agenda. Again, I don't know how long we'll take. So if we get finished with the first item, which is Cocohatchee, number 9.A, then we'll go directly into 9.B and C.

Approval of minutes. We had minutes of November 6th, 2014. Does anybody have any changes or

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COMMISSIONER HOMIAK: Motion to approve.

CHAIRMAN STRAIN: Motion to approve by Karen. Is there a second?

COMMISSIONER CHRZANOWSKI: Second.

CHAIRMAN STRAIN: Second by Stan.

Discussion?

(No response.)

CHAIRMAN STRAIN: All in favor, signify by saying 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 5-0.

One thing I wanted to ask is does anybody know if they're not going to be here on the January 15th meeting?

(No response.)

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

Ray, do we have any BCC report or recaps?

MR. BELLOWS: Yes, there were two land use petitions scheduled for the December 9th BCC meeting. One was for the distance waiver for gasoline service stations. That was withdrawn. And the appeal of the boat dock extension was also withdrawn for the Haldeman project.

CHAIRMAN STRAIN: Okay. Chairman's report. Today's meeting is going to be complicated enough so I won't complicate it further with a chairman's report.

Consent agenda items, we don't have any.

We'll move right into our first advertised public hearing.

Now, I'm going to explain the process to the members of the public that are here. And then before we announce the subject matter and go into swearing in, I'm going to ask the County Attorney to address us on what we actually are hearing at this meeting today.

First of all, normally, and this will be how this meeting's going to be run, the applicant makes a presentation. After the applicant's presentation and sometimes during it the Planning Commission members will ask questions. When the applicant finishes, we go to staff report and staff presentation.

Then we do the same thing with staff. It's -- we ask questions, we may have staff at that time. When staff finishes we go to the public speakers. So it will be in that order.

And we ask that the public speakers limit their presentations to five minutes unless waived by the Board. I ask that redundancy be avoided if you can. If you agree with the speaker in front of you, it's just as impactful to say I agree with the speaker in front of me.

In a few minutes I'll ask the County Attorney to come up and discuss what we're specifically here to discuss today. There's been some confusion between documents. There's a settlement agreement involving Cocohatchee and there's a PUD. This board is a planning board and we review land use items as they relate to the Land Development Code, which is the PUD. And I'll turn it over to Jeff to kind of define what we're here for today.

MR. KLATZKOW: Good morning. Let me just be blunt about this. You're our local planning

agency. You're here to review the proposed land use application, to question the applicant, question staff, listen to the public and make a recommendation to the Board of County Commissioners with respect to the land use application, period.

The issue of the settlement agreement and whether or not it should be reopened lies with the Board of County Commissioners and the applicant, all right. Those are the two parties at the settlement agreement. If they wish to amend the settlement agreement, every agreement can be reopened, all right. A deal is a deal until you decide to change the deal. That's every deal I've ever worked on my entire life, all right. We change the constitution of the United States from time to time. It's just things change. And there may be reasons to reopen the deal, there may not be reasons to reopen the deal, but that is a question for the Board of County Commissioners and the applicant, not of this body here.

So rather than get into discussions as to whether or not the settlement agreement should be reopened, I think the focus should be on the merits of the land use application. If this is a meritorious land use application and it benefits the people of Collier County, I don't know why you wouldn't reopen the settlement agreement, all right?

If on the other hand it's felt that this land use application is not meritorious and does not benefit the people of Collier County and that the agreement -- the current land use as set forth in the agreement is better, well, perhaps that should be the recommendation of this board, all right?

So the issue of whether or not to reopen the settlement agreement lies with the Board of County Commissioners, but then again, if the county has a better deal here, okay, if this land use application benefits the people of Collier County, all right, I don't know why you wouldn't reopen it. Okay?

So just simply saying a deal's a deal, we're never going to review it, that's shortsighted, and it's not helpful.

So I would ask that the Planning Commission stick with the planning issues and I think you'll find you'll have a better meeting that way, you'll have a shorter meeting that way, and you'll have a more focused meeting on the criteria which is really what we're all about here.

CHAIRMAN STRAIN: Thank you very much, Jeff, appreciate it.

With that, we'll move into our first advertised public hearing, and it's Item 9.A, which is PL-20140000534/CPSS2014-3 -- well, no, it isn't. And I have an agenda that has it in wrong order, so I'm sorry, I read the 9.B instead of 9.A.

9.A should be petition PUDZ-PL20130001813, and that's the Cocohatchee Bay RPUD located on the northwest corner of Wiggins Pass Road and Vanderbilt Drive.

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: Thank you. Disclosures on the part of the Planning Commission.
Stan, we'll start at your end.

COMMISSIONER CHRZANOWSKI: Yeah I've gotten -- I've had conversations with engineering staff and planning staff, and the developer's engineer his representative. I've had -- I saw a letter to the editor and I've gotten numerous emails about this project from members of the public.

CHAIRMAN STRAIN: Okay. Diane?

COMMISSIONER EBERT: I have spoke with staff, I have spoke with some of the neighbors involved in this, and I have spoken to Wayne Arnold.

CHAIRMAN STRAIN: Okay. For me, I have spoke to staff, I have spoke to the applicant, I've talked with the applicant's representatives. I have talked -- and kind of -- there's two segments to this, and that's what I'm going to try to explain. Most of my conversations, if not all, with the public and most of the emails, if not all, and the petitions that I had saw, if not all, were involving a subject -- the settlement agreement, not the PUD, which is what we're discussing today. But I have had numerous emails, I have seen some petitions, one or two. The headers on those related to the settlement agreement, not necessarily to the PUDA as in front of us today.

I've talked to various members of the public about those same issues, trying to help clarify today's meeting with them. I've talked to some of the Board of County Commissioners. I've reviewed the old files. I've also pulled up the three days of minutes that the Planning Commission of which I'm the only member on

this board who was here at that time. And I reviewed those old minutes not once but twice to make sure I understood the different parts of it, and my memory is still as good as it could be. And I also reviewed the staff report, which was 601 pages long.

Diane -- or Karen, sorry.

COMMISSIONER HOMIAK: I spoke to Mr. Arnold, and I've had emails.

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: Yes, I spoke with Mr. Arnold. I also spoke with Nicole Johnson at The Conservancy, along with the emails and staff. I also conducted a site visit to the area.

CHAIRMAN STRAIN: Thank you.

Okay, with that, we'll have the presentation by the applicant.

MR. GRANT: Good morning, Mr. Chairman and members of the Commission.

My name is Richard Grant. I'm a lawyer with the Grant, Fridkin, Pearson Law Firm, and together with Wayne Arnold of the Grady Minor Firm, we are the co-agents for the applicant, which is Lodge/Abbott Associates, LLC and an affiliate, Lodge/Abbott Investments, LLC.

I'm going to just briefly explain the process here, and then Mr. Arnold is going to take over and in detail explain to you exactly what this petition is about and how it has evolved.

Let me start out by saying that the PUD was first approved in 2000, so it's 14 years old. It was amended in 2008 under the settlement agreement that's been referred to by Mr. Klatzkow and the Chairman, and has not been amended since then. Nothing has been built other than in recent months. Some clearing has taken place on the west side of the property.

The petition that is before you was filed in December of 2013, roughly a year ago. Following county procedures and processes, a neighborhood information meeting was held in March of this year. It was very well attended. There were some AV communication glitches and issues that we got corrected. It was a little bit confusing, admittedly. There were a good deal of public comments that were in opposition.

Following that meeting, representatives of the developer met with leadership of most all, if not all of the surrounding communities to discuss and listen to their concerns. Came to an understanding to make some significant revisions to what had been proposed in the December application.

Following all of that, and a good bit of work amongst all of us that are part of this group, the petition was amended with a revision to the proposed PUD amendment in August of this year. And that has been considered with the staff. There's been some going back and forth to tweak verbiage, to address things that the staff requested.

And essentially that's what is here before you today to consider. And Mr. Arnold, when he comes up is going to run through in detail exactly what is now being proposed. And as has been said, the discussion would be regarding the proposed PUD amendment, not the settlement agreement.

The team of professionals that have worked on this in addition to myself and Mr. Arnold who is a well respected and well known and credentialed urban planner, include Jay Westendorf, who's the project civil engineer; Tim Hall, who is the environment consultant; Norman Trabilcock who is the traffic engineering; Karen Bishop, if she's here, is the permitting specialist, if we need her; my associate, Charles Whittington, who's been of great help, in case I need some help answering questions.

And following Mr. Arnold's presentation and your questions as necessary, the members of the team, if it's in their discipline, will be available to answer questions, along with Mr. Arnold and myself.

I believe they've all been accepted by this board and the County Commission in the past as experts in their respected area of expertise, so I'd ask that they be considered in that regard. If you have questions, we can have them explain their credentials when they come up.

And with one administrative comment I'm going to turn this over to Mr. Arnold at this point, and that is that apparently in some discussion with staff there was something missing in one of the submissions. I think it's the Amended Bald Eagle Management Plan. And I'm going to ask Tim Hall if he would come up here and identify what's been missing so we could submit it to the record.

MR. HALL: Good morning. Tim Hall with Turrell, Hall & Associates.

The Bald Eagle Management Plan -- or the Amended Bald Eagle Management Plan references an attachment that apparently was not part of the package that was submitted. It's an exhibit that showed the

layout -- the plan references a phasing schedule based on building numbers, and this plan identifies which buildings those are in relationship to where the eagle nest is located. So we just want to enter that into the record so that it is attached to the plan as it goes forward through the process.

CHAIRMAN STRAIN: The official title of that is Eagle Nest Location Plan?

MR. HALL: Yes, sir.

CHAIRMAN STRAIN: From staff's perspective, is there any reason that you see this should not be admitted?

MS. DESELEM: No, sir, we had actually asked them to put it on the record.

CHAIRMAN STRAIN: Is there a motion from the Planning Commission to admit that as an exhibit?

COMMISSIONER HOMIAK: I already have it. Why --

CHAIRMAN STRAIN: Kay, you want to --

MR. HALL: I thought it was part of it.

MR. GRANT: We thought you had it, frankly.

COMMISSIONER HOMIAK: I have it right here.

CHAIRMAN STRAIN: Well, whoever did the staff report in this regard, could you clear the matter up?

MR. LENBERGER: For the record, Stephen Lenberger, Engineering and Natural Resources Department.

The exhibit is already attached to the settlement agreement, the Bald Eagle Management Plan settlement agreement. But it wasn't included in the amended Bald Eagle Management Plan in the environmental data, and that's what it needs to be attached to.

CHAIRMAN STRAIN: Okay. So we would be adding that as an amendment to the environmental data in the Bald Eagle Management Plan.

COMMISSIONER ROMAN: And Tim, just as a refresher for me, the phasing of this was included in the text?

MR. HALL: Yes, ma'am. Yeah, it talks about the clearing and the construction of the buildings based on -- based on the phasing, when building one, building two, building three could be cleared and constructed.

CHAIRMAN STRAIN: There's no harm in reinserting it, as long as it's consistent with the plan that -- the other plan that's there. And from the applicant's acknowledgment it is.

MR. HALL: Yes, sir.

CHAIRMAN STRAIN: And I don't believe staff, environmental staff or Kay, if you see any objections in that regard, please state so. Otherwise we're going to vote on it.

MS. DESELEM: We have no objection, sir.

CHAIRMAN STRAIN: Planning Commission want to accept it as an exhibit of the Bald Eagle Management Plan?

COMMISSIONER EBERT: Yes.

COMMISSIONER ROMAN: Yes.

COMMISSIONER HOMIAK: Yes.

CHAIRMAN STRAIN: Okay, then that's how we'll do it.

Next -- before we go too far, Dick, you asked us to qualify all your people as experts. I haven't seen all of their CV's or resumes yet. I'm afraid that you'll need to submit those or give us the opportunity to review them. I don't know all of those people that you have mentioned as far as their history goes.

Do you have -- have you brought some documentation or anything?

MR. GRANT: I'm prepared to have them explain their credentials.

CHAIRMAN STRAIN: Okay, that will be necessary. So as they come up, and for those that need it, I'd just as soon everybody get on record --

MR. GRANT: I don't know that we're going to need them to testify, but were they to do so and ask questions, I'd like the opportunity to have them explain their credentials.

CHAIRMAN STRAIN: That would be great. Thank you, that's how we'll approach it.

MR. GRANT: Thank you.

CHAIRMAN STRAIN: Okay, so your next -- Wayne is your next speaker?

MR. ARNOLD: Good morning, Planning Commission.

CHAIRMAN STRAIN: Is anybody here not familiar with Wayne's credentials?

(No response.)

CHAIRMAN STRAIN: We see you almost every week, so I think you're someone we are comfortable with, and I don't have any concern over your expertise.

So does anybody else have any questions on that matter?

(No response.)

CHAIRMAN STRAIN: Okay.

MR. ARNOLD: Thank you.

I put on the visualizer an aerial photograph, and it's an exhibit that labels the existing boundaries of the Cocohatchee Bay PUD. Part of the proposed amendment adds just under 94 acres to the PUD, and it's shown in the northwest corner of that exhibit. It's orientation for you.

As Dick mentioned, the project was originally approved for 590 units and a golf course back in the year 2000, and so we have a 14-year-old PUD.

We submitted an amendment package last December, and the amendment before you today is significantly different than what we had originally proposed. And I wanted to go through, there are about eight items that I'd like to list that talked about what our original submittal was and then I'll tell you what was eliminated or revised.

When this first came in the door to the county we were of course adding the 94 plus or minus acres; we were asking for an additional 280 dwelling units to bring the total to 870 dwelling units; we were adding a 35-slip marina on the west side of the project in the bay; we were proposing to have a senior housing component to the project; we were adding a tennis club and tennis center to the project; we were eliminating the golf course; we were adding several deviations, including deviations that would have dealt with the boat dock extensions as a deviation, rather than a separate boat dock extension permit; and we were making changes to the Bald Eagle Management Plan that in essence were adding the 94 acres to talk about that as mitigation; and we were eliminating the artificial tree, and there were some other minor minor modifications being made.

We held our neighborhood information meeting. As Dick said, it was not a positive meeting in many regards. I think Ms. Ebert, you may have been in attendance and I think you can attest to that, it was not the best of meetings. But in a forum with that many people, it's really hard to go through that many details.

So as Dick mentioned, the representatives for our team went out and met with other folks that were in and around the Cocohatchee Bay project and smaller groups and had discussions with them. And out of those meetings, for those people who were willing to get beyond a deal's a deal and talk about the specifics of what we were proposing and what would be good for the neighborhood, we made several changes.

And I think as Dick Grant has said many times, the one positive thing that came out of our neighborhood information meeting was that we heard loud and clear that there were a lot of things about the proposal that were not liked by the community. So to the extent that we could get beyond never changing the plan, we decided to go out and talk to people, those willing to talk to us, and find out what they would like us to change, what they liked and didn't like.

And out of that essentially is the document you have before you. Because we made concessions to the surrounding community and decided that in lieu of the 280 units we would seek 62 single-family units on the east side of Vanderbilt Drive which is labeled as an R-2 tract in your PUD documents.

Those lots were said to be approximately half acre. We have 20,000 square feet in our PUD document, just under a half acre in size, limited to 62 units.

It was also committed to the surrounding property owners that where we had adjacent residential dwellings within adjacent to our property, we would have a 100-foot buffer between them and our homes.

We eliminated the senior housing option from our proposal. We eliminated docks. And we said from the navigable waters of the state and further clarified after discussions with staff that that means we could only have minor docks within our water management lakes. So if we want to have a kayak launch or

canoe launch or small docking facilities in our water management lakes, that's all we get. We don't get a marina that has access to the bay.

We eliminated our access to U.S. 41. If you look on the visualizer, you see that -- we call it the finger parcel, and it's the skinny parcel that extends over to U.S. 41. The PUD currently has an access point at that location, and as a concession to the Falling Waters folks and the Tarpon Cove folks, access through that parcel was eliminated. And we further restricted ourselves and said that no residential structures could be built in that area either.

We also had a large amenity tract located in the finger parcel, if you will. We eliminated that amenity and recreation tract and relocated it on the west side of Vanderbilt Drive and culled it out as a separate AR tract on your master plan. And that made up portions of what was originally going to be the clubhouse for the community and also part of the original driving range proposed to support the golf course.

Out of the meetings with the neighbors, the applicant also agreed to construct a six-foot-wide sidewalk on the north side of Wiggins Pass Road that would connect to the sidewalk that terminates at the shopping center that's located at the northwest corner of Wiggins Pass Road and U.S. 41.

So pretty significant revisions to the document. And maybe some of the people in the audience weren't even aware that we had made such significant changes to the project. But this has been in evolution for the last several months. And as Dick said, yeah, we resubmitted several months after holding the neighborhood information meeting because we were having a series of these communications with our neighbors.

CHAIRMAN STRAIN: Wayne, while we're on the topic, and I don't normally like to interrupt your presentation, but your NIM that you held back in March, I think it was March 15th or something like --

MR. ARNOLD: It was March 19th.

CHAIRMAN STRAIN: March 19th? You were asking for how many unit increase at that time?

MR. ARNOLD: 280.

CHAIRMAN STRAIN: And you're asking for now?

MR. ARNOLD: 62.

CHAIRMAN STRAIN: 62. And I know I had gotten some emails from people concerned about the fact you didn't have a second NIM.

Why didn't you have a second NIM?

MR. ARNOLD: Well, the forum of the NIM, we felt that it was more beneficial for the surrounding property owners to talk in smaller groups than to have another large group meeting. And it's easier to have dialogue when you have 10 people around the table than 500 people in the room to go through the changes.

CHAIRMAN STRAIN: I think I misphrased my question.

MR. ARNOLD: Okay.

CHAIRMAN STRAIN: Were you required to have a second NIM?

MR. ARNOLD: No, sir.

CHAIRMAN STRAIN: Kay, what is the county's position on NIMs after they're held the first time versus one NIM when it's required?

MS. DESELEM: For the record, Kay Deselem.

If it's more intense or dense than what the original NIM forecasted, then they're required to have a second NIM. If it's less intense or less dense, they're not required to have a second NIM.

CHAIRMAN STRAIN: What time frame is it that NIMs have to be held within these meetings like we're having today?

MS. DESELEM: Within one year.

CHAIRMAN STRAIN: So if they had a more intense application come in from the first NIM, or if they exceeded one year from the first NIM before today's meeting, they would need to have a second NIM.

MS. DESELEM: That's correct, sir.

CHAIRMAN STRAIN: Is that consistent with how we've applied it across the board to all the projects in Collier County?

MS. DESELEM: To the best of my knowledge, yes, sir.

CHAIRMAN STRAIN: Thanks, Wayne, just wanted to get that cleared up.

MR. ARNOLD: No problem.

I put on the visualizer just for everybody's benefit a copy of the currently approved master plan. You can see it depicts a golf course on the east parcel and a portion of the golf course of the westernmost parcel.

I want to show you what we submitted originally as part of our submittal back in December. That was our proposed PUD master plan. And you can see that on the east parcel a lot of detail was omitted. And that was one of the comments that we heard from our neighborhood meeting, that there just weren't enough details.

So after our further discussions with our neighbors, it has evolved into the plan that you see before you and that's in your packet. And you can see that the 93 acres that are being added are part of our preservation area.

We show a tract called AR. And that's on the west side of Vanderbilt Drive. And that is our amenity center, if you will. And there are specific uses and standards in the PUD document that tell you what the development will be.

And then the biggest change really is on the east side of the project. You can see that in our master plan we've identified a road network, a single entrance off of Wiggins Pass Road; we've identified the areas where we have the enhanced buffers to our neighbors; we've added a notation that says that we can have no structures to be built in the area north of Tarpon Cove in the finger parcel, if you will.

So I think that that master plan is significantly different than the one that we started with and has added the detail that the community asked us to provide.

The project itself, there's been a lot of discussion about the density and the 590 units previously approved, et cetera. But if you took away all the project history and this came in today fresh, they could ask for over 1,300 dwelling units on the property, based on the calculation of density that's allowed under your Growth Management Plan.

It's part of the urban area. It's today restricted because of the coastal high hazard to three units per acre. But this was a series of older zoning that included a lot of different zoning districts at the time it was originally rezoned to PUD. So the 590 units is substantially less than could have been asked for back in 2000. And certainly the addition of the 62 units we're asking for today brings us into a density of just about 1.4 units per acre. When we less out the most restrictive calculation the county has -- there are two different calculations: Your Growth Management Plan says it's gross gross density, the LDC says that you less out areas that are submerged lands from that calculation. So when we less out some of those submerged lands that make up our land holdings, we're at about 1.4 dwelling units per acre, substantially less than the three units per acre that would be permitted under your Growth Management Plan.

We have analyzed your Future Land Use Element, your environmental element -- or your Conservation Coastal Management Element, I should say -- your transportation element, and we are consistent with the policies for land development within the Growth Management Plan.

Your staff report concludes that we're consistent with the Growth Management Plan, and I think we do exactly what the Comprehensive Plan says we should do, we shouldn't underutilize property. And it says we need to put development where there's already services and support for them. We have utilities, we have a road network that's sufficient, and we're contiguous to development that we will be at a density less than most of our surrounding neighbors.

So from my standpoint it's clearly a compatible and consistent project with regard to your Land Development Code and your Growth Management Plan. And we've demonstrated that we think with the materials that have been submitted as part of the record and the testimony you're going to hear today.

As I said, the CCPC has seen several projects come through that are doing really nothing differently than we're asking to do and that is eliminating the golf course from the proposal.

I had sort of bounced that question off of other people, and I came up with at least four projects that I can think of that are recent examples that the Planning Commission has heard and that included Winding Cypress, Sable Bay, Naples Reserve and now your San Marino project that came through to eliminate their golf course component. I've represented two other projects. Lands End Preserve was one that had an option for residential and/or golf. They have eliminated the golf by the plats that they've created to not have a golf course. The other was Orange Blossom Ranch, which also was allowed to have residential and golf. They

just chose not to have a golf option and have developed as residential only.

So I think we've got clearly some examples. This isn't unique that people are coming through the process. The world of golf courses and the demand for them is different today than it was 14 years ago.

And I think trading the 62 units for the golf course represents a good change and in many regards probably one that's better for the environment. We're not using hundreds of thousands of gallons of water to irrigate our fairways and we're not pouring a bunch of fertilizers on lands that are that close to the Gulf.

I think the elimination of the marina was viewed as a positive thing by some of the environmental community, and I know it was viewed as a positive thing from our Pelican Isle neighbors. So we think that's a very positive land use change.

From a land use perspective, I think the revisions are good, they're compatible with surrounding development, and I'm happy to answer any questions that you might have.

COMMISSIONER HOMIAK: Anybody have questions?

COMMISSIONER EBERT: Wayne, my hands are going to be tied with this, because you're right, the attorney said you can't do this.

I happened to be at that meeting where there was 700 angry people. The meeting did not turn out well. People just left, got up, there was just no room. I mean, there was absolutely no room.

The biggest comment was, and Kay, you can correct me, we never saw that PUD with the 870 units, did we? Because they pulled it. So it never even came to us; is that correct? With the 280 extra?

MS. DESELEM: For the record, Kay Deselem.

That was what was discussed at the NIM. That was the reason for --

COMMISSIONER EBERT: Yeah, but it never really came to us.

MS. DESELEM: "Us" as in Planning Commission?

COMMISSIONER EBERT: Planning Commission.

MS. DESELEM: That's correct. It was amended in August. And what you see before you is what's been brought to you.

COMMISSIONER EBERT: Okay. What I've heard from some of the people is we would just like another NIM so we can understand it. It's changed but not everyone in their different associations have been informed about it.

CHAIRMAN STRAIN: That's a statement, not a question, so --

COMMISSIONER EBERT: Well, so --

CHAIRMAN STRAIN: -- do you have a question?

COMMISSIONER EBERT: Why did -- and I understand you saying that you met. But here's the problem, you met with the -- a few of the homeowners' presidents. And some of those people did not transfer any of that information to the people in their development. So that's where I see the frustration a lot. If you had had another NIM meeting, I think you could have settled a lot with this. So that was a question that people have asked me.

CHAIRMAN STRAIN: Okay, are there any questions of the applicant from the Planning Commission?

(No response.)

CHAIRMAN STRAIN: Okay, Wayne, I'd like you to elaborate on something that was -- your first paper was an aerial of the area.

I don't know if you have knowledge of this, but I need to ask you, three of the surrounding -- or actually four. The project that is pretty dense immediately to the north of the east side project you're talking about, do you know what those kind of buildings are? Are they single-family, are they multi-family?

MR. ARNOLD: There are two. There's Eden Lakes. Let me see if I have a closer up aerial that might --

CHAIRMAN STRAIN: Immediately to the north to where it says the word existing.

And maybe Kay, if you know, I'd like to get a feel for what the surrounding projects are comprised of. I believe they're multi-family.

MR. ARNOLD: The Eden on the Lake (sic) project, which is located on Vanderbilt Drive north of us is single-family.

CHAIRMAN STRAIN: Is it? Okay.

MR. ARNOLD: Yes. And the Falling Waters project, which is on the U.S. 41 side north of the finger is a multi-family project.

CHAIRMAN STRAIN: Ah, that's the one that's multi. That is one PUD, though, right?

MR. ARNOLD: No, sir.

CHAIRMAN STRAIN: Oh, there are two separate PUDs?

MR. ARNOLD: Yes.

CHAIRMAN STRAIN: Okay. What's immediately to the east?

MR. ARNOLD: Immediately to the east of us is Tarpon Cove PUD.

CHAIRMAN STRAIN: And do you know what those units there are comprised of? Single-family, multi-family?

MR. ARNOLD: I believe most of those are a twin villa type.

COMMISSIONER ROMAN: Yeah, single-story, yeah.

CHAIRMAN STRAIN: And to the south?

MR. ARNOLD: To the south of us on the south side of Wiggins Pass Road there's a series of multi-family buildings immediately south, and there are some villas to the east, near our eastern property line south of Wiggins Pass Road.

And then of course south on the west side is the project known as Aqua. That was approved as the Coquina PUD.

CHAIRMAN STRAIN: Are any of the projects surrounding the east side tract that you're proposing to put the 62 units on have single-family comparable in acreage or size to the lot you're proposing as a minimum that you know of?

MR. ARNOLD: No, sir, they do not. Our minimum is 20,000 square feet, which is just under a half acre.

CHAIRMAN STRAIN: Okay, with that I do have some questions from the document that I'd like to walk through with you.

If nobody else has any, I'll just move into mine.

(No response.)

CHAIRMAN STRAIN: My first question is on Page 17 of the strike-through PUD. Page 17 of 44, actually.

MR. ARNOLD: Okay.

CHAIRMAN STRAIN: In that section, it's section 210.A, and it talks about a 35-foot landscape buffer. The second sentence seems to allude to the west side of Vanderbilt Drive. But the way it's written in the first sentence, it could be read that both sides of Vanderbilt will have a 35-foot buffer. But on the PUD, I notice on the east side there's a 20-foot buffer.

Were you intending to put in a 35-foot buffer on the east side or the 20-foot that's on the PUD?

MR. ARNOLD: The 20-foot buffer would be on the east side and the 35-foot buffer is a carryover that was expressed on the west side. And we've noted that on the master plan.

Maybe we could clarify by saying that the minimum -- a minimum landscape buffer of 35 feet in width shall be developed along the western Vanderbilt Drive frontage or something to that effect.

CHAIRMAN STRAIN: I'd like some clarification, so if this were to go through and get approved for some reason in the future, if it came in to staff and they needed -- I didn't want to have a mixup at the front counter during submission.

MR. ARNOLD: I think we can clarify that.

CHAIRMAN STRAIN: Okay.

On Page 19 it refers in the new strike -- underlined sentence of 3.3, it refers to a parcel six. It says on the RPUD master plan that is identified and known as parcel six.

Now, I know where it is because I looked up the I.D. number and everything, but it isn't on the master plan referenced the way it seems to be culled out in 3.3. And do you have a solution for that?

MR. ARNOLD: Well, just for everybody's benefit, it is the finger parcel that extends east of our development tract that Kay's pointed to. And we have the language that refers back to this section, but we

can certainly note parcel six somehow on the master plan as well, if that clarifies it. Or we could eliminate the reference to the parcel six and just leave it as referenced on the PUD master plan.

CHAIRMAN STRAIN: Well, I was just -- when I first saw that I looked for the reference that says identified and known as parcel six. I couldn't find that reference on the master plan and that's what it seemed to say in the sentence. I'm just suggesting it could be cleaned up a little bit to either include it on the master plan as a notation, or take it off the 3.3 so that it doesn't get confusing.

MR. ARNOLD: I think it might be -- I'd hate to clutter our master plan, but I think it might be more clear for everybody's benefit if we just note as parcel six below where we say --

CHAIRMAN STRAIN: 3.3.

MR. ARNOLD: -- 3.3.

CHAIRMAN STRAIN: I think that would help.

On Page 20, and this is under the uses permitted in the R-1 tract, and I think it's mimicked in some of the other tracts, but we'll get to those separately. It's Item 3.4.A.1.iii. You have guest suites and cabanas listed as permitted uses. That really would mean they count as density. And I know that they're being proposed as accessory uses. So I believe you need to move those -- or strike those there and add them to the accessory use category.

Do you have any issues with that?

MR. ARNOLD: I don't think I would have an objection to that at all.

CHAIRMAN STRAIN: I'll make a note of it then.

MR. ARNOLD: Would it be appropriate, I know that the County Attorney's Office asked us to try to establish a maximum number of guest suites.

CHAIRMAN STRAIN: Well, yeah, I've got that as an issue I need to get consensus on too.

MR. ARNOLD: Okay.

CHAIRMAN STRAIN: And what is that number that you're proposing? The guest suites would apply to the principal uses, and you have what, five towers? Usually those guest suites are either adjacent to the towers or they're in the lower floors, depending on how they're laid out.

How many guest suites are you proposing per tower? And these are to be used only by the principal owners of the -- principal uses of the tower.

MR. ARNOLD: Yeah, and just for everybody's benefit, I guess a guest suite is not considered a residential dwelling unit, but many highrises in Collier County have guest suites available for visitors to have overnight accommodations. They're not long-term rentals, they're merely there for the benefit of some of the owners to have accommodations.

Typically there's four to eight guest units for towers, depending on the size of them. And I think it would be safe to say that six per tower or 30 maximum for the entire PUD would be sufficient for us.

But I think in that section where it says guest suites and cabanas, I don't want there to be a limitation of 30 cabanas, because probably every tower will have a pool that may have cabana structures, which I don't think are an issue as part of the guest suite components. So I think if we're going to add a reference to the number here we might want to say -- after guest suites and cabanas we could have say a maximum of 30 cabanas -- or I'm sorry, 30 guest suites for the entire PUD.

CHAIRMAN STRAIN: I was referring to the guest suites, not the cabanas.

MS. ASHTON-CICKO: And I was as well with my comment.

CHAIRMAN STRAIN: On Page 50 -- on Page 21, this is in the R-2 section now where you've got your principal uses, and then you get into accessory uses. In the intention of the accessory uses on the east side, are those to be considered as accessory uses to the principal structure? You weren't looking to create another clubhouse or anything on the east side. In fact, the notes that I've seen from some of the other meetings you had seemed to tell those people that you weren't doing such a thing.

So to make sure you're consistent, B-2.iii needs to have some items struck through or combined or modified into the previous i and ii. In particular it says outdoor recreation facilities. That generally is a community-wide term. Then it says, such as tennis courts, parks, playgrounds, pedestrian bikeways. Those -- some of those I would expect are going to be typical to your community and not accessory to a principal use specifically, like playgrounds or pedestrian bikeways or parks. But I don't know to what extent you're

thinking of doing these things, and that needs to be defined.

MR. ARNOLD: Well, I think it was noted, Mr. Strain, that the intent was not to have a separate club amenity center here for centralized amenities. But I do think it might be appropriate to allow our preserves, and if there's a boardwalk or something that might be allowed for all community members.

So would it be the more active things such as a tennis court, playground and just outdoor recreation generally? Because I think pedestrian bikeways we're going to have a trail system and we have an underpass to the west side of the project.

CHAIRMAN STRAIN: But see, I think in iii if you were to strike the entire sentence and rely on 4, which just says: Other accessories as comparable in nature with the foregoing uses determined by the BZA. Basically then all the accessory uses that are typically allowed with principal uses would be applicable.

As far as the use of some of the preserves for a playground, I mean, that's an issue we're going to have coming up here in a minute. You already got your list of passive uses that you can have in the preserve, so if that's where you're intending to put some of these, it shouldn't be under the R-2 district anyway. I mean, that --

MR. ARNOLD: Well, possibly. But, for instance, we've committed to have a sidewalk or trail on one side of our internal road. I could see that being utilized by not just residents of the R-2 tract, but people from the tower side on the west may want to use the underpass to come and walk throughout the community, potentially.

So I would hate to eliminate a really passive use from our R-2 tract.

CHAIRMAN STRAIN: You've got me confused.

So you think the sidewalk that's required by code and that you're asking a deviation for is an accessory use to the principal homes on the site, and without that being acknowledged as an accessory use you couldn't have it, even though it's required by the code?

MR. ARNOLD: No, I'm suggesting that if you look at item B-2ii, we have open space uses and structures to serve residents and their guests, not limited to boardwalks, nature trails, bikeways, gazebos, picnic areas, fitness trails, shelters.

CHAIRMAN STRAIN: Right.

MR. ARNOLD: I think we're probably covered.

CHAIRMAN STRAIN: That's why I wasn't changing ii. I only had suggested we strike iii.

MR. ARNOLD: I think it's probably fine to do that. Let me confer with our group for sure, but it sounds like we probably can eliminate it.

CHAIRMAN STRAIN: I'll make a note of it.

Okay, if we move on to the development standards table, which is on Page 22 of the PUD.

MR. ARNOLD: Yes, sir.

CHAIRMAN STRAIN: The only item I noticed on there that was added, and I don't understand the reasoning behind it because it's then -- we're getting back into adding more redundancy instead of eliminating redundancy to the code. That's the last two lines on that table that talk about preserve setbacks and -- for accessory and principal structures.

Kay, is that -- isn't that the same language we have in the code?

MS. DESELEM: Yes, sir. It duplicates the code.

CHAIRMAN STRAIN: Then why are we -- then we don't need it here. Is that the statement --

MS. DESELEM: Historically speaking, the environmental staff has wanted that included. I can refer it to Steve Lenberger to address his position on it.

CHAIRMAN STRAIN: Sure. I mean, if his position is that we need to be redundant to the code, then I think you guys should be putting the code back in the whole PUD again.

Steve, with that in mind, can you tell us why you would want this redundancy?

MR. LENBERGER: I don't know if I'm the person to ask. Again, Stephen Lenberger, Engineering and Natural Resources Department.

I don't know if one of my supervisors want to come up and address that. But, you know, there have been some questions in the past what setbacks apply to preserves. The issue has arisen several times. This is one reason we always put it in there, so there's no question for the setback for preserves.

CHAIRMAN STRAIN: So the fact that it's in the code means it's not -- there is a question so people could challenge what's in the code now if it wasn't in their PUD?

MR. LENBERGER: Well, there has been some questions of interpretation of the code and it's been recommended by staff that it stay in, and also by different boards that the setbacks do remain in PUDs.

CHAIRMAN STRAIN: I agree the setbacks -- the way the code works, if it's not in -- if it's not addressed in the PUD, it falls to the similar condition in the LDC. So that would automatically mean it would fall back to the standards in the LDC, which are the ones you're repeating in the table.

MR. LENBERGER: Correct.

CHAIRMAN STRAIN: Okay. Again, I don't see the need for the redundancy.

Summer, did you want to add something to it?

MS. ARAQUE: Okay, so I think your first question was possibly getting at whether staff required this to be in here?

CHAIRMAN STRAIN: No, I asked staff -- I asked Kay if it was redundant to the language in the PUD and she acknowledged it was, I believe.

MS. ARAQUE: Okay. So -- and I think maybe somewhere there was stated that possibly we've required it.

I think it's just that this has always been in all of the PUDs. Currently what is our stance, is it technically required? No. If the applicant wants to remove it or it's the pleasure of the Planning Commission for it not to be in there, then that's up to you all.

But I think these have historically been in most all of the PUDs, so that's just -- you know, if we want to have that discussion, then, you know, we're happy to have that with you on the process on that, so --

CHAIRMAN STRAIN: Okay. Well, then let's have it.

MS. ARAQUE: That's bas -- I don't know if that answers your question.

CHAIRMAN STRAIN: No, you said if you want to have that discussion.

MS. ARAQUE: Yeah.

CHAIRMAN STRAIN: Okay, well, we'll have it.

We did form a template a few years back to eliminate redundancy that the PUDs were getting bulky from. In fact, this PUD is -- was 44 pages. And PUDs as a whole were getting bulkier and bulkier, because each department was being redundant in their excerpts from the LDC and restating them in the PUDs. And that got to be a bigger problem as we went down the road when the LDC changed and we had different language now to mimic the LDC that no longer did so because we stuck them in PUDs that got old.

We've revamped everything. And Ray and staff came up with a revised PUD template. And the Planning Commission's been using that template now for years and we've been trying to get the old PUDs as close as we could to get back to them. This seems to be taking us back in the other direction.

So I guess Ray, as Zoning Director, what's your thoughts on this?

MR. BELLOWS: Yeah, Ray Bellows for the record.

In discussion with our front counter planners who provide information to the general public, they found it difficult dealing with certain PUDs that didn't have a complete list of setback development standards. And one of them dealt with preserve setback.

And so I think to help make it clear to them who are generally the younger staff who are maybe one or two years on the job, that when they look into a PUD, all the setback requirements are on the table. So we felt that it would help them to list all those, even though it might be redundant to this particular case but it's found elsewhere in the code and it's not readily accessible to younger planners.

CHAIRMAN STRAIN: Well, I'll accept that. That's a good explanation. Thank you.
Diane?

COMMISSIONER EBERT: Yeah, I'm going to agree with you, Ray. Because we were told, and it happened to be where I live again, but it's not the only one, 25 feet for the preserve. And I was told, well, it wasn't in the PUD so they don't have to be 25 feet. It was -- and that's -- because they missed it in the PUD, it wasn't there. So I like it that it's in every single one, to be honest.

CHAIRMAN STRAIN: And Ray, your explanation's fine with me, thank you.
Thank you, Summer.

COMMISSIONER CHRZANOWSKI: Can I say something?

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER CHRZANOWSKI: I used to see stipulations in PUDs saying that you have to build everything according to the codes and ordinances, which you have to build everything according to the codes and ordinances anyway. I never understood why it had to be redundant. You're telling me it's got to be redundant because it could be missed that somebody could say well, I don't have to build everything according to the code?

MR. BELLOWS: It had been missed in the past, and that's one reason we --

COMMISSIONER CHRZANOWSKI: You have to build everything according to the code.

MR. BELLOWS: Yes. But --

COMMISSIONER CHRZANOWSKI: Okay.

MR. BELLOWS: Yeah, it's just a convenience to the general public as well.

CHAIRMAN STRAIN: Stan, one thing that -- the reason I can sympathize with Ray's position is I know firsthand that there are differences coming out of reviews from the initial walk-in at the front counter.

COMMISSIONER CHRZANOWSKI: I know.

CHAIRMAN STRAIN: And it is, because as Ray has said, the county during the recession lost a lot of seasoned and experienced people and it takes time for other people to get up to speed. And if you don't know that the standards table is supplemented by other restrictions in the code such as the preserve section, they may not know to go there automatically. And so I think that's a good reason. So that's -- and based on that, this particular one doesn't bother me too much.

COMMISSIONER CHRZANOWSKI: Okay, it just seems like that's the kind of thing a person could be told once and remember that for the rest of their career, but that's not a -- I don't have a problem --

CHAIRMAN STRAIN: I wish that was true.

COMMISSIONER CHRZANOWSKI: I'm an engineer, we thrive on redundancy.

CHAIRMAN STRAIN: Okay, let's move on to -- this is the footnotes on the next page.

COMMISSIONER ROMAN: I have a question on the table.

CHAIRMAN STRAIN: Yes, ma'am.

COMMISSIONER ROMAN: Wayne, could you address the principal building height change from 35 to 60 feet in the R-1 district? What's the need for that?

MR. ARNOLD: Just to allow some additional flexibility for us on that western parcel. There are some -- there's a potential that we could have a smaller unit. If all the 590 units are not consumed in the five towers, there might be an ability to put a small building in that area as well.

COMMISSIONER ROMAN: Because it says single-story, multi-family dwellings and a low-rise, but then you're asking for 60 feet. So you just want additional units?

MR. ARNOLD: Well, we're not asking for additional units, we're asking for the flexibility to have a building that's taller than 35 feet. Or some of the units. If all 590 units are not consumed -- let's assume that they build five towers and they put 560 units in the towers, we would have 30 units left. We'd like the ability to create a smaller building to put the remaining units in.

COMMISSIONER ROMAN: Okay.

MR. ARNOLD: I did have one other notation, Mr. Strain. You just mentioned that footnote six.

CHAIRMAN STRAIN: I don't have a question on footnote six, but okay.

MR. ARNOLD: You asked me a question about it and it raised a point to me that I think I need to clarify the development table under the R-1 high-rise multi-family. We added a standard for maximum zoned accessory building height. And I have 35 feet for the high-rise, and I think that my balconies can technically be considered an accessory structure or use, especially if they became screened. So I think I really need to be N/A, not 35 feet on the high-rise.

But I think it works fine for the low-rise and single-family to have a 35-foot maximum accessory height.

CHAIRMAN STRAIN: So what -- you want to modify the development standards table for that the accessory building height under high-rise, instead of saying 35 would say N/A.

MR. ARNOLD: Correct.

CHAIRMAN STRAIN: So the highest you could have -- well, that would allow you then to have a screened balcony at your 180-foot unit height, which then you'd have a normal -- you wouldn't have a 180-foot screened balcony, you'd have a screen on top of a balcony that starts at about 180 feet for your top floor.

MR. ARNOLD: All right.

CHAIRMAN STRAIN: That's what you're looking for, right?

MR. ARNOLD: I think. I just don't -- I don't think 35 feet is a correct reference for an accessory structure height for a tower.

CHAIRMAN STRAIN: Well, what about your garage and carports, your parking garage on the outside, wouldn't that apply to that then?

MR. ARNOLD: I think it could. I'm not familiar enough with the design of the footprint of the towers to know if the parking deck is going to be under the footprint of the building or is a separate structure. But typically they have garage parking.

CHAIRMAN STRAIN: Well, this says accessory building, it doesn't say accessory. So you would -- I don't believe your balcony screen enclosures would necessarily fall under accessory building.

MR. ARNOLD: Can we call it --

CHAIRMAN STRAIN: What is it you're planning to do as an accessory building to the high-rise dwellings that would need to exceed 35 feet?

MR. ARNOLD: Well, I think that there are amenities that -- well, you don't think the balcony structures would apply.

CHAIRMAN STRAIN: I'll ask Ray.

Ray, it says the zoned accessory building height. Would you consider a balcony screen enclosure on top of -- next to a principal unit 180 feet up on a high-rise as an accessory building?

MR. BELLOWS: In regards to how this PUD is structured, I would say it would not apply. It appears to me that the way this PUD is structured, they were talking about freestanding accessory structures.

CHAIRMAN STRAIN: And I would tend to agree to (sic) you, because if that was the case we'd be looking at the way we look -- looking at other highrises differently, and I don't believe we've done that.

MR. BELLOWS: A screen enclosure to a balcony would not necessarily exceed the height limit of the principal building itself, so I'm not sure where the concern is.

CHAIRMAN STRAIN: I'm not either. And that's why I was trying to define it before we eliminate it.

MR. ARNOLD: How about this? Why don't we say freestanding accessory building?

CHAIRMAN STRAIN: Well, because your garage is not going to be freestanding, it's going to be attached to the structure. So if your intention is to make the garage higher, why don't you just tell us that and we'll deal with it. I mean, your parking garage is going to be, we know from the 2005 hearings it was described how these buildings would have a common architectural theme and they're going to be closer together, and that the parking garages would fan out from the base of the building like so many highrises do in Collier County and you'll have some parking underneath the building.

So it was your intention to run the building out wider at a higher level than 35 feet to cover your parking and maybe put your accessory uses on top? What is your intention?

MR. ARNOLD: No, I think this was my error. We added this. This was not in the current PUD document.

CHAIRMAN STRAIN: Okay, then why don't we just take the line out then. You obviously put it there for a reason and I'm just trying to figure out what the reason is.

MR. ARNOLD: I'm fine with that if we wanted to strike the entire line.

CHAIRMAN STRAIN: Then it just applies as the code applies, which is --

COMMISSIONER EBERT: Is that number six?

CHAIRMAN STRAIN: Well, if that isn't there, then it falls back to how accessory buildings are dealt with in the code.

MR. BELLOWS: That's correct.

COMMISSIONER EBERT: So we're just going to delete six?

MR. ARNOLD: Okay, I think we're fine with that.

COMMISSIONER EBERT: I have a question.

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: Wayne, or maybe this is for Ray, it says where buildings with a common architectural theme are angled, skewed or offset from another, and walls are not parallel to one another, the setback can be administratively reduced.

What is the administrative maximum reduction?

MR. BELLOWS: I'm not sure what this language pertains to. There's no set standard in the Land Development Code that --

CHAIRMAN STRAIN: Well, that's why the language was added in 2005 by the Planning Commission. It was a specific discussion that at the time Brad Schiffer was one of the Planning Commissioners and he was an architect. He brought up some concerns over how the common architectural theme and clustering would apply to these buildings. And it was on his recommendation that this kind of language be added in addition to staff's input at the time, that it would clarify the issues of how close together they could be measured from.

So that's why it was added. It was done basically at the time something that was to provide protection for distances. I'm not sure -- I don't remember any more details than that. It was mostly a measurement that Brad had been focused on.

MR. BELLOWS: I do recall some discussion on it, but there is no process in the LDC to really deal with this kind of language. I'm not sure what it really accomplishes.

CHAIRMAN STRAIN: If it -- I mean, like I said, it doesn't matter. At this point you're under common architectural theme or clustering. So if you guys have no problem with falling back on the LDC provisions on that, and asterisk five can be struck.

MR. ARNOLD: I would prefer not to strike it. It's in the current document. They are five high-rise towers that have been approved by Site Development Plan that relied on that language. I really don't want to modify that language.

CHAIRMAN STRAIN: Okay, and I -- I don't know the need -- I don't see the need to modify it. I was trying to respond to Diane's concern.

Diane, if you have a specific interpretation of that that you have that you think's a problem, let's put it on the table.

COMMISSIONER EBERT: Well, my only thing is in reading this that these 20-story buildings should be 200 feet apart, correct? Half the -- half the height? So I guess I don't see all of your tower buildings. I do not see that. So I'd like to know, you have how many buildings going up? How many 20-story buildings? You have two of those?

MR. ARNOLD: We have site plan approvals for five high-rise towers.

COMMISSIONER EBERT: And how far apart is the normal?

MR. ARNOLD: It varies. I think you have to go --

COMMISSIONER EBERT: Okay, so you're bringing back -- you're bringing back the 2000 PUD in here; is that correct?

MR. ARNOLD: That was approved in 2000.

COMMISSIONER EBERT: All right, I'll just forget it for now.

CHAIRMAN STRAIN: Okay, but that does -- I'm not sure now, I mean, I remember Brad focusing on this, but I can't remember if this was the outcome of his discussion or he was confused by it as well. I can pull the minutes up during our break and try to get clarification.

MR. BELLOWS: For the record, I do have some clarification. In discussing this with Kay, we think that it allows for at the time of Site Development Plan for a building to be -- one of the building footprints of two buildings within close proximity to each other if one of the buildings was to be angled slightly where one corner may encroach and not meet the distance between structure setback but the other would have an increased setback. I think that was the intent of Mr. Schiffer's language.

There is no -- nothing in our Land Development Code that says how close that corner could come to the other structure other than the fire review would have to approve it.

CHAIRMAN STRAIN: Yeah, and I'm not sure that this language is Brad's. I just remember he talked about it quite a bit during the 2005 hearings. And I can't remember the outcome now. I'll have to go back and try reviewing the minutes.

COMMISSIONER ROMAN: I have a question for clarification.

But we're reopening this PUD, right, so --

CHAIRMAN STRAIN: The PUD is, yes.

COMMISSIONER ROMAN: Yeah, so Diane's question is a valid question in terms of what the requirements are.

And what two buildings in specific are we talking about here that are going to be closer together?

CHAIRMAN STRAIN: Well, actually, it's all five buildings.

COMMISSIONER ROMAN: It's all five.

CHAIRMAN STRAIN: They'll be looked at as cluster development, wouldn't they?

MR. BELLOWS: Yes, they --

CHAIRMAN STRAIN: Or common architectural theme, Ray?

MR. BELLOWS: Yes, they would. And my understanding is there is an SDP approved in some buildings constructed -- being constructed. So we don't want to create a nonconforming situation by removing the language, if those SDPs were approved with this in mind.

COMMISSIONER ROMAN: But we're reopening the PUD today.

CHAIRMAN STRAIN: Right.

COMMISSIONER ROMAN: So everything's on the table.

CHAIRMAN STRAIN: It is. But if they've already got approved permits, the only part of the PUD that we can really modify are ones that don't affect the approved permits. Otherwise they'd have an argument that --

MR. BELLOWS: Correct.

CHAIRMAN STRAIN: So to the extent this doesn't affect anything, yes. But honestly, I think the question is, and it may have been the question back in 2005, is how does this apply. Sounds like staff worked it out when you reviewed the SDPs and they're all approved already.

MR. BELLOWS: Correct.

CHAIRMAN STRAIN: I have copies of the SDPs. They are approved for all phases of the high-rise buildings. And they are actually part of the settlement agreement document that is the other locking -- the document in this.

MR. BELLOWS: Yeah. Therefore, I recommend the language remain.

COMMISSIONER ROMAN: So everything on the west side of Vanderbilt Road is locked in is what I'm hearing from what you've said.

CHAIRMAN STRAIN: Well, it's -- they've got valid SDPs issued. I mean, their position undoubtedly would be they've got an approved permit to go forward and that's what they would be able to do.

COMMISSIONER ROMAN: And that's what makes this a little complex on which should come forward first, whether the settlement agreement or the RPUD. Because, you know, having them together or just having the RPUD before us more correctly, you know, makes this very difficult. Because they've moved out on the west side of the property based upon everything that was agreed upon and everything that was in place. So we're opening it but we're not. It's very confusing.

CHAIRMAN STRAIN: Well, I think the PUD is what's being opened. And this board's review of that PUD is no -- I mean, the definitions and the consistencies in the PUD were generated from -- partly from the settlement agreement. I'm not sure what we're reviewing today that couldn't be used to help the Board make a decision on whether or not they want to reopen the settlement agreement, so --

COMMISSIONER ROMAN: But it seems --

CHAIRMAN STRAIN: -- I don't see the two as being necessarily linked. I think they can be reviewed separately which is exactly what the task is in front of us.

COMMISSIONER ROMAN: And getting back to the PUD, it seems that everything on the west side of Vanderbilt Road, is what I'm hearing, is already so far moving along so far ahead that that basically has been locked in with site development plans and permitting and everything. So we're just talking, it

seems, to that east parcel.

CHAIRMAN STRAIN: Well, and it's just like any other PUD that comes in for an amendment down the road after they've begun. We have reviewed multitudes of PUDs, and even some of the biggest like Pelican Bay where they've added a high-rise or they've added a parking garage. The rest of the project's been done. We don't go back and change anything pre-approved in the rest of the project, we focus on what's in front of us in regards to the remaining questions, which in this case happens to be the non high-rise section of the west side and the regular -- all the east side.

COMMISSIONER ROMAN: Yeah, yeah.

MR. ARNOLD: Ms. Roman, if I might, we also have redesignated an AR tract. And I know that in my conversation with Mr. Strain, there were some questions about those development standards which we're happy to discuss and willing to discuss.

CHAIRMAN STRAIN: Right. And we're -- yeah, we're going to get to those, and I just wanted to make sure.

And for the rest of you all, as we go through this, you still -- you have questions like you're having, just kind of get my attention so we can get sure we hit them all in a row.

Did you have anything you wanted to add, Stan?

COMMISSIONER CHRZANOWSKI: Yeah, I don't like this concept of average setback either. Like if we had a lot on a cul-de-sac with a square house and property lines, we go the shortest distance. But like Ray says, and I'm sure there might be other PUDs out there that allow this that are just going to build without us ever seeing them again. So, you know, if it's gone that far, I don't think we can do anything about it.

CHAIRMAN STRAIN: With that, let's go back -- I had left off on an asterisk number four, and it involves how you're measuring setbacks up against open space or lakes. I want to know if whether or not you are intending to plat your LBEs and LMEs.

MR. ARNOLD: Well, I think your direction for the last several months has asked us to do that. And I guess with reference to that, Mr. Strain, I would say that we can certainly do that for the single-family R-2 tract. I don't know what was previously approved on the SDPs for the west side of the project, but where -- we certainly have single-family lots and we know we're going to have lakes on the east side of the road.

So if we could limit the landscape buffer and landscape maintenance easement to be platted tracts on the R-2 tract, I think we could fairly do that.

CHAIRMAN STRAIN: Well, and how about the -- you know what, we'll deal with the AR tract separately then. That would work. I don't -- okay, let's move on to Page 27.

COMMISSIONER EBERT: I have a question.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: I have a question on 26.

In your development regulations, single-family, you have principal structures from the golf course and everything, private roads, and 200 feet from all PUD boundaries. And now you're changing that to 100 feet. That's --

MR. ARNOLD: We eliminated the golf course.

COMMISSIONER EBERT: -- not good for the neighbors, correct?

CHAIRMAN STRAIN: Only one of you talk at a time. Let him answer your question.

Go ahead.

MR. ARNOLD: Yes, we're striking all the golf course provisions and we're reinstating new provisions for the 62 single-family homes of which we've committed to a 100-foot buffer in part where we're adjacent to home sites on the east boundary.

COMMISSIONER EBERT: So all these neighborhoods are willing to give up 100 feet of buffer more?

MR. ARNOLD: I don't know that everybody's on board with that, but that was a commitment we made to our neighbors and seemed to be an acceptable commitment.

CHAIRMAN STRAIN: Okay. We move on to Page 27. 4.3.A.I. You talk about some principal uses in the amenity recreation tract. And that particular paragraph, such as clubhouse, dining facilities and

tennis courts. But then in B under accessory uses I, you talk about tennis and recreation related sales. And you have some other facilities.

Where -- if you -- wouldn't tennis courts be accessory, not principal? And the reason I'm asking this is because you've got different standards and setbacks that apply. And I don't -- I can see some confusion if you were to come in with an SDP and they could be culled out as either one.

One of the things you have also in A.iii is back in with your guest suites and cabanas as principal uses. And that same thing bothers me. If that's where you intend to put the guest suites for the principal high-rise buildings, they need to be accessory because they would be accessory to that principal high-rise, I would assume.

MR. ARNOLD: I agree with you, that they should be made -- those guest suites and cabanas should be made accessory uses. And I'm not quite following on your 4.3.A, the principal use. Are you asking us to remove tennis courts from permitted principal use?

CHAIRMAN STRAIN: No, I'm just questioning -- the principal use on the AR tract is the clubhouse, I would assume. Or why were you looking at expanding a principal use beyond the clubhouse?

And the reason I'm asking that is because the clubhouse automatically has the accessories that go with it.

MR. ARNOLD: Right.

CHAIRMAN STRAIN: So you're going to get your swimming pools and your dining facilities and your tennis courts, like anybody else has in Collier County. But you've listed those separately as permitted uses. So that means that you would be able to have a standalone dining facility, standalone tennis courts, standalone swimming pools without ever building the clubhouse. Is that what your intention is?

MR. ARNOLD: I don't expect that is what would happen, but I understand what you're saying now, that that could occur. And I do have separate standards for accessory versus the principal structure.

CHAIRMAN STRAIN: Right. So what I'm -- if you list them as principal, then it's a debate when they come in for permit which one are you -- which standards then apply.

And Ray, from a perspective of impact fees, do clubhouses -- mean, I know clubhouses generate impact fees.

MR. BELLOWS: Correct.

CHAIRMAN STRAIN: If a clubhouse has accessory uses do those accessory uses generate additional impact fees, or are they part of the clubhouse impact fees?

MR. BELLOWS: That's a question we'll have to get from our impact fee coordinator.

CHAIRMAN STRAIN: Okay, it's similar to the guest suite being a principal versus accessory. If a guest suite's principal, it becomes a unit, it's relative to impact fees.

My concern here is if these are listed as separately as principal units and they're built that way, then we have a different standard to look at them, not only from setbacks and things, but potentially from impact fees and all the other elements that are normally looked at as accessory and covered by the principal uses impacts.

MR. ARNOLD: Well, maybe to deal with that, Mr. Strain, maybe we leave the first part of that intact and say indoor and outdoor recreational uses such as but not limited to clubhouse, fitness center, health spa and then end with a phrase, or similar recreational uses to serve the residents, the club members and guests. And we can take the swimming pool, dining, tennis, basketball court, playgrounds and add those as accessory uses. Something like that may work for you?

CHAIRMAN STRAIN: Yeah, it would be better. I just want the clarification. Because as we have heard, we have new people at the counter constantly, and that's kind of the place that somebody gets trained. And I'd hate to see this get confused to a point where it doesn't work out like it's intended to or the proper standards aren't applied.

Ray, is there -- when we take a break, is there someone you could call and find out about the impact fees and how they would apply, whether this -- like a dining facility, whether it's principal or accessory?

MR. BELLOWS: Definitely. We're emailing right now.

CHAIRMAN STRAIN: Okay.

So Wayne, we'll come back and revisit that one after the break.

COMMISSIONER EBERT: I have a --

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: -- quick question for you.

MR. ARNOLD: Yes, ma'am.

COMMISSIONER EBERT: I noticed in this PUD you keep saying residents and club members. What -- I've not seen that before. What is this club? If you're not having a golf course and you're just having dining and tennis courts, what's the club?

MR. ARNOLD: The clubs could be a social membership, a tennis membership. Longshore Lake, for instance, a project you're familiar with, they have a tennis court and they have a clubhouse and they sell social memberships and they sell tennis memberships to the general public.

COMMISSIONER EBERT: So in other words this is going to be like, I don't know, The Dunes or whoever wants just can come in here and eat? Is that the club?

MR. ARNOLD: No, I don't think it would be structured exactly like that to the general public. It's a club membership. I mean, there may be a separate membership entity that involves only the residents. It may not.

But keep in mind, if you've got a high-rise tower, you may have a dining component that's part of your high-rise. You may also have this clubhouse facility that may have separate membership opportunities as well outside of your condo unit. You may have a separate membership opportunity for this.

CHAIRMAN STRAIN: Ray, customarily, how are we looking at club memberships on projects in Collier County like this? I mean, we have a series of projects throughout the county that have clubhouses and dining facilities and they have required memberships and they're saying they're going to have club memberships. Are those club memberships in these other projects limited to the owners of the principal uses or are they standards that can be social memberships or others?

MR. BELLOWS: There are PUDs that are located partially within activity centers. They may have the ability to have a clubhouse that is more like a commercial operation. But most of these residential communities are outside of commercial activity centers and their clubhouses are generally or should be regulated in a way that they are for their members, residents and members of the community. They may have a club membership. Not everyone in the community may be a member of that, such as a golf club. Some require everyone to be in there to pay fees to help pay for their club -- so it's not a standard way. But generally speaking they're not open to the public, they're not commercial facilities or restaurant facilities.

CHAIRMAN STRAIN: Okay. When you reviewed this, or Kay, when you reviewed this, did you see this club membership as triggering a commercial operation or was it similar to other projects that we review?

MS. DESELEM: I find it to be similar to other projects. It's common in my estimation in Naples to have this.

As they're doing startups, getting started with something, usually there's a deficiency of funds, at least at the outset. And they usually have other people that belong to such things, at least for a time.

CHAIRMAN STRAIN: Thank you.

Moving on, do you have any other questions while we're on this one?

(No response.)

CHAIRMAN STRAIN: If not, let's move on to Page 30. And this is your preserve -- section 5, your preserve P tracts.

In reading this, Wayne, I realize that you're preserving or you're proposing to preserve -- and I use the word preserve loosely, because much of this is open space, not just preserve. But you're required to have 123.2 acres by county standard. And you're proposing in this document 250 acres.

But the catchall says that you basically can use to an unlimited amount anything of that 250 for your various passive uses, as long as you don't go below 123 required.

And so I'd like to suggest that this needs a cap. Because that would allow you to build 127 acres of passive recreational uses which are on that long laundry list, and some of them really may not appear that passive and consume over half of what is to be -- what is shown on this document as preserve.

Is there a cap on acreage that you guys intended to put in your -- you're going to utilize?

MR. ARNOLD: No, but I'm sure I can come up with a number.

CHAIRMAN STRAIN: I would think that's necessary. Can we get that number when we get back from break?

MR. ARNOLD: Okay.

CHAIRMAN STRAIN: That will give you time to talk with your folks.

On Page 38 of the document you have a new letter D at the bottom of the page. And it says: The developer shall design noise mitigation abatement systems in accordance with the LDC.

Well, I don't believe we have any such things in the LDC, so that might be hard to implement.

Kay or Ray, sorry, I just want your confirmation on Page 38.D. Do you know of any design and noise mitigation abatement systems that are in the LDC? I mean, they may have them in the Building Code but I don't know of any in the LDC, do you?

MS. DESELEM: I'm not aware of any. We have a noise ordinance that's in the Land -- not the Land Development Code but in the Code of Laws and Ordinances.

CHAIRMAN STRAIN: Right. And that's an ordinance they can't violate regardless of whether it's stated here or not. So I'd suggest we drop on Page 38, sentence D, unless you guys -- the developer has any concerns over something that may have already been constructed according to standards that don't exist.

MR. ARNOLD: Nobody on our team fully understands what the rationale was for that language. I think deleting it has no impact on the development whatsoever.

CHAIRMAN STRAIN: Okay.

COMMISSIONER CHRZANOWSKI: Mark, basically it's redundant. It says you have to do what's in the LDC.

CHAIRMAN STRAIN: That's -- yeah, there's a few more we're going to get to that say the same thing, so -- it goes back to we ought to clean this up a little bit.

On the next page you have a new section underlined F. And this involves the paying in lieu of the pathways. And it's issued upon completion of the first certificate of occupancy or temporary C.O. for the first residential building within the Cocohatchee Bay PUD.

Only thing I'd suggest is we go for the first residential unit, not building. Because you could do the building in phases. And I would just as soon whatever phase you C.O. your first unit, that's when it's done.

Do you have any issue with that?

MR. ARNOLD: No, I don't think -- so we'll change the word building to unit?

CHAIRMAN STRAIN: Yes.

MR. ARNOLD: Okay. Fine.

CHAIRMAN STRAIN: That's -- let's see. On the Page 40. And I saw an email, Kay, from Chris VanLengen. I think he concurred that A, B, C and D -- new numbers A, B, C and D were not needed, they were all redundant language?

MS. DESELEM: That's correct.

CHAIRMAN STRAIN: Wayne, is there any problem from your perspective to deleting those?

MR. ARNOLD: I don't think so. We talked about that amongst our team and I think they are all standard LDC provisions that are applicable.

CHAIRMAN STRAIN: Okay. On Page 42 --

MR. ARNOLD: So that would -- if we're going to delete those, we would need to renumber then the balance of those --

CHAIRMAN STRAIN: That's correct.

MR. ARNOLD: -- additions. Okay.

CHAIRMAN STRAIN: On Page 42 under 6.10, engineering. Unless Stan sees a need for it, that whole section of engineering can be deleted. It's all redundant.

6.11 is the same way and 6.12 I believe is the same way. Unless staff or someone says these are all needed, they're all better defined and better stated in our LDC, why don't we just leave it in that document?

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

CHAIRMAN STRAIN: 6.10, 6.11 and 6.12 then.

And the last item I have for right now is Exhibit C, the private road cross-sectioning to the PUD.

And I had mentioned to you that in your 10-foot utility easement for the electrical, phone and the cable you showed a 6.5 overlap of a CUE for the water line. And my experiences with those private utilities, especially the electric company, they do not like to be in the same trench with the water line users. Obvious concerns over that. And I suggested you get their consent to that or acknowledgment.

Have you been able to do that?

MR. ARNOLD: I have not. I've talked to our project engineer, Jay Westendorf, and he does not believe that there's a conflict there, nor will there be with the utility companies.

CHAIRMAN STRAIN: Okay, have you -- well, you're probably the wrong person to ask, Wayne, but I'm sure one of the engineering members of your company would know. Have they ever done a private utility easement overlapped with a CUE in regarding Florida -- especially Florida Power & Light? And I dealt with Florida Power & Light on many projects and I know they're very particular about who goes in their trench or near their trench.

And this surprises me. I mean, honestly if this can be done, we basically can overlap CUEs with private utility easements everywhere. And I didn't know that to be the case. And I'm still not -- I'm still concerned, I'm still not clear this is going to be acceptable.

MR. ARNOLD: Well, maybe we should retitle the exhibit to say that it's typical, or something to that effect? I mean, if that is the case and we have a conflict, I'm not going to be building it per that, I'm going to be building whatever the utility companies dictate with regard to increasing my easement size or potentially relocating where they're located in the easement.

CHAIRMAN STRAIN: Or we stipulate that this would be subject to approval from the utility companies, which is typically what happens.

MR. ARNOLD: Could we add a note to that effect right on this plan?

CHAIRMAN STRAIN: I have no problem with that.

Okay, and I think what that does is I've got the questions from this document that I needed to ask so far completed. And I have staff questions, and we have staff report. Any wrap-up questions from this panel. But before we go into that, let's take a break and we'll come back at 10:40 and resume the meeting.

(Recess.)

CHAIRMAN STRAIN: Everyone, would you please take your seats. It's time to resume the meeting. Thank you.

Wayne, there was a couple issues that we were going to try to clear up during break. One was Ray was going to check the on impact fees and how they're looked at in regards to what's a principal and accessory use.

And Ray?

MR. BELLOWS: I have not received a response yet.

CHAIRMAN STRAIN: Okay. Well, before the meeting -- this issue's over we'll get to it then.

And Wayne, you were going to get back to us on the percentage of passive use area you may use out of preserves rather than leaving it open-ended like it is now?

MR. ARNOLD: Yes. I think we could safely say not to exceed five percent. Would you rather express it as an acreage?

CHAIRMAN STRAIN: No, I think that works.

And while we're at it, when I went through the notes I had on the sheets, I have a -- I had some other notes I made that I wanted to bring up while we're on this -- while we're still in the applicant's presentation.

First of all, the AR tract.

MR. ARNOLD: Let me get there. Okay. Section 4.1 of the PUD. It's on Page 27 of 44.

CHAIRMAN STRAIN: Your setback from your north property line, you've allowed 100 feet where you've made changes up against residential everywhere else. And I would suggest that 100 foot back from your north property line, there is necessary as well. Do you have any objection to that?

MR. ARNOLD: I don't think so. It would apply to the accessory buildings and structures.

CHAIRMAN STRAIN: Correct.

MR. ARNOLD: Not a service road or something to that effect?

CHAIRMAN STRAIN: No, not a service road.

And I just noticed, Mr. Yovanovich is standing up in the back of the room glaring at me. During break he asked me if I could clarify the time frame of the next item up. Before it was going to be no later than 1:00, possibly earlier.

I can say, by the way that this meeting is proceeding and the number of people that still are going to speak, which by the way we're here to listen to you, so we're not -- I'm not worried about that at all. I just don't want to have someone sit here all morning when they're not going to be heard until 1:00. So as long as this board doesn't oppose the idea, I'd like to tell the applicant that we will not hear Items 9.B and C until -- the earliest would be 1:00. Is that okay?

Okay. And Richard, you and your client, as long as you're back here at 1:00. Otherwise we'll deem you denied and that will be the day.

MR. ARNOLD: I'm involved in that one too, I'll be here.

CHAIRMAN STRAIN: Oh. Well, you double dip for your time? Never mind.

MR. ARNOLD: Could I clarify your comment on the 100 feet? It probably should then apply to the principal and accessory structure from the north PUD boundary. We'll make both of those 100 feet?

CHAIRMAN STRAIN: Yes, that's --

MR. ARNOLD: Right now it's 75 and 50.

CHAIRMAN STRAIN: Right. Okay, some of the uses that are allowed on that site would be tennis courts. Tennis courts, if not regulated, can become an annoyance. How many hours per day were you planning on operating those tennis courts, and what kind of lighting were you looking at? I would suggest you're going to have to have shielded lighting. I'm sure the code already requires that. But I'd like to know what your plans were for those.

MR. ARNOLD: I don't think there's a specific plan, but I know that on other projects that we've talked about recently we have agreed to like a nighttime p.m. restriction. And I think something like 10:00 restriction for the tennis court usage.

And then I know that I use the term, I looked it up, I used flat panel fixtures with full cut-off shields for the lighting.

CHAIRMAN STRAIN: And that will -- and they will not be any closer than 100 feet to that north property line to begin with.

So we're going to institute the 100 feet, you're going to have flat paneled full cut-off shield lighting, and your limitation will be what time? What's the earliest in the morning?

MR. ARNOLD: I mean, I guess that varies because of the time of year. But probably something -- I don't know what typical --

CHAIRMAN STRAIN: Well, it doesn't vary if someone has to go to a job in the morning and they want to sleep until a certain time. And it might vary for that guy who doesn't have to work and can go out there and play around the tennis court. But that's not what everybody can do, so --

MR. ARNOLD: Probably something like 7:00 a.m. I think that's in accordance with your construction standards, you allow contractors to start working at 7:00. So playing tennis in your community seems reasonable.

Just the mechanics of this, Mr. Strain, are you -- these standards we're talking about were specific to the tennis court?

CHAIRMAN STRAIN: Yes. Yes, because everything else on your location is going to be south of that, so --

MR. ARNOLD: Trying to think where best to insert this into the --

CHAIRMAN STRAIN: Well, you've got until consent to figure that out, as long as it's going to be there. So I'm not worried about that today.

MR. ARNOLD: All right.

CHAIRMAN STRAIN: And that's the only additional notes I had.

So with that, since there's no other questions from the Planning Commission, we'll move into the staff report.

COMMISSIONER EBERT: I have one --

CHAIRMAN STRAIN: Oh, go ahead, Diane.

COMMISSIONER EBERT: -- quick question.

You say you're down-sizing this PUD. Why did you add the 94 acres?

MR. ARNOLD: The 94 acres serves as mitigation for the eagle.

COMMISSIONER EBERT: So -- but you're adding it to this PUD.

MR. ARNOLD: Correct.

COMMISSIONER EBERT: Okay, just wanted to know.

CHAIRMAN STRAIN: Anybody else?

(No response.)

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

MS. DESELEM: Yes, sir, we do. For the record, Kay Deselem.

And I think I can qualify as an expert in my field here in Collier County.

CHAIRMAN STRAIN: Does anybody have any questions about Kay's expertise?

COMMISSIONER HOMIAK: Yeah. No, just kidding.

MS. DESELEM: And with me, I have several staff members: Steve Lenberger and Summer Araque, with Environment Services; John Podz, with Transportation; Bill Lorenz, and I'm not sure what he's with, Stormwater or Pollution Control? I think it's pollution control.

CHAIRMAN STRAIN: He's a department unto himself.

MS. DESELEM: Yes, indeed.

And Chris VanLengen from Utilities; as well of course Ray, and Mike Bosi is around. And I think those persons also could be qualified as experts in their field.

CHAIRMAN STRAIN: I don't know of anybody here that would disagree. We've worked with all those people long enough. And I believe the entire professional staff of CDES is who we rely upon as experts anyway, so --

MS. DESELEM: Thank you, sir.

Okay, I will not go into great detail in the staff report due to the presentation that's already been made by the applicant.

You do have a description of the applicants and the owners and the agents; the requested action, geographic location with aerials and zoning maps to support and further clarify location; you have a purpose and description of the project. And it goes into some detail as did Wayne about the various things that have been presented, requesting changes to this PUD as it was originally proposed, and then the meeting with the residents and how it was then revised to what you see now.

And there is a description of the surrounding zoning and land use. And an almost legible PUD excerpt. It was meant to be legible, but somehow in the translation and all the copies it's not too clear.

You do have a Growth Management Plan consistency review beginning on Page 5 and ending on Page 8 wherein it's been -- this petition has been deemed consistent with the FLUE and the coastal -- Conservation and Coastal Management and the Transportation Element of the Growth Management Plan. Therefore, staff is recommending it be found consistent with the overall GMP.

You have staff's analysis that begins on Page 8 with considerable environmental review discussion to help you understand the environmental issues. Transportation review. Zoning review that goes into the development standards.

And then we did go through specifically the changes that were being requested and addressed each and every one of them. There is a discussion beginning on Page 12 about the deviations. The applicant is seeking several deviations. Staff is recommending approval of all deviations.

Staff has provided findings of fact for the rezone and the PUD, and we are then recommending that this petition be forwarded to the Board of County Commissioners with a recommendation of approval.

CHAIRMAN STRAIN: Okay. Does anybody have any questions involving staff?

(No response.)

CHAIRMAN STRAIN: Okay, Kay, I have one item on your staff report that I had mentioned to you that I think needs to be clarified. And that's on Page 21, neighborhood involvement. It says: To date staff has received email messages that contain two separate petitions; one with 714 signatures and the other purportedly with hundreds of signatures opposing the reopening of the settlement agreement and any changes

in the zoning of the property.

I received three emails, I think, involving petitions. One was a -- with an attachment that had names with actual signatures on it. The other one was titled Petition with 714 signatures undated, but there were no signatures on it and it was dated. And then I received a subsequent one that's much longer that is -- I haven't counted them all because I think it's 28 pages that appears to have many more, maybe 714, but I see no signatures.

So in deference to what you stated in the staff report, have you received or can you clarify how many petitions you have received with signatures?

MS. DESELEM: Only one with signatures. The others just have typed names on them. And from a legal standpoint, I don't know if that is valid or not.

CHAIRMAN STRAIN: The ones that have the typed names, is that the one referenced as 714?

MS. DESELEM: Yes, sir.

CHAIRMAN STRAIN: Okay. I wanted that clarification because I could not find the document that it was labeled as, and it didn't appear that way. And I'm sure we'll get some clarification on that, but for the record to date it has not been clarified.

MS. DESELEM: That's correct, sir.

CHAIRMAN STRAIN: That's the only question I had of staff at this time. So we'll move right into the public participation.

Ray, we're going to start by calling the public speakers who are registered public speakers. Go ahead.

MR. BELLOWS: First one, James Owens.

CHAIRMAN STRAIN: Either mic, sir. And I'm going to ask because not many of you stood up. And I don't mind if you still want to speak whether you stood up or not for being sworn in. But I have to ask to make sure everybody was sworn in.

Were you sworn in, sir?

MR. OWENS: Yes, I was.

CHAIRMAN STRAIN: Thank you. Go ahead.

MR. OWENS: After hearing the presentation, I've kind of changed my position a little bit. However, on the one thing I have not changed my position on, I really believe there should have been and still should perhaps be a NIM. Because obviously I was at the original one which was a little bit of a cluster, and the information that was presented then is certainly not the information that's being presented now. And that's basically all I need to say.

CHAIRMAN STRAIN: And I agree, it would have been helpful to have the NIM. Although it's not something we can require, so -- but I thank you for your comments.

Ray, could you call the next speaker?

MR. BELLOWS: Joe Wood.

MR. WOOD: My name is Joe Wood, and I live at 669 Mainsail Place in Tarpon Cove in North Naples.

I am the president of the Cayman Homeowners Association, a neighborhood of 69 one-story villas, 34 of which back up to the drainage canal that runs between Tarpon Cove and the Kalea Bay project. I represent these owners.

And I would say for the most part we recommend approval of this project with one main concern. Our concern is a potential overflowing of the canal and flooding of these homes should the Kalea Bay project move forward without some protective drainage work being done to the canal.

The issue is this: During periods of torrential rains such as tropical storms, a tremendous amount of stormwater from the big ditches along Old 41 and new 41 at that intersection and the ditches along 41 enter into the canal at Tarpon Cove.

The problem is there's such a massive amount of water that can flow in, it flows through to the Wiggins Pass area and there's very little outlet for the water to get out at Wiggins Pass.

I lived there over 10 years through two tropical storms, Charley, Wilma, and I saw the water overflow both times. It overflowed onto the golf course. As long as there was a golf course or preserve, it's

not an issue and it's not a problem. But when they finish out the Kalea Bay project on that side, they're going to build a berm up, I'm sure they're not going to build in a swamp, and where is the water going to go then? It's really important to us. And that's really the bottom line, the water coming in compared to the water that can get out is not correct.

Now, there was an engineering report done for Lodge/Abbott by Omega Consulting Group. It does address this. It talks about the -- there's two double culverts which is a total of four culverts going underneath Wiggins Pass Drive. It claims that there needs to be -- it says previous studies have suggested that as much as 299 cubic feet per second flows through the ditch at Wiggins Pass Road. If there are four 54-inch pipes, that is 75 cubic foot per second per pipe which will take care of it.

I thought those numbers were incorrect. I put on dirty clothes and I constructed a gauge and I went down and I measured those pipes. They claimed it was four 54-inch pipes. There's two 48-inch pipes, there's two 42-inch pipes. I did the calculations of square inch area through the pipes, and it's 30 percent less than they actually claim on their study, which tells me that they really don't have the discharge outlet for the canal. And it concerns me.

I'd like to see the project go forward, but we've just got to take care of this. So after everybody is said and done and the project is done and the next tropical storm that comes along in four or five years, that all of a sudden we're not wading in water in our house six inches deep.

All right, thank you very much.

CHAIRMAN STRAIN: Sir, yesterday there was a meeting at your location.

MR. WOOD: Day before yesterday, yes, sir.

CHAIRMAN STRAIN: Day before yesterday. It was attended by the engineers from the county, the county -- one of the county administrators, I know people from your area were there.

MR. WOOD: I was there.

CHAIRMAN STRAIN: Were you there?

MR. WOOD: Yes, sir.

CHAIRMAN STRAIN: So did you walk away from there still unsatisfied with the information provided to you by county staff at that point?

MR. WOOD: Yes, I did, because nothing really has changed. What was there 10 years ago is there today. Unless they build up the berm at the site, there's still the issue where is the water going to go.

I will say this: They talked about putting in a 72-inch drain line through that area, through the 62-lot area. But that will drain that area. None of that water now flows into our ditch. That ditch does not contain hardly any runoff water from that area or from Tarpon Cove. Tarpon Cove water is all trapped in our lakes and they're going to trap their water.

The real issue is all the water that comes down from Lee County that comes along Old 41, enters the area, tries to get out on the back side, it can't get out on the back side.

CHAIRMAN STRAIN: Were you -- did you see the photographs provided that showed that the Tarpon Cove development filled in the drainage canal to quite an extent that restricted its flow substantially?

MR. WOOD: WCI filled it in, sir.

CHAIRMAN STRAIN: Okay. Somebody --

MR. WOOD: Look that --

CHAIRMAN STRAIN: It's your backyard, though, is what I'm suggesting.

MR. WOOD: Let me just say this: That is true. Some was filled in to protect the buildings, because the bank was collapsing and the buildings were starting to crack that were close. However, that fill does not have anything to do with the flooding. The flooding occurs by the time the water gets down to Wiggins Pass Road. And the water, what it may do, it may delay the time from when the water enters in and Highway 41 'til it's ready to go out, it might delay the time by five minutes. But that water's coming out of there pretty fast. So it might slow down by five minutes. But when the thing is full, it's got no place to go.

CHAIRMAN STRAIN: And I was debriefed slightly. I didn't attend that meeting; I was told the results of it. But before the meeting's over I'll see if there's any additional input from county staff. Thank you.

MR. WOOD: Thank you.

CHAIRMAN STRAIN: Next speaker, Ray?

MR. BELLOWS: Herb Bias.

MR. BIAS: Good morning. Thank you for the opportunity to address the meeting of the Collier County Planning Commission.

I'm Herb Bias. I am president of the Wiggins Bay Foundation. Wiggins Bay is located on the south side of Wiggins Pass Road, directly across from the Kalea Bay property. We have over 600 owners. The foundation itself cannot directly address all the concerns of all the owners. Each association has its own association and two of them have their own master. We are over top of all 600.

We have not surveyed our owners, we have not polled them on what their feelings are, but we feel very clearly that their opinions are on both sides of the issue. Whether it's 50/50, 70/30, 30/70, we don't know.

But the Wiggins Bay Foundation Board of Directors do not object to the development as currently amended. The board believes it will enhance our property values.

We have a couple of concerns. One concern is the location of the entrance to Kalea Bay that is not placed across from us. And I understand that's been addressed and it's been moved further west.

The other concern is that we'd like sidewalk lighting, street lighting along the six-foot sidewalk that the developer has agreed to put in. We'd like to have lights.

The plaza at the corner has several eating establishments and department stores, and there's a constant flow of people, and I think it would give a lot of security to our neighbors to have lighting along that passageway now.

With that, I'd just like to thank you for your time and consideration, and wish everyone a happy holiday. Thank you very much.

CHAIRMAN STRAIN: Thank you, sir, appreciate it.

Next speaker?

MR. BELLOWS: Mike Shields.

MR. SHIELDS: Thank you for your time. Mike Shields. I'm the president of Tarpon Cove, the entire community, and I'm glad to be here.

I just want to go back a second and say at the first NIM we had it was a fiasco. And I ran to that meeting, because what I was given in the mail was -- it caught my attention. If that was the goal, it worked. And as a result of that meeting, I signed a petition, I didn't want that to go forward.

But things have changed then, and I want to share with you the history. I reached out the next couple of days to our commissioner, and I said, Commissioner, I'm confused. As a president I need some guidance here. And I invited along with myself two of our most vocal people that were against the plan. One chose not to go sit with us, another one did. And we sat down with her and said help us. And she said -- and Nick was involved. Going forward, Mike, if you have a complaint, you just can't say you don't like it. So come back to us with your complaints.

So we came back with our two concerns. One was safety and one was the flooding that you heard Mr. Wood speak about.

Also in the process we were invited back to another meeting with the developer. And it was an introduction on behalf of the commissioner. And we thought that was very positive. And we sat with him one-on-one and told him what our concerns were. Safety was a concern and flooding was a concern.

So from that point on we've been in constant communication with the developer on what their proposed plan was. When we saw the new plan, we were shocked by it, quite honestly. I mean, to go from what they were asking for to what we thought was a fair compromise on our part, which included a sidewalk on the north side of Wiggins Pass, because our concern was traffic.

The other concern was congestion. It was brought to my attention that the number 62 came about, because the impact is equivalent of having a golf course.

I was led to believe they would have put 280 homes in there if they could, but in terms of the impact on the environment and on traffic, the number 62, that's how the number came about. I accepted that on its face value.

As far as flooding goes, we've tried to find a way to legally prove it's a problem. And as an

association, we cannot.

We reached out to the Water Management Commission, we brought a guy in, and he said it's not a problem.

We still haven't found resolution on that, as you can see.

And we had a board meeting on Tuesday, prior to me coming and speaking on behalf of our association. I wanted to get it clear. Unfortunately we didn't have enough time to post it publicly, but we did reach out to the people that were there. We had a very good attendance. And I invited Nick and I invited Jack McKenna to come, and they were very eloquent in explaining to us that guys, there isn't an issue here.

Unfortunately they brought the canal issue up. There's a bigger issue possibly going forward. But they're saying in our opinion, and we speak for Tarpon Cove, what's going in is actually better for Tarpon Cove in terms of the drainage issues. I'm not an engineer, they are. On our behalf they're telling us this.

They also said to us that the homes that are at issue are a foot and a half above the road. So any flooding issues in the future, for those homes to be flooded the entirety has to be flooded by a couple of feet.

Now this is what Nick is telling us and Jack is telling us. And I took that on face value and I accepted it. So I left that meeting pretty confident that we haven't got an issue.

So our two concerns, flooding and safety, I feel have been mitigated.

Also I want to say one other thing too. Throughout this process we have some community websites and we've posted along the way all the communications, and I'm happy to share with you. I've reached out to presidents of Wiggins Bay Foundation and also Wiggins Lake and Preserve, who is adjacent.

I'm here also on behalf of John Hayes, who's given me permission to say they're also in favor of this amendment. So when I got involved -- I wasn't involved with the people in Aqua, people in Falling Waters. My focus was Tarpon Cove is where -- the property directly adjacent to it, and Wiggins Bay Foundation and Wiggins Lake and Preserve.

We've done email blasts where we've shared information that's come to us from the developer and from the feedback from our community.

So although there hasn't been a second NIM, and I was asked for that, to me I feel Tarpon Cove people have been informed, through board meetings, we do a monthly newsletter and we do email blasts. So quite honestly, I'm very comfortable on behalf of Tarpon Cove, Wiggins Bay Foundation and Wiggins Lake and Preserves. They have -- they have it up to speed.

Now I've also been told by people, what's going on? Well, we have meetings, people don't go to them. So we've really tried to reach out. And I think we've done the best we can.

So with that said, I appreciate the time, I know that I've been told the deal is a deal. What I feel what we have is a better deal. So with that, I'll say thank you.

CHAIRMAN STRAIN: Great. Thank you very much, sir.

Next speaker, Ray?

MR. BELLOWS: The last registered speaker is Doug Fee.

MR. FEE: Smile, everybody. Happy -- Merry Christmas.

Mark Strain, you asked about the petition. I have eight --

CHAIRMAN STRAIN: No, I wasn't asking, I just made a statement about two petitions. There was no question involved, it was just a statement of correction to the record that was in front of us.

MR. FEE: Okay. For the record, my name is Doug Fee.

What I have in front of me is two copies of two petitions. One is signed by -- and I have not counted these. There's got to be probably 500 signatures. There's also a change.org petition that's from on-line. And I think there's over 700 signatures, okay.

What I want to do is make sure that these are in the record, if I can get those.

CHAIRMAN STRAIN: Provide a copy to the court reporter and we'll be fine. I want to -- I'd like to, if you don't mind passing those up here first --

MR. FEE: Yep.

CHAIRMAN STRAIN: -- so we can see them before we admit them in.

MR. FEE: Absolutely. And I'd also like to make sure that the other additional copies that I get, if anybody wants a copy, you're more than welcome to have one, or I'd like to make sure that the Board of

County Commission also receives these petitions.

CHAIRMAN STRAIN: That's what I wanted to ask Heidi for the procedure. How many copies do we need, hard copy distributed here at the meeting, to the extent that the --

MR. FEE: I have eight.

CHAIRMAN STRAIN: Well, then I think if you -- we need five up here.

MR. FEE: Okay, I will bring them up.

If I can do my prepared speech?

CHAIRMAN STRAIN: Okay. Why don't you distribute those. The court reporter's going to need one, the applicant should have one, and the staff should have another. So let's see if we have enough.

MR. FEE: I brought eight, so I think I have enough.

CHAIRMAN STRAIN: If you don't, I can get my reproduced electronically from staff. So one way or another we'll get there.

MR. FEE: Good morning, Planning Commissioners. My name is Doug Fee. I live at 754 Pan Am Avenue, which is up in the Wiggins Pass Road area. I've lived in the neighborhood since June, 1999. In December, 2000 this development came forward and Cocohatchee Bay PUD was approved under Ordinance 2088.

I, along with many other residents in the neighborhood, went to those public meetings, the EAC, the CCPC and the BCC, as we were very interested in what was being proposed.

There were many concerns, but after all was said and done we knew that eventually this PUD would be developed and become an integral part of our neighborhood, in the very center of it.

There were many things discussed during those meetings, including the fact that this development would be allowed to do non-conventional development by being granted five high-rise towers on the west side of Vanderbilt Drive.

Now, why I say non-conventional development is during the meetings, Ron Nino, a planner for Collier County, discussed the issue of highrises along the coast, which would in fact be built with 500 units going up in the sky 20 stories tall. By granting this to the landowner, basically the planner said that the residents were basically giving up our sky so that these towers could be built. Which is not inherently evidently evil, that's what he said. But that conventional development would be to build them spread out across the whole acreage in low-rise or single-family home product.

This conventional development would mean that much of the land would be used and we would not have as much preserve acreage as if these towers were granted.

It was discussed as a tradeoff for the neighborhood. But also the landowner was of course granted the right to build a golf course as an amenity. And in the end we accepted this. As of course you know, there was eventually another PUD amendment back in the 2005, 6 time frame where the developer wanted to change the Bald Eagle Management Plan, and the county did not get the required supermajority vote of the BCC. We know it got denied.

With that the landowner filed a Burt Harris lawsuit, somewhere in the neighborhood of \$250 million. I along with many in the neighborhood attended meetings with our elected officials and the landowner representatives, and we gave input to a settlement agreement that was eventually approved in June, 2008.

We accepted what got negotiated on our behalf, the residents, and we felt it was a done deal made in the best interest of all, including the public.

Mind you, there were several special grants that were given to the landowner in this settlement. The settlement even tells us in paragraph 19: The agreement and release shall be binding upon Lodge's and the county's predecessors, successors, assigns, officers, present and former employees, owners, present and former elected and appointed officials, insurers, principals and representatives who shall work together in good faith to accomplish the intent of this agreement and release.

CHAIRMAN STRAIN: Doug, you do realize we're not hearing the settlement agreement today.

MR. FEE: I will get to that, Mr. Strain, if you'll let me finish.

Okay, with that settlement paragraph we thought that everything was complete and the developer got what he wanted.

Now, fast forward to 2014 and nine months ago in March the landowner held a neighborhood

information meeting. There were 700 residents in the neighborhood who attended this meeting. I had been to many NIMs before and this one was tremendously attended.

The neighborhood went away from this meeting with a clear mandate from the residents and we took this opportunity to start a written petition and an on-line petition. I've submitted into the record these petition signatures. I've not counted them but it is certain that there are many hundreds if not thousands of people, okay.

And it basically says: Do not open the settlement and do not accept a rezone of this property. So you all will be given a copy of this petition. And there are neighborhoods that surround the property. This is 700 acres, so there are Arbor Trace, Tower Pointe, Eden on the Bay, Emerald Bay, Aqua, Pelican Isle, Marina Bay, Cove Towers, Remington Way, Vanderbilt Landings, Naples Park, Bonita Shores, Audubon, Pelican Marsh, Golden Gate Estates, Mill Run, Falling Waters, Tarpon Cove, Imperial, Wiggins Bay and Gulf Harbor, and many that signed on line.

Why I mention that is there are many that are not here today. But I feel that they are represented with these petitions.

Now, I had suggested to the county that we have a new NIM meeting because the March meeting was different than what you have in front of you. I really feel that's important. And why it's important is at that first NIM meeting somebody stood up and asked the audience, how many of you are against this proposal? And I believe most people stood up and clapped. They were against it.

If you held another NIM meeting, I believe that that question may be asked and you may have a different result, okay? But what we have in front of us right now is the information that was told to us in March. Unfortunately there are many in the neighborhood who I see on an ongoing basis who are not aware of the changes. I respect that people in leadership may be aware of that, but I can tell you that people in the neighborhood don't know the changes. And I respectfully offer, hold off on this, okay.

One other point I want to make is you were told at the beginning of this meeting that there's a difference between rezone and settlement. I believe they are very intertwined. I don't think you can separate them. In the actual ordinance it says: This PUD amendment is hereby made pursuant to a settlement agreement and released, a copy which is attached hereto as Exhibit C and which terms and conditions are hereby deemed to be incorporated herein by reference as it fully sets forth herein. If any terms between this PUD amendment and the settlement agreement and release are in conflict, the settlement agreement and release will control.

Why that's important is you are the planners, you are the experts, and the Board of County Commission and the landowner ask that you thoroughly vent this application. When you have a Burt Harris lawsuit there is an extra layer. I'm not trying to train you on anything, and I'm not a lawyer, but you have an extra layer, and you actually are able to do things in the settlement that are not according to the Land Development Code. They can be special.

Somebody even mentioned the distance between the buildings. That distance was done in the settlement. I believe it's 100 feet, okay. I'm not saying that's good or bad, but that's where it came to. And in the original PUD it was half the height of the two buildings.

So the only other thing I'll say is in this settlement, in number 25 it says: In the event of a breach of this agreement and release, either party to this agreement and release may enforce its term in the 20th Judicial Circuit in and for Collier County. In this respect the county and Lodge shall request that the court in case number 05967-CA approve this agreement and release as part of a stipulated judgment.

I don't know whether that pertains until there's a breach. But it's important that we not separate out the settlement from the PUD. I cannot stress that enough. And you have to look at both.

Back in 2005 the BCC asked that you as the land planning agency look at both. And you can look in the record and it clearly showed that settlement talks, as well as PUD talk, were involved at the Planning Commission. It's in the record.

So I think that you have to look at both and make sure that there isn't conflicts. Because if there's a breach, the settlement -- one of the documents trumps the other.

My last thing is, this is -- it's important for our neighborhood. I know that. We're excited about this community when it is built. I can say that. It's in the middle of our neighborhood, it's going to be a great

addition. I've lived there for 16 years now, and so have many in the audience. I speak from my heart. Each one of you as planners, as Planning Commissioners, could have a settlement that's been done in your neighborhood, whether it's a Burt Harris or whatever, you trust that these settlements get the business behind and development to occur. And that's what we thought. And when is enough enough? Are we going to go forward with this, change the settlement and then always have in the back of our mind that again we're going to come back and do this?

The public has spoken. And if you're going to do this, if the Board of County Commission is going to do this, at some point there has to be a finality, there has to be a guarantee. I don't know how you get there, I don't know when you get there, but we thought we were there the last time. So thank you for your consideration.

CHAIRMAN STRAIN: Thank you for your comments.

Before you leave, I've got the two hard copies you provided to the court reporter. One of them titled Petitions with a bunch of communities listed on it. There's no dates on any of that. Do you know when this was acquired?

MR. FEE: Well, it was after the NIM meeting.

CHAIRMAN STRAIN: It was after the NIM?

MR. FEE: And it's ongoing.

CHAIRMAN STRAIN: Okay. Well, these -- see, there's no dates on these, so I can't tell how long ago, and when was the most recent signature signed on this; do you know?

MR. FEE: Probably yesterday.

CHAIRMAN STRAIN: When was the bulk of the signatures signed? After the NIM meeting?

MR. FEE: It was all after the NIM meeting.

CHAIRMAN STRAIN: Were the people that signed this aware that this project had changed from the request of about 300 units down to 62?

MR. FEE: How would they know?

CHAIRMAN STRAIN: Okay. Then this other one that you provided called Change.org was dated -- most of them dated in March, end of March of 2014. Obviously these were all done prior to the 62-unit submittal that occurred much later in the year. That's the only point I want to make.

I understand why you're putting these in the record, but they don't necessarily pertain to the actions and requested today.

MR. FEE: I believe --

CHAIRMAN STRAIN: They contained what was requested a while back in that regard.

MR. FEE: I believe, Mr. Strain, that from the NIM meeting there was no clearer mandate from the audience that attended that, which was do not open the settlement, do not rezone the property. Unfortunately as people signed this petition, they were not afforded any different information. If they want to come to the meeting to undo their petition signature -- some of the people who stood up this morning are on this petition. They signed it and they may be aware of the changes. But the neighborhood -- so it stands in the record. And I hope that the BCC will take -- because this is probably 1,000 people in the neighborhood.

CHAIRMAN STRAIN: I hope the BCC receives this in a more clarified manner. It is not a petition against the PUD changes that we have talked about today. There are two petitions that are headed by references to the settlement agreement. And I said from the beginning, this is not a discussion on the settlement agreement today.

MR. FEE: Well, I would disagree with that.

CHAIRMAN STRAIN: Those two documents pertain to the settlement petition in that regard. It would be more effective for you to take those to the Board of County Commissioners.

MR. FEE: And we will do so.

CHAIRMAN STRAIN: They'll go on record here, but that's where you should take that --

MR. FEE: Like I said, I would disagree that there isn't any correlation, but that's debatable.

CHAIRMAN STRAIN: I'm going to take the advice of the County Attorney over yours.

MR. FEE: Okay, thank you.

CHAIRMAN STRAIN: Any other speakers, Ray?

MR. BELLOWS: No one has registered.

CHAIRMAN STRAIN: Is there anybody else in the audience who would like to speak?

(No response.)

CHAIRMAN STRAIN: With that I do have some questions of staff. And Kay's trotting back up. And maybe Wayne, you may have to assist in answering some of these questions.

One gentleman mentioned the location of the entrance, they had a concern with that, and that appears to be corrected. Has that been corrected on the plan we've got in front of us today? I think he said they moved it to the west.

MR. ARNOLD: For the record, Wayne Arnold.

Mr. Strain, it's my understand that the master plan that's before you addresses the access concern that was raised by the gentleman.

CHAIRMAN STRAIN: Okay. And the second thing that he mentioned, and you can -- have to point it out to me, is where you might have addressed it, that the sidewalks and streetlights along the north side will be installed along the north side by the developer?

MR. ARNOLD: Yes, sir.

CHAIRMAN STRAIN: Do you have somewhere that that shows up how it's laid out?

MR. ARNOLD: No, sir, it's not been designed. It was a comment and a commitment made at one of the meetings with the Tarpon Cove residents.

CHAIRMAN STRAIN: Then we need to stipulate that as an added item.

MR. ARNOLD: Are you asking specifically about the street lighting?

CHAIRMAN STRAIN: Yeah.

MR. ARNOLD: Oh, I'm sorry, I missed that. I thought it was just in general reference to the sidewalk.

CHAIRMAN STRAIN: No, I thought a gentleman --

MR. ARNOLD: He mentioned lighting. That was a new one to me, I had not heard that, Mr. Strain. And I don't know that our team is in a position immediately to tell you we can do that.

CHAIRMAN STRAIN: Well, then we'll have to get to the bottom of it before we finish.

What the gentleman, I thought he said, and I know he's still here in the audience, one way or the other we can get it restated. He had two issues: Safety and drainage.

On the safety issue I thought he had indicated that in one of the meetings with the developer there was a commitment to put streetlights along the sidewalk on the north side or something to that effect.

And if that gentleman is still here, would you mind coming up? Mr. Shields, it is, right? Thank you. Would you mind clarifying what you're intending in that?

MR. SHIELDS: I misspoke, it was just a sidewalk, no lighting.

CHAIRMAN STRAIN: Okay. Well, then that, we've already got that taken care of. Thank you, that does clarify it.

And then the last thing I'd like to ask is who -- and maybe Kay, do we have someone from the county to address the specific drainage?

MS. DESELEM: I believe Bill Lorenz is here to address that issue.

CHAIRMAN STRAIN: Okay, thank you.

MR. LORENZ: Yes, Bill Lorenz, Engineering and Environmental -- Natural Resources Director.

CHAIRMAN STRAIN: It changes a lot, Bill, it's hard to remember sometimes.

MR. LORENZ: Yes, obviously the engineer is here with his report. He has provided a report.

CHAIRMAN STRAIN: The engineer being theirs or ours?

MR. LORENZ: Their engineer.

CHAIRMAN STRAIN: I'd rather hear the county's version.

MR. LORENZ: However, both Jack McKenna and Jerry Kurtz did review the project, actually went out on the field and found that the -- they did not have any concerns in terms of adverse impact with regard to flooding of the neighboring areas with this project.

CHAIRMAN STRAIN: When a project is reviewed by South Florida and us, and it's found to be consistent with the standards for flooding, those standards, do they make sure the project is limited to its

off-site discharges to either equal to or less than what they had before development? Is that how it goes, do you know?

COMMISSIONER CHRZANOWSKI: Can I say something here?

CHAIRMAN STRAIN: Usually you don't like to answer questions like that, so I wasn't going to --

COMMISSIONER CHRZANOWSKI: Yeah, they are limited. But in the case of Tarpon Cove, the canal you're talking about takes drainage from Old 41 which runs up to Spanish Wells, comes down along Old 41 under Route 41 and then heads west and then south. When it hits Wiggins Pass, part of it goes through a necking down of an area between a couple of streets there before it goes -- small residential area before it goes into the bay.

And I think part of it goes -- it might show on the LIDAR, part of it goes toward the west. So there -- it's not that their water is going -- is limited in discharge. They're passing water through from a very large area. And if it gets constricted anywhere, it may rise up.

But this has been reviewed by the Water Management District so many times. Even back to my -- when I was there at the county.

CHAIRMAN STRAIN: Well, and thank you, Stan. You normally try to not jump in.

COMMISSIONER CHRZANOWSKI: I dodge questions, yeah.

CHAIRMAN STRAIN: So I didn't want to put you on the spot.

And for the benefit of those that don't know, Stan Chrzanowski is the former long-time standing county engineer and he retired to kayak for every day now.

COMMISSIONER CHRZANOWSKI: I kayak that waterway behind you guys. It's too bad you don't have a kayak launch.

CHAIRMAN STRAIN: Stan, the premise under which a project is approved in regards to what it's allowed to discharge off-site, do you remember those from that standard from the days that you were there?

COMMISSIONER CHRZANOWSKI: Yeah, it's limbed to a certain allowable discharge per acre. Point, I don't remember, .75 or -- there's a bunch of different basins in Collier County. I think most of them are probably a .15 CFS per acre, something like that. And you total up the number of acres and if it's 100 acres, you're allowed 15 CFS total discharge.

And you throttle down your allowable discharge coming out of your structure. But that's only at peak flow, at the very height of the rain. Most of the time the water comes through at a rate far below that.

The problem with what you have here is you're not seeing that immediate -- the water that falls on Tarpon Cove will go into that canal and immediately leave. But then a day, an hour, a few hours later, a day or two days later you get this water coming from upstream, you know, the delay. Time of concentration is a long time. And that's I think the water they're concerned about.

And that's also the water that I don't -- well, you do have some constrictions up there that you talked about that you know part of that canal was filled in and throttled down, maybe it shouldn't have been. I don't want to get in the middle of that.

CHAIRMAN STRAIN: Okay, well, I kind of wanted to get some clarification to get the assurance that their departments have thoroughly looked at this. I know that we had additional meetings on it so it was vetted multiple times. And I would believe through that additional vetting if there was something inappropriately done by this new development, which is not much different in probably fill stature or quantity that would have been used for a golf course, you don't build a golf course at grade, you build it with mounds and humps and all kinds of hills and valleys.

So having these houses on fill is going to be probably not be much different than the impacts to the golf course. And I don't believe either one has not been vetted thoroughly enough to know that the project is consistent with our codes and laws. So at that point I don't know what else we can do on the drainage.

COMMISSIONER ROMAN: I have a question on it.

It looks to me from the diagram you put on the screen that as that water flows down Old 41 and crosses under 41, it's coming onto that property and then making a hard left turn. Is that the most efficient way for that water to flow? That might be why it's flowing in some spots or not moving as freely as it could to drain the water from the land.

MR. LORENZ: Well, I think the modeling in the past has indicated that it is able to get through the

system. And the additional information that we've had would indicate that with proper maintenance that we should see -- I think Jack McKenna even indicated an improvement in the whole system.

COMMISSIONER CHRZANOWSKI: I don't want to throw Jay under the bus, but I think Jay should stand up and say something about this. He is the engineer looking at the project. He can't address Tarpon Cove maybe, but he can say a few words about whether or not your system is going to impact their system.

COMMISSIONER ROMAN: But the one thing for the county representative is the fact that at some point you have to take into account the cumulative effect of all of the additional developments coming on line. And that's what in your answer, Stan, I understood and appreciated what you said, but it didn't account for the cumulative effect.

Now, it may not have impacted this project, but countywide somebody has to be looking at that.

COMMISSIONER CHRZANOWSKI: But that's the purpose of that limited allowable discharge. Technically they have looked at every basin and said predevelopment, these basins discharge water. And they've fixed the amount in those basins to different rates. And if you're in a basin that has a predevelopment discharge of .15 CFS per acre, they make you do post-development of the same. So you really should have no effect on the water system, properly designed and properly built.

COMMISSIONER ROMAN: And I can appreciate that. The one thing I see is this flow, how, you know, water's going to usually take the shortest way and the easiest way to the flow to wherever it's going. So that's the only thing I noticed in this. I don't know how that can be efficient with that hard right angle.

MR. LORENZ: Well, as I said, the developer's engineer is here in terms of looking at that whole system which he provided that report on.

CHAIRMAN STRAIN: And we'll hear from him next, unless Charlotte, is there any other question

--

COMMISSIONER ROMAN: No, that's good.

CHAIRMAN STRAIN: Jay, if you don't mind?

MR. GRANT: I'm not Jay Westendorf, I'm Dick Grant. Can we accept Mr. Westendorf as being the project engineer with --

CHAIRMAN STRAIN: My first question of him is to tell us a little bit about himself.

MR. GRANT: That's what I --

CHAIRMAN STRAIN: Because I only know him by name, I don't --

MR. GRANT: I know.

CHAIRMAN STRAIN: -- know anything else about him.

MR. GRANT: And I was going to -- I'm going to ask him to do that right now.

CHAIRMAN STRAIN: Yeah, that's fine.

MR. GRANT: He'll give you his background, explain what he does and how long he's done it and his credentials.

CHAIRMAN STRAIN: Okay, thank you.

MR. WESTENDORF: Good morning. My name is Jay Westendorf with Omega Consulting Group.

For the record, a little bit about my background. I've been practicing civil engineering in Florida since 1984, so just over 30 years. I -- excuse me, I'm getting over a cold and still have my cough with me.

I am licensed in the State of Massachusetts, not in the State of Florida. I do not have a bachelor's degree in engineering. However, all of my 30 years experience is in Florida. I have been a principal of my Omega Consulting Firm and an officer of my previous two firms going back in the mid 1990's. I have testified as an expert in front of this body before, both the Planning Commission and the Collier County Commission on multiple projects, with the City of Naples, City of Fort Myers, Lee County and the school boards.

CHAIRMAN STRAIN: Have you ever testified in a court of law?

MR. WESTENDORF: Yes, I have.

CHAIRMAN STRAIN: As an expert?

MR. WESTENDORF: Yes, sir.

CHAIRMAN STRAIN: Okay. And who's the qualifier for your current company?

MR. WESTENDORF: My business partner, John Musser.

CHAIRMAN STRAIN: Is he here today?

MR. WESTENDORF: He is not.

CHAIRMAN STRAIN: Okay. And he's an engineer, PE?

MR. WESTENDORF: Yes, he is.

CHAIRMAN STRAIN: And what's his specialty?

MR. WESTENDORF: Civil engineering.

CHAIRMAN STRAIN: Anybody have any questions?

COMMISSIONER CHRZANOWSKI: I've dealt with Jay forever.

CHAIRMAN STRAIN: I know. I'm a little concerned he isn't a Florida State engineer, but I don't see any other flaw that I'm that concerned about.

Anybody have any concerns here?

(No response.)

CHAIRMAN STRAIN: Okay, well then we'll accept him an expert and Jay, please go forward.

MR. WESTENDORF: Okay, thank you.

At the request of my client and hearing the concerns of the neighbors, we have looked at the Tarpon Cove drainage lightly and more globally, if you will, the Wiggins Pass basin. I'll put on the visualizer kind of a larger exhibit.

Let's see if this shows up. Yeah, I think this shows up a little bit more clearly.

We're focusing now on the east side of the Cocohatchee Bay PUD. What is shown here on the visualizer is the existing condition. This is from the county's drainage master plan from around 2001, I believe. And what is shown here shaded is titled the Wiggins Bay Outlet Basin. It's roughly 1,500 acres.

And this is the watershed that drains this entire vicinity. You can see that it extends to the east of 41 out even east a little bit further from Old 41 out to the old Seaboard Coast Line Railroad. It goes all the way north. Doesn't show up on this map. If we could take it down a little bit.

All the way north to the county line to Bonita Beach Road.

And the western boundary is Vanderbilt Beach Road.

This is the existing drainage basin. And there's a blue arrow line that shows the drainage flow way of the referenced DOT ditch that runs south from Spanish Wells, as Stan mentioned, along Old 41 and then runs under a box culvert under 41. Right through here.

At that point it actually bisects the Tarpon Cove development. And as was discussed, it makes a hard left turn and then turns south and then ultimately crosses Wiggins Pass Road.

There are a pair of double barrel pipe culverts at that location.

At that point you can see the arrow split through here and here. The more directly south arrow actually runs through a box culvert and runs through the Gulf Harbor development. And then some of the water actually continues east along the north side of I believe it's Wiggins Lakes, and runs through some wetlands. And ultimately all the water ends up in the Cocohatchee River.

That's the existing drainage pattern. As you can see, most of the 160 acres of the Cocohatchee development east of Vanderbilt is in that existing drainage basin.

As part of the previously designed and permitted golf course development, the previous design engineers had actually looked at the same drainage basin situation and come up with a scheme for offering an alternate or bypass drainage outfall. And what they were doing was encapsulating and recognizing the fact that there is a little bit of a bottleneck where the water currently is going under Wiggins Pass Road.

The applicant currently also owns a two or three-acre commercial parcel on the southeast corner of Wiggins Pass Road and Vanderbilt. And what was proposed as the golf course development and permitted through the Water Management District and Collier County was to run a bypass pipe system through that property. I'll point it out. Right here.

CHAIRMAN STRAIN: You'll need -- it's better if you point from there instead of -- because you can't be away from the mic and talk.

MR. WESTENDORF: Understand. Right where I pointed.

What we're proposing is a series of ditches and pipes that run through the property and then it will go

under Wiggins Pass Road as a 72-inch culvert and ultimately discharge directly to wetlands on the west side of this parcel into the Cocohatchee River.

CHAIRMAN STRAIN: Is that articulated in the PUD document as you've just described it?

MR. WESTENDORF: It's not articulated in the PUD document. It has been previously permitted by the Water Management District and Collier County.

CHAIRMAN STRAIN: Right, but I think that we would want to make sure that that is somehow locked into the PUD document as a stipulation. Because I think it would help resolve a lot of concerns as to the additional capacities you may be or may not be providing into that existing basin.

Stan, do you see anything wrong with trying to do something like that from an engineering perspective?

COMMISSIONER CHRZANOWSKI: No.

MR. WESTENDORF: We're committed to do that.

So the net effect of this is that we are taking two-thirds of the drainage that's coming from the north, between U.S. 41 and Vanderbilt Drive, which is roughly 540 acres, we're taking two-thirds of that drainage which is shown here in the hatched area, and letting that come through our bypass, and we're adding our own outfall to that.

So in essence we're taking roughly 600 acres out of the 1,500-acre basin that's currently going under Wiggins Pass Road in the area of the Tarpon Cove concerns.

COMMISSIONER CHRZANOWSKI: In your opinion, how much head loss do you get by that sharp left turn coming through Tarpon Cove?

MR. WESTENDORF: We didn't analyze the actual Tarpon Cove ditch system or the DOT ditch system ourselves. We looked at the cross-section of the trapezoid on the Tarpon Cove design that they reflected from the original DOT design. And because it's an open ditch, I think it would be a negligible head loss to --

COMMISSIONER CHRZANOWSKI: Yeah, that's what I would assume too.

CHAIRMAN STRAIN: Okay. Well, I mean, I think this is good news compared to what we didn't have before we asked you.

MR. WESTENDORF: Okay.

CHAIRMAN STRAIN: Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Thank you.

MR. WESTENDORF: Thank you.

CHAIRMAN STRAIN: Okay. With that, we have had the staff report, the petitioner's report, public testimony and some questions that remains for rebuttal. If the applicant would like to provide any rebuttal, you're more than welcome to.

MR. GRANT: Mr. Chairman, I'm Dick Grant again.

I really have no rebuttal. I've got one minute of summary, if I might.

CHAIRMAN STRAIN: Absolutely. Go ahead.

MR. GRANT: Okay. I think you heard at the beginning your goal here as the Chairman, as the County Attorney said, that this is a planning consideration, not the settlement agreement. We fully understand the Board of County Commission is going to have to consider the settlement agreement. And I submit to you, that really shouldn't be part of your recommendation today. You obviously have to be the judge of that. You have a project that has come forward, it's certainly been through some controversy.

The NIM was messy, but the NIM worked. Okay, the developer and the applicant listened and changes were made. And it certainly appears that a number of community representatives and I'm sure their membership understand that. And that's why you've heard some people supporting this today that certainly in March were not supporting anything.

And I believe that what's been presented is a sensible sound project. The density is quite low compared to what could be allowed. The staff is recommending it. We've agreed to a number of stipulations and changes here in the PUD document today to clarify things and limit things, and we'll make those changes. And I simply ask you to approve it. I don't really have anything else. Thank you.

CHAIRMAN STRAIN: Mr. Grant, thank you.

Kay, before we go into our discussion -- oh, did you have a question?

COMMISSIONER EBERT: Yeah, I have a question for Kay. Well, it's in the PUD. Maybe Wayne can answer it. What are viewing platforms?

MR. ARNOLD: For the record, I'm Wayne Arnold.

Viewing platforms are sometimes recreational amenity where you can walk up to a platform and see the vista across the project, where you might actually have a view of the water in this case, or a preserve.

CHAIRMAN STRAIN: Corkscrew Swamp Sanctuary has a really nice one.

COMMISSIONER EBERT: And then Mark, on Page 30, the 250 acres from the -- what was the final answer on that?

CHAIRMAN STRAIN: No more than five percent would be utilized for passive uses. That's going to be a stipulation -- or a recommended stipulation, I hope.

COMMISSIONER EBERT: So we're going to keep -- because I understand that these preserves are being moved around in this development.

CHAIRMAN STRAIN: There's 123 acres of preserves required by the county. Those aren't moveable. The others are because they're not required. So when you see preserves move around, it is an extension beyond what they're required to preserve. So they're actually over double the amount of preserve they're required to have.

COMMISSIONER EBERT: Okay, but they can cut down on those then.

CHAIRMAN STRAIN: That's why we're limiting it to five percent. There was no threshold previously allocated. It could have been unlimited. In fact, it could have been more than 50 percent and it's down to five now.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: Kay, I've got two questions for you. With everything you heard today, the testimony, the questions, the back and forth between this board and the applicant and the members of the public who spoke, did you hear anything that changed your position on how -- on the compatibility of this project to its surrounding area?

MS. DESELEM: No, sir.

CHAIRMAN STRAIN: Did you hear anything that would make this project inconsistent with the LDC or Growth Management Plan?

MS. DESELEM: No, sir.

CHAIRMAN STRAIN: Okay.

Anybody else have any other questions?

COMMISSIONER ROMAN: Yes, I had a couple questions. I think these will be appropriate for Wayne.

Wayne, when we talked on the phone, I know that there was some discussion that you might have an updated layout of the PUD revisions, and I was wondering if you had such a drawing so that we're talking off of the current most updated drawing.

MR. ARNOLD: Well, the PUD master plan that's in your packet is the most up-to-date conceptual master plan. And you had asked the question about the specific footprints because the high-rise towers had been previously approved.

COMMISSIONER ROMAN: Yes.

MR. ARNOLD: We had an exhibit that we used at the NIM, and I'm sure I have it here in my stack of --

COMMISSIONER ROMAN: Oh, that's okay, I don't need to see that. I'm focused on the east side of Vanderbilt Drive here. I just wanted to be sure I was talking off the drawing in the Exhibit A in the staff report.

As Diane previously mentioned, under the previous PUD with the golf course, there was a requirement or a commitment to be 200 feet from all PUD boundaries. Now you've proposed 100 feet from the boundaries. But I notice that there's -- the 100 feet vegetative buffer stops on the east side of the -- east side Vanderbilt Drive property. It only goes partway up along that PUD boundary.

MR. ARNOLD: Yes, it coincides with the homes that would be adjacent to us. The eastern finger tract will have no residences in it.

COMMISSIONER ROMAN: So where that R-2 is, that will be -- that's the finger tract that will be completely vegetative.

And then is that northern boundary 100-foot vegetative buffer going to touch that, or how we've got that working there?

MR. ARNOLD: Well, I think there's some variation in upland and wetland vegetation.

COMMISSIONER ROMAN: Okay.

MR. ARNOLD: So I don't know, but we've held this contiguous to the homes, which was the commitment we made to the neighborhood property owners.

COMMISSIONER ROMAN: Now, when you talk about this vegetative buffer, what kind of vegetative buffer are you talking about?

MR. ARNOLD: We hope that it remains native vegetation to the --

COMMISSIONER ROMAN: What's there.

MR. ARNOLD: And staff -- you'll note that it wasn't meant to diminish what we were doing, but staff noted that whatever it was has to be at least equivalent to a Type A buffer, which is what you would have, single-family to single-family homes. But in the 100 feet we expect that we're going to have quite a bit of native vegetation that would be retained.

COMMISSIONER ROMAN: That's going to be retained in that area. Because it's quite dense in some areas, so I was just wondering about that.

And then when we talk about the preserves here, these smaller preserves, and I know in talking with the environmental staff we went over -- they went over these with you and you had some discussions about trying to protect some of the more valuable habitat. In looking at what the engineer -- or hearing what the engineer just said at that corner of Wiggins Pass and Vanderbilt Drive, I like the fact that you're going to try to maintain some of that preserve there where it's most heavily populated with some of the species on-site. But it looks like that's where the drainage is going to go with the 72-inch pipe. Is that --

MR. ARNOLD: I'll have to let Mr. Westendorf again address it. I know that the same preserve issues are there with regard to the --

COMMISSIONER ROMAN: And the protections will be there?

MR. ARNOLD: I'll let Jay give you the answer.

COMMISSIONER ROMAN: Is that an open 72-inch pipe is what I guess first of all I need to clarify.

MR. WESTENDORF: For the record Jay Westendorf with Omega Consulting.

And I'm sorry --

COMMISSIONER ROMAN: You mentioned your drainage flow is going to flow out the corner there of Vanderbilt Drive and Wiggins Pass. And I made a note that along that Vanderbilt Drive headed south there would be a 72-inch pipe.

MR. WESTENDORF: That is correct.

COMMISSIONER ROMAN: Okay, what I'm asking, is that an open 72-inch pipe?

MR. WESTENDORF: By open --

COMMISSIONER ROMAN: Meaning you can -- the water's going to flow through it and we're going to see it flow. It's not buried.

MR. WESTENDORF: It will be buried with structures.

And it had previously been designed and permitted along with the golf course. We're really not changing that, we're just tailoring it to the single-family subdivision. And what we had previously done in that southwest corner of the what's now single-family area, we'll have a temporary easement to go through there to construct that pipe.

COMMISSIONER ROMAN: Okay.

MR. WESTENDORF: And after it's submerged and backfilled, there will be vegetative areas put back on top.

COMMISSIONER ROMAN: Okay. All right.

So Wayne, on that corner preserve, that seems to be from the environmental report where many of the more populated areas with some of the species that are on-site. So that's an important corner, I would think, to take a look at. I'd like to see you at least try to maintain that preserve if you can and make it as healthy as you can as you go forward with your construction.

MR. ARNOLD: Okay.

CHAIRMAN STRAIN: Is there anything else, Charlette?

COMMISSIONER ROMAN: No, that's all.

CHAIRMAN STRAIN: Okay, anybody else have anything?

COMMISSIONER EBERT: Yeah, I do.

Transportation. John, I noticed a lot of changes in transportation.

CHAIRMAN STRAIN: Yeah. And by the way, I'm going to have to offer the applicant another opportunity to rebut, because this testimony should have occurred earlier in the meeting and we had actually got into rebuttal and closing. So I guess we're going to open things back up and we'll do it again.

COMMISSIONER EBERT: John, I spoke with you just briefly back there during the short break we had. But it looks like east/west Livingston was originally supposed to go across, if I'm correct, and go down to Vanderbilt Drive; is that correct?

MR. PODCZERWINSKY: That's correct.

COMMISSIONER EBERT: And you told me that they took it off from the long-term planning recently?

MR. PODCZERWINSKY: Yes. It would have appeared I believe in the 2030 long-range transportation plan, which this document should have been reviewed under the first time. The resubmittal that they've come in for this iteration was reviewed against the 2035 long-range transportation plan.

Again, those plans are published by the Metropolitan Planning Organization, that's the MPO's document. The document that's out there today does not include that segment of Veterans Memorial Drive from 41 over to Vanderbilt Drive. Correct, it's been removed from the plan and is no longer shown as a need.

COMMISSIONER EBERT: Okay, so -- but it will go to 41?

MR. PODCZERWINSKY: That's the intent, yes.

COMMISSIONER EBERT: Okay. So you're taking that off. And it's only because they looked at the 2035 rather than the 2030? It was on the 2030 plan?

MR. PODCZERWINSKY: It should have been, yes, on the 2030 plan, yes.

COMMISSIONER EBERT: So, okay, if the county, if they change their mind and -- can they come back in and take that L piece?

MR. PODCZERWINSKY: We would be able to, yes, is my understanding. And the applicant can of course confirm, he should be able to confirm that, that it should still be available. They said that they're simply not going to construct anything in that corridor; is that correct?

No, I'm sorry, I'm wrong about that. I'll let the applicant address whether or not that --

CHAIRMAN STRAIN: Wait a minute, you're thinking you're going to take a piece of this project in the future after they get built?

MR. PODCZERWINSKY: No, absolutely not.

CHAIRMAN STRAIN: Then why are we even discussing it?

MR. PODCZERWINSKY: Diane asked the question --

COMMISSIONER EBERT: I asked the question because I originally know that it was going to come to Vanderbilt Drive and they had the reservation there.

MR. PODCZERWINSKY: The understanding that I want the board to have is that at this point it's been removed from our needs plan. It's not -- we're in the development right now with the MPO of the 2040 long-range transportation plan. That gets updated every five years. And at this point that's still not a consideration in the modeling efforts. That doesn't look like we're going to model that section of roadway as a need. It's not an identified need. It hasn't been for it will be almost a decade now, my understanding, since the 2030.

COMMISSIONER EBERT: All right, since the 2030. But you thought that that's what they were going to go under in reviewing, and then it would have shown the road there.

MR. PODCZERWINSKY: Yes. Yes, if it showed it in the current long-range transportation plan as a need, we would have readdressed it during this application, but it's not in there.

COMMISSIONER EBERT: Okay, very good. Thank you.

CHAIRMAN STRAIN: Okay, are there any other questions of anybody at all?

(No response.)

CHAIRMAN STRAIN: Mr. Grant, do you want to have any further summary rebuttal, in the things you've heard since your last one?

MR. GRANT: I don't think so.

CHAIRMAN STRAIN: Thank you, sir, I appreciate that.

We'll close the public hearing and we'll entertain a motion. A motion made in behalf of this board will also have to be made on behalf of the EAC review as well.

If the motion is for denial, that's up to the motion maker. If it's for approval, I have a list of 19 conditions that were modified as we talked out here today. I can read those into the record, if it would -- just in case it influences someone's desire to make a motion.

The first one is there will be a maximum of 30 guest suites as accessory units to the entire PUD.

Second one will be the north AR tract and all -- in that tract all accessory and principal uses will have 100-foot setback from the north property line.

Number three: The amount of preserves that can be used for passive uses shall not exceed five percent.

Number four: Lights in the AR tract shall be flat-paneled full cut-off shields.

Number five: The hours of the tennis courts will be no greater than 7:00 a.m. to 10:00 p.m.

Number six: LBEs, which is landscape buffer easements, and LMEs, which are lake maintenance easements, will be separately platted for tract R-2.

Number seven: Guest suites and cabanas will be listed only as accessory uses wherever they occur in the document.

Number eight: The -- we will add to the -- the eagle nest location plan as an exhibit to the Bald Eagle Management Plan.

Number nine: We will strike item B-2-iii. We will strike the preserve language setback in the -- oh, no, we decided not to strike the preserve language setback in the development standards tables, so let me take that out.

We will delete the accessory height line in the development standards table.

We'll drop page -- on Page 38, we'll drop item D.

And item F, I think -- I don't remember the page, we'll change from building to unit. I know the paragraph, and I'm sure we'll find it as we go through our notes.

COMMISSIONER HOMIAK: Page 39.

CHAIRMAN STRAIN: Page 39, okay.

On Page 40, we're going to delete items A, B, C and D as they're redundant.

On the following page after that we'll delete items 6.10 to 6.12 as redundant.

The applicant will be required to get an acceptance from the private utilities for the use of their CUE into the private utility easement prior to the SDP submittal -- or with the SDP submittal.

And the applicant will be modifying the site discharges from the existing basin plan that they showed here today for redirect down to the southwest corner at the intersection -- near the intersection of Vanderbilt Beach Road and Wiggins Pass Road.

I believe that's all the substantial items that I made notes of from the discussions we had. Does anybody have anything that they think should be added?

(No response.)

CHAIRMAN STRAIN: Staff, are you comfortable with what was read and understand what we've been through?

MS. DESELEM: Yes, sir.

CHAIRMAN STRAIN: Okay. So with that, if there's no other discussion, is there a motion from anyone on the Planning Commission?

COMMISSIONER CHRZANOWSKI: Yeah, I'll move that we forward Petition PUDZ-PL20130001813 to the Board of County Commissioners with the stipulations Mark just read, with a recommendation for approval.

CHAIRMAN STRAIN: Is there a second.

COMMISSIONER HOMIAK: I'll second.

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

Discussion. From my perspective, I'm going to support the motion. This was a hearing strictly on land planning application and this project is consistent and compatible as with typical other projects of a similar nature, based on the PUD amendment being requested today.

Anybody else?

COMMISSIONER EBERT: Yes, I will not be supporting this only because I feel uncomfortable with it because in the PUD on the background statement they are repealing the 2000-88 completely. And it's just -- I cannot support this plan.

CHAIRMAN STRAIN: Okay. With that, we'll call for the vote.

All those in favor, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Motion carries 4-1.

Thank you all for coming today. The Planning Commission is going to take a break and resume at 1:00.

(Luncheon recess.)

CHAIRMAN STRAIN: Okay, let's everybody resume their seats. We're done with lunch.

COMMISSIONER CHRZANOWSKI: Yes, get this item over as quickly as possible.

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Mr. Yovanovich is here, and he has to drum up some time to get paid today.

MR. YOVANOVICH: I think my client would be fine with a quick approval.

CHAIRMAN STRAIN: Before that, though we have a cleanup item from this morning. And I've talked to Mr. Grant before he left and I've talked to Wayne Arnold who is still there. Assistant County Attorney Heidi Ashton reminded me that the Planning Commission's ordinance regarding consent is that there is no consent unless we ask for it. And I reminded Mr. Grant and Wayne that we did want to -- we did anticipate a consent on this, even though we failed to ask for it. I'd just like affirmation from this board that we will have a consent hearing on the Cocohatchee Bay PUD on January 15th.

COMMISSIONER EBERT: We will have it.

CHAIRMAN STRAIN: Is that a -- can I have a motion?

COMMISSIONER CHRZANOWSKI: Motion.

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Seconded by Karen.

All in favor?

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: So Wayne, you're official. I thank you for staying around, since you had to anyway.

***Next item up is petitions -- and we're going to hear both petitions simultaneously and vote on them separately.

One is PL-20140000534/CPSS2014-3. It's for the Henderson Creek Mixed Use Subdistrict. It's located on Collier Boulevard within the Tamiami Crossings CPUD, the piece of it in question, at least.

And the other item is 9.C, it's PUDA-PL20140000477, and that is the Tamiami Crossings Commercial PUD located on U.S. 41, Collier Boulevard.

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 from the Planning Commission.

Stan?

COMMISSIONER CHRZANOWSKI: Yeah, I talked to Mr. Yovanovich a few times.

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: None.

CHAIRMAN STRAIN: None.

And I spoke to Wayne, and I think Rich and I had phone conversation that wasn't enough there for he and I to talk about, so we tried to save his client some money in that regard.

Karen?

COMMISSIONER HOMIAK: I spoke to Mr. Yovanovich.

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: Yeah, I spoke with Rich.

CHAIRMAN STRAIN: Okay, these are two separate actions, Rich, but we're going to talk about them together. And I know they're named differently so maybe you can explain to us what's going on.

MR. YOVANOVICH: I'll try. For the record, Rich Yovanovich. With me is Doug Kirby with Kite, the owner of the property; Wayne Arnold and Brent Addison with Grady Minor to answer any questions I can't answer.

On the visualizer outlined in yellow is the area that we're talking about which is currently zoned the Tamiami CPUD, Tamiami Crossings CPUD. It's roughly 25 acres.

We're here to do two things today: One is a small-scale Comp. Plan Amendment for about .88 acres. And I think what I've done is I've kind of combined it onto the master plan.

What I've done is if you've seen a little hatched area, that's the .88-acre piece that is part of the small-scale Comp. Plan Amendment. That will come out of the Henderson Creek mixed use subdistrict and go into the activity center number 18.

Originally that piece was part of the Artesia PUD, but where Wal-Mart basically is constructed.

There was -- that little piece was owned by somebody else. Wal-Mart took up all of the out parcels when they did their project, and this piece was left with basically no uses other than for parking.

We incorporated that piece into the Tamiami Crossings PUD with a prohibition on doing anything on it other than parking. You couldn't put a building there.

The original PUD had two master plans. One was for a large format retailer which had basically the building fronting right onto U.S. 41. And then we had the alternative plan, which was more of your typical retail center master plan.

As part of the PUD amendment we're eliminating the large format retailer plan and going with the retail -- more retail plan that we had before with some minor changes to that plan.

So that's what's in front of you today is essentially a change to go to one master plan. We're not adding any new uses. We are allowed under this plan, once we put that little piece into the activity center, we can put some of the building on that out parcel to make that out parcel more functional and more consistent with what we want to do on this project. We're not here to increase any square footage, we're not changing any of the uses, as I've already mentioned.

We're adding one deviation, which would allow us to have two directory signs on 41 and one on the East Trail. Right now we would be allowed to have one on 41 and one on -- not the East Trail, one on 41 and one on Collier Boulevard. So we're adding that deviation.

In my meetings or phone conversations with planning commissioners, some clarifications came up. And if you'll bear with me, I'll take you through those in the PUD to show you where those clarifications are.

One of them is handwritten, because I didn't get a chance to make the change. But in talking to

Planning Commissioner Homiak, she wanted to make sure that the reference to SIC Code 5735, which is also videotape stores, be added to the prohibition on the adult oriented sales or rentals. So we added that prohibition.

There were some clarifications in the development standards table. Essentially we are eliminating the triple asterisk footnote. It's not necessary. So we're clarifying that in the development standards table, as well as eliminating that footnote altogether down below.

We also are adding a minimum setback from 41 for -- basically you have 100 feet for all setbacks from 41 that are not the out lot parcel, so it's basically for the major building that will be a minimum of 100 feet from U.S. 41.

There were a couple small grammatical changes. On page -- bear with me -- 11 of 13. We had to reletter these commitments. For whatever reason when we were striking them we didn't catch up. So that becomes an A and a B. And then the conceptual master plan is singular, not plural, so we clarified the grammatical errors we had in that paragraph.

I think -- the interconnection? Right, I'm sorry, that was in reference, it should be one interconnection, not multiple interconnections.

So those are the grammatical changes that commitment, transportation commitment A.

I think that's everything that came up in our meetings. That's in sum and substance what we're trying to change. We've had no negative comments from anybody through either letters, at the NIM. Staff's recommending approval of both the GMP Amendment and the PUD, and we would request that the Planning Commission send this to the Board of County Commissioners with recommendations of approval on both petitions.

CHAIRMAN STRAIN: Okay, questions from the Planning Commission?

(No response.)

CHAIRMAN STRAIN: So far, silent.

Let me see if I have any comments, Richard. And I think you may have already addressed all of mine.

Page 11 of 13. I think you got this. Let's see. Yes, you did, okay.

That's it. Yeah, you got everything that I had on my list.

So does anybody have anything else?

(No response.)

CHAIRMAN STRAIN: If not, is there a staff report?

MS. GUNDLACH: David?

MR. WEEKS: David Weeks, Comprehensive Planning Staff.

We recommend approval. That's all I have.

CHAIRMAN STRAIN: That's refreshing. Thank you, David.

Nancy?

MS. GUNDLACH: And I'm Nancy Gundlach from Planning and Zoning, and I recommend approval as well.

CHAIRMAN STRAIN: Okay, thank you.

There's no members of the public registered or here, so that's not going to happen. And then we will -- you certainly -- Richard, you're welcome to rebuttal.

MR. YOVANOVICH: I'll waive my rebuttal.

CHAIRMAN STRAIN: Okay, good.

COMMISSIONER HOMIAK: On Exhibit E, did you change -- on one, parking distribution, where it says Exhibit F, item 2.E.1, that will be 2.B.1?

MR. YOVANOVICH: You mean the lettering?

COMMISSIONER HOMIAK: Yeah.

MR. YOVANOVICH: If we missed that, we'll have to do --

COMMISSIONER HOMIAK: Yeah, you have to reletter them.

MR. YOVANOVICH: Yes. Do we have that? We will, if we missed it. We'll go back and look at that lettering.

That becomes C, correct? Environmental becomes C? We did catch that, I forgot to show it to you.

CHAIRMAN STRAIN: Anything else, Karen?

COMMISSIONER HOMIAK: No.

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

First of all, I'd suggest by the motion maker we wouldn't need to have a consent.

We're going to add SIC-5735 to the prohibited uses. Delete the triple asterisk under the footnote to the standards development table. Setback from U.S. 41 will be a minimum of 100 feet for non-outlet parcels. And there are various grammar and lettering corrections as discussed that will be made.

And if the motion maker, if there is one, is comfortable with that, they can include them or not. It's up to you guys. Would anybody like to make a motion?

COMMISSIONER HOMIAK: I'll make a motion to -- should I read -- we're doing them both at the same time?

CHAIRMAN STRAIN: Let's start with the Henderson Creek. Well, yeah, let's do the PUD first. That way you can say it's subject to the -- you can say it's subject to the --

COMMISSIONER HOMIAK: PUD.

CHAIRMAN STRAIN: -- stipulations that we just read.

COMMISSIONER ROMAN: You might want to use the mic too, Karen.

COMMISSIONER HOMIAK: I thought I was.

CHAIRMAN STRAIN: Your voice wasn't carrying.

COMMISSIONER HOMIAK: Okay. I'll make a motion to approve PUDA-PL20140000477 with the stipulations that were just mentioned by Mark.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER CHRZANOWSKI: Second.

CHAIRMAN STRAIN: Seconded by Stan. Discussion?

(No response.)

CHAIRMAN STRAIN: All in favor, signify by saying 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 5-0.

Now to the Comp. Plan Amendment.

COMMISSIONER HOMIAK: It says Growth Management Plan amendment. I'll make a motion to approve PL20140000534/CPSS-2014-3.

COMMISSIONER CHRZANOWSKI: I'll second.

CHAIRMAN STRAIN: Motion made and seconded. Discussion?

(No response.)

CHAIRMAN STRAIN: All in favor, signify by saying 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 5-0.

Now, I want to thank you, Richard, for your long and intense presentation and for your applicant to

have flown in from God knows where to attend this meeting for five minutes and leave again. So thank you all for your attendance, and we appreciate it.

MR. YOVANOVICH: Thank you.

CHAIRMAN STRAIN: That wraps up -- I don't think we have old or new business, other than the fact I certainly wish everybody a very Merry Christmas and holidays, Happy New Year. It's a nice time to relax. And I don't think we're coming back here until January 15th. And so thank you all.

With that, is there a motion to adjourn?

COMMISSIONER CHRZANOWSKI: Move to adjourn.

COMMISSIONER ROMAN: Second.

CHAIRMAN STRAIN: Second by Charlette.

All in favor, signify by saying aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

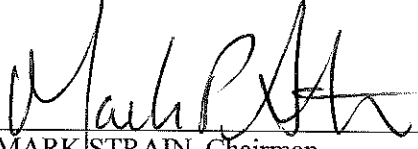
CHAIRMAN STRAIN: Anybody opposed?

(No response.)

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

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 1:13 p.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.