

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
February 5, 2015

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

Mark Strain, Chairman
Stan Chrzanowski
Brian Doyle
Diane Ebert
Karen Homiak
Charlette Roman

ALSO PRESENT:

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

CHAIRMAN STRAIN: Good morning, everyone. Welcome to the Thursday, February 5th meeting of the Collier County Planning Commission.

If everybody will please rise for Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Thank you. Will the secretary please do the roll call.

COMMISSIONER EBERT: Yes. Good morning.

Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER EBERT: Mr. Chrzanowski?

COMMISSIONER CHRZANOWSKI: Here.

COMMISSIONER EBERT: Ms. Ebert's here.

Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER EBERT: Ms. Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER EBERT: Mr. Doyle?

COMMISSIONER DOYLE: Here.

COMMISSIONER EBERT: And Ms. Roman?

COMMISSIONER ROMAN: Here.

CHAIRMAN STRAIN: Thank you.

Planning Commission -- or addenda to the agenda. There are no changes that I know of. We have two consent, we have one regular agenda item, then we have a new item which will be last, the Floodplain Management discussion.

The new item will be after consent. The new item will be the automobile service station. Actually, it's come back to us since it was here last time, but it's the only regular item we have scheduled for today.

And with that, addenda -- the Planning Commission absences. Our next meeting is February 19th. Does anybody know if they're not going to make it?

(No response.)

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

We have no minutes sent to us from last time, so we'll move right into BCC -- well, Ray's not here so we'll postpone BCC report 'til the next time Ray's here.

I have no chairman's report, so that will take us right into consent. The first item up on consent is CU-PL20130002048. It's the Briarwood PUD. And Fred Hood is here to answer some questions, I would hope, especially the outcome of the architectural review.

MR. HOOD: Good morning, Mr. Chairman, Commissioners.

Yes, I can answer any questions that you may have on the outcome of that meeting.

CHAIRMAN STRAIN: Well, why don't you give us the outcome.

MR. HOOD: Well, the outcome was we went in for an architectural review committee meeting with Briarwood POA. What wound up happening was a de facto neighborhood information meeting that the POA put on. And we discussed architectural standards. We also discussed the project as a whole. Like I said, it was basically another NIM.

The outcome of that meeting was actually nothing. We contacted the POA the day after our meeting with you on the 15th. We spoke to them and said we wanted to come in for architectural review. We had every intention of going and discussing architectural review with the POA. As I said, the meeting turned into another neighborhood information meeting based on the entire project and not specifically elevations, building location, anything like that.

So there was no formal meeting to receive any approval from the ARC, so what we did was we spoke to the president of the POA after that meeting and he requested that we meet with him once he had all the information, construction drawings, landscape drawings, architectural drawings, cross-sections, anything else that they requested. We were waiting on our condo docks. They also requested those. We got those I believe yesterday afternoon. We sent those and the rest of that information over directly to them via email.

We are also couriering over three sets of all that information today.

They told us that they would not set a meeting to review architectural standards or the project information until they have reviewed all that information.

As I think you've spoken with staff on the ARC portion of the PUD, we usually do that at SDP level. I understand that -- and the last time we were here you wanted that, Mr. Chairman, to be addressed as a part of this Conditional Use. I think you had a conversation with Mr. Sawyer that we would defer that to SDP. I'm not sure if you can --

CHAIRMAN STRAIN: No, I'll explain. First of all, the comment you made that we usually defer those reviews until the SDPs, that's not accurate. Very rarely do we as a government body get involved with private deed restrictions --

MR. HOOD: I understand.

CHAIRMAN STRAIN: -- so we don't defer them to the SDP because they don't normally enter into our picture.

MR. HOOD: Right.

CHAIRMAN STRAIN: On this particular PUD, because of its age it did have that paragraph in it, which brought it into the realm of government review because it is in the PUD.

I did talk to the County Attorney's Office to discuss the language that was in the PUD and what timing could be provided as a result of that language. And from -- and Heidi Ashton's here, and if she disagrees or if I've misinterpreted what she said I'm sure she'll speak up.

But it was my understanding that because the paragraph did not specify the time frame that it had to be obtained by but it just needed to be obtained, that your request to provide it at the SDP would meet that condition. So -- and from that perspective, I'm comfortable with it.

But I know you had two prior NIMs.

MR. HOOD: Yes.

CHAIRMAN STRAIN: And those were somewhat uneventful in regards to opposition, from what I understood.

Did this one change any of that?

MR. HOOD: We were --

CHAIRMAN STRAIN: And let me tell you where I'm going before you go too far. You have to come in for a PUDA to modify the square footage that you want to put on that property.

MR. HOOD: Right.

CHAIRMAN STRAIN: The outcome of that PUDA may not allow you to have as much square footage as you want. That would change the configuration of the buildings that you have there.

This is a Conditional Use. If you don't get the buildings you want in line with the Conditional Use site plan you've submitted, then you may have a problem with having to amend your CU.

As a suggestion, while you're still in the process with us -- and if the County Attorney's Office has any problem with this, I need them to speak up -- you may want to come back, reopen your case and put an amended site plan in for the conditions you'd end up with if you didn't get your PUDA approved. And that way we have both options on the table to save you the process of possibly another Conditional Use. I'm just throwing that out on the table to help save time.

MR. HOOD: Let me ask you this: Would we be able to -- we can probably handle that with the PUDA once we come back instead of reopening the Conditional Use. Wouldn't the PUDA supersede any Conditional Use? The master plan I'm talking about.

CHAIRMAN STRAIN: Well, the master plan that's in the PUDA is the one for the project as a total, not the individual site. The Conditional Use pertains to the individual site. And I'll leave that -- I'll defer that question to the County Attorney's Office from a legal position if we could do something like that or not.

What he's suggesting is if through the PUDA process he doesn't get the square footage that's in the CU, he can modify the CU through the PUDA process.

Is that the gist of it, Fred?

MR. HOOD: Yes.

MS. ASHTON-CICKO: Yeah, but I --

CHAIRMAN STRAIN: Your mic's not working, Heidi. You have to pull it closer.

MS. ASHTON-CICKO: So the question is the --

CHAIRMAN STRAIN: See the push button in front? Just push.

MS. ASHTON-CICKO: Is it working now?

CHAIRMAN STRAIN: Ah, now you are.

MS. ASHTON-CICKO: If you wanted to modify the site plan to the Conditional Use through the PUDA, yeah, I think you can do it that way, but as long as it's advertised properly.

CHAIRMAN STRAIN: Okay. And I just wanted to make sure that's covered. Because you've had now three NIMs, and the last one, if it changed any dynamics from the first two and you've got issues, your PUDA is going to probably draw out a lot more people than the Conditional Use may have.

MR. HOOD: Well, I believe of the 20 or 25 people that did show up we had three people that were in opposition. One of them was the president of the POA who's been in opposition of it from the very beginning.

CHAIRMAN STRAIN: But he didn't show up at either one of the NIMs.

MR. HOOD: Didn't show up at either of the NIMs.

The other two people, I believe one of them showed up to the NIM and the other one lives at the far north end of the Briarwood development in the residential section. So I'm not sure how you would review their positions on the project. They're not here, I don't think, today to -- or even the last time we were here to discuss their grievances with the project. So everyone else seemed to just want more information and we gave them that information. We forwarded more information to the Board of -- their POA, and I'm sure that will be disseminated.

We've kind of met our requirements to inform the public, and we did so a third time without really needing to.

CHAIRMAN STRAIN: Okay, I just wanted to make sure that if we can keep the system as efficient as we possibly can, and that's what brought up my question.

So with that --

MS. ASHTON-CICKO: Actually, if I may interrupt for a moment.

CHAIRMAN STRAIN: Yes.

MS. ASHTON-CICKO: I notice that the conditions of approval that were revised were not in your package. And I can read them off, if you'd like, the additional that were added. I'm having someone bring a copy down to put on the visualizer so you all can see it. But would you like me to read it?

CHAIRMAN STRAIN: Yes. I mean, what I did is went back and looked at the original application. And those conditions that we recommended on the original application are still intact, but it would be good to have them on the record again, if you don't mind, that would be fine.

MS. ASHTON-CICKO: Actually, you added I believe was it three or four?

CHAIRMAN STRAIN: Well, we accepted staff recommendations.

MS. ASHTON-CICKO: Correct.

CHAIRMAN STRAIN: We limited the clubhouse for the owners and guests not open to the public. We requested that the height be matching the PUD language, which was 30 foot above finished grade. And we wanted the land use summary removed from the master plan and the architectural letter. And of course the issue involving the project's additional square footage. Is that what you're -- some of that stuff --

MS. ASHTON-CICKO: Well, yeah, there was language, so that's why I would prefer that you see the language that was drafted. But I can read it, if you want.

CHAIRMAN STRAIN: Well, Michael, what language is she talking about that we -- what are we missing here?

MR. SAWYER: For the record, Mike Sawyer, Project Manager for the petitioner.

I think what we're really missing is -- and I apologize, I should have made sure that this was part of your package today -- is the revised -- the revised resolution that reflected the addition of the -- I believe it was the additional conditions that you had added. And we do have that, I just don't have the revised version.

CHAIRMAN STRAIN: Okay, why wasn't it -- I mean, I went back and looked at what we had talked about last time, so I -- my assumption was that was what we were going to be -- that's still intact. But

I'm glad it was pointed out. We may need to look at it further.

MS. ASHTON-CICKO: I think it was the last three that were added.

CHAIRMAN STRAIN: As soon as we get the machine turned on, we'll be good to go. Ah, Katie's coming to help you.

Yeah, that's the list. Yeah, that's the list. That's what was -- yeah.

MR. SAWYER: Yeah, I believe basically we're looking at items six through eight, the last three. And I believe that was the language that was discussed.

CHAIRMAN STRAIN: Okay. And I don't disagree with you. That would save you from reading all that, huh?

Well then, before we go too far, your master plan has an error on it, Fred, and it mimics the discussion I had with you by email a couple days ago. The -- this is not a project involving floor area ratio. It is a project involving floor area. Now, that may seem identical, but it's not. There's two separate definitions that are provided to you in this EVL letter. The note that's on the bottom right-hand corner of the master plan needs to be eliminated.

MR. HOOD: Okay.

CHAIRMAN STRAIN: Or at least the -- I'm sorry, where it says maximum FAR, I would suggest it just say current maximum floor area for private clubs and parking facilities. And then take the reference to FAR out, since that's a completely different definition.

MR. HOOD: Okay.

CHAIRMAN STRAIN: And other than the listing of the standards and changes we had previously recommended and that change on this master plan, it's my understanding it kind of seems consistent with everything that we talked about before.

The master plan is only to the effect of Phase I. And the Phase 2 process of the master plan would only come to reality if you were successful in a PUDA.

MR. HOOD: Correct.

CHAIRMAN STRAIN: So is there anything else that anybody has on this item?

(No response.)

CHAIRMAN STRAIN: And Heidi, are you comfortable with all that?

MS. ASHTON-CICKO: Yes.

CHAIRMAN STRAIN: Okay, is there a motion on consent for this item?

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

CHAIRMAN STRAIN: Subject to the list that Michael showed on the overhead --

COMMISSIONER HOMIAK: Yes.

CHAIRMAN STRAIN: -- of the recommendations and the change to the note on the master plan?

COMMISSIONER EBERT: I'll second.

COMMISSIONER HOMIAK: Yes.

CHAIRMAN STRAIN: And -- I'm sorry, and the letter that -- the request by the applicant to have the architectural criteria prior to the SDP.

COMMISSIONER HOMIAK: Yes.

CHAIRMAN STRAIN: And that second accepts all that?

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: And Mike, the list of conditions, would you make a note on that list where it references the architectural letter, that it was modified at consent to be accepted at the time of SDP submittal?

MR. SAWYER: I'll make sure that gets done.

CHAIRMAN STRAIN: Okay, with that, is there any discussion?

(No response.)

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

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Thank you, Fred.

MR. HOOD: Thank you.

CHAIRMAN STRAIN: We'll see you next time around.

MR. HOOD: All righty.

CHAIRMAN STRAIN: ***Next item up on consent is PUDZ-PL20130001241. It's the SR 29 CPUD located at the northwest quadrant of State Road 29 and Westclox Street in Immokalee. This is also known as the Immokalee Wal-Mart for lack of a better term.

And we have a consent application in our packet. Wayne, do you have -- I know there's been some back and forth discussion between you and the County Attorney's Office. So we have multiple items in front of us on this one today in regards to changes. I think we ought to -- if you could help us, which one is the one we should be working with? I guess from the County Attorney's Office, which is your latest version, Heidi? I've got at least three. And how can we identify which is the one that you -- I've reviewed them all. The one that you most recently did is the one I'd like to start talking from. And is that the one that's got a blue lettering on it?

MS. ASHTON-CICKO: I didn't do any of them. Mine is the first page of your --

COMMISSIONER ROMAN: Your microphone's not on.

MS. ASHTON-CICKO: It doesn't want me to talk.

But maybe if Wayne goes through the pages, that might be easiest, because there are only a few pages that were changed from what's in your package.

CHAIRMAN STRAIN: Wayne, which version -- how do we identify the version that is the latest one that you want to work off of then?

MR. ARNOLD: I'm Wayne Arnold with Grady Minor.

And we apologize, the packet that was initially sent out to you last week included the revisions that we believe reflected the Planning Commission recommendations.

There were two things that changed over the version you had versus the version that the County Attorney's Office had and we finally settled on. And I'm happy to go through all the pages, if necessary.

But what changed over what you had seen was on Page 4 of 15 of the PUD. It was the development standards table. We had a footnote that was included that referenced the reduction to buffers and setbacks in the event that a sidewalk or additional right-of-way was required on State Road 29. Heidi convinced us that there's a -- Section 9 in your LDC has provisions that deal with those takings and how we treat landscape buffers. So that was deleted in the most current version that should be adoptable.

CHAIRMAN STRAIN: In the revision on the bottom of that page and the one that was in the packet says Revision 6, 1/21/2015. What is the designation of the one that has been changed so I can go to the right document? I've got three -- actually four different versions, so I'm not sure --

MR. ARNOLD: Mine says revision six on the bottom that I believe is the most --

CHAIRMAN STRAIN: Revision 6 still has that --

MS. ASHTON-CICKO: Excuse me, I could probably make it a lot easier. They made all the changes except the Page 7 deviation number two, they added a line.

CHAIRMAN STRAIN: The only thing I wanted to do, Heidi, is to make sure that when we vote on it we vote on the right version as a document that's going to go forward to the Board.

So with all the documents that were received, again, what was the revision on the bottom that you -- what number are you going with?

MR. ARNOLD: Mine says revision 6, dated February 4th, 2015.

COMMISSIONER ROMAN: My revision says January 21st.

COMMISSIONER DOYLE: Mine too.

CHAIRMAN STRAIN: Mine says January 21st too.

COMMISSIONER HOMIAK: It was sent to us by email.

MR. ARNOLD: Yeah, this was sent to you by email yesterday or the day before.

CHAIRMAN STRAIN: It's titled SR 29 CPUD, Revision 6. Then it says CCPC 2/4/15. That's the one you're going from. That was sent to us just recently.

MR. ARNOLD: This is what I believe to be your latest version. It has an asterisk there that simply references the signage would be exempt from those other expressed accessory setbacks.

CHAIRMAN STRAIN: Could you put Page 1 on and get us to this page by showing the pages one at a time so we all know what pages are being clarified?

MR. ARNOLD: You want to go through page-by-page?

CHAIRMAN STRAIN: You don't have to go through it, just put it on the overhead.

Page 1 would be the one that's titled Exhibit A. Okay, that's different than the one that came in the email.

COMMISSIONER ROMAN: Uh-huh.

CHAIRMAN STRAIN: Bowling center on the one that we've got dated the date that you quoted, Wayne, number 7 is the bowling center.

COMMISSIONER HOMIAK: It's number six.

CHAIRMAN STRAIN: Well, it's number six but --

COMMISSIONER HOMIAK: There's another version.

CHAIRMAN STRAIN: There's another version?

COMMISSIONER HOMIAK: Yeah, that has --

COMMISSIONER ROMAN: Revision six with different dates.

CHAIRMAN STRAIN: Okay. Well, someone needs to help us here.

MR. ARNOLD: I'm sorry, I'm not following your change, Mr. Strain.

CHAIRMAN STRAIN: The change is wrong. I was on a version that -- I have two versions dated 2/4/2015. Both -- one of them has bowling centers as number seven, the other has it as a strike-through and replaced it with number six. So let's put that one back on the overhead that you had. I think this is the right 2/4/2015 version. Okay, now it matches up.

Okay, can you go to the next page?

MR. YOVANOVICH: You want to go page-by-page?

CHAIRMAN STRAIN: I just want to show them on the overhead so they match up with what we're reading up here. All I'm trying to do is get to the same document.

MR. ARNOLD: All right.

CHAIRMAN STRAIN: That has the change in item former 17 to 16, excluding adult orientated sales. Let's go to the next page.

There's no changes on that page.

The next page is the development standards table. The change on this page was a strike-through of the double asterisk that used to be there that the County Attorney's Office asked to have removed.

Then the next page is your master plan. I don't believe there's any --

MR. ARNOLD: We made a change on the --

CHAIRMAN STRAIN: Yes, you did.

MR. ARNOLD: -- master plan, Mr. Strain, over what you saw on your original hearing. You asked for us to extend the northern driveway access point to make it look more consistent with how we've treated the southern. We've extended it farther to show the throat distance. So you'll see at the northern top part of that page we've extended the access point internal to the site, consistent with what we believe FDOT will ultimately approve.

CHAIRMAN STRAIN: Okay.

COMMISSIONER HOMIAK: And the potential interconnection. That was -- the interconnection was there.

CHAIRMAN STRAIN: The interconnection's there too, so --

Next page is your Exhibit D, and I don't think -- there's no changes there.

Exhibit E is where we get into some more changes.

MR. ARNOLD: And this is what Heidi mentioned. This is on Page 7 of 15. And deviation number two was revised.

We had discussion on this, if you recall, that we had an option at the time of providing the sidewalk concurrent with our site improvements, or the question was do we pay in lieu. And our conversation was simply we'll make provisions for the sidewalk in the event FDOT needs additional right-of-way for it. And out of that discussion came this language that I believe the County Attorney's Office and Rich both concur meets our legal requirement.

CHAIRMAN STRAIN: I'd like to hear from --

MS. ASHTON-CICKO: It's a policy decision. The only difference between my version and theirs is the first part: If a sidewalk or pathway cannot fit within the remaining SR 29 right-of-way. That's what they added. So it's a policy decision.

MR. YOVANOVICH: The existing -- Mr. Strain, if you'll remember, what we had worked out with staff was we had the option of building the sidewalk or we could elect to provide right-of-way if DOT couldn't fit the sidewalk in the existing 200 feet of right-of-way that's out there. Those are the options we worked out with staff.

Heidi said we could not have an option, we had to -- that's what I was told, we couldn't have the option to do a sidewalk or, so we picked the we'll give you right-of-way if you need it.

MS. ASHTON-CICKO: That's an incorrect statement. The prior version said the developer has the discretion --

CHAIRMAN STRAIN: Right.

MS. ASHTON-CICKO: -- to choose which option they would like to proceed. So I just tightened it up so there wasn't discretion in the developer.

CHAIRMAN STRAIN: And Richard, the idea of adding the first part of that sentence, if a sidewalk or pathway cannot fit with the existing SR 29 or right-of-way, that's a little bit discretionary on the part of who's making the decision whether or not it can fit or not. We may not think it can, but what about DOT?

MR. YOVANOVICH: We met with staff, and staff believes it will fit. If they have a good reason why it will not fit, we're happy to give them the additional 10 feet. We didn't want them to come in and automatically say you know what, we've got a free 10 feet, give it to us.

MS. ASHTON-CICKO: To satisfy Rich's concerns, I'd put a termination in there. This is currently under design in the PD&E. FDOT on their website calls it project development and environmental study. So this is a study that's currently ongoing. So the commitment would terminate when they reach 90 percent design on the study. So, you know, there is a foreseeable date that in time that it's going to terminate.

MR. YOVANOVICH: Let me -- the bottom line --

CHAIRMAN STRAIN: Just a minute.

Heidi, the balance of that paragraph, with the exception of the first part of the introduction up to the first comma, the balance of the paragraph works then?

COMMISSIONER HOMIAK: That's her language.

MS. ASHTON-CICKO: Yeah. Yeah, that was my language start with "the owner".

CHAIRMAN STRAIN: That's what I wanted to confirm.

Go ahead, Rich, do you want to respond then to what she had --

MR. YOVANOVICH: Well, yeah, there's an end termination date. But our point is you've got 200 feet to build your improvements. If DOT says you know what, I have a developer who is on the hook to give me another 10 feet, I think the natural inclination would be to say give me the additional 10 feet as I'm going through this process. Because why would I not want a free 10 feet if I'm DOT?

So the termination date doesn't really mean much. It's the how are they going to engineer it. Are they going to be able to fit it within 200 feet or are they going to think they've got a free 10 feet and now they're going to design a road right-of-way width of 210 feet instead of 200 feet?

So that's all we're asking. We're asking them to be reasonable. If -- we find it hard to believe you can't fit it in all in 200 feet. But if there's a good reason why you can't, and engineers can decide whether there's a good reason, you can have the 10 feet.

CHAIRMAN STRAIN: This all generated as a result of a request by you or your client not to have to put the sidewalk in and not to have to pay in lieu of. So now you want this language added so that even if the DOT wants it but they don't have a good reason why they can't build a sidewalk there within the 200 feet, that produces a situation where you've got an argument, then you walk away without having any contribution in regards to the need for that sidewalk.

MR. YOVANOVICH: Mr. Strain, let's take it a step back.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: The agreement with staff that we reached was for us to have the option at our Site Development Plan to either build the sidewalk or agree to provide right-of-way, if it's necessary. Those were the two choices we had. I don't see that as discretion; I have a choice of A or B that I have to make at Site Development Plan. Fine. I don't know what's illegal about that. But we didn't fight the point. We said, you know what, we'll go the right-of-way option. We'll provide -- and that's the deal we struck with staff.

The bottom line is, and I have a question, because it's going to relate to the next item you have, but it applies here and I think it makes a good point. Our original language had in there very clearly that if you take the right-of-way, we don't have to -- everything is still measured as if that property line was where it is. My buffer gets skinnied up by 10 feet, my setbacks are still measured. I don't have any problems related by giving the document -- giving that easement or that land. I have that.

Your Land Development Code currently says, what Heidi convinced me, that Rich, that's okay, the LDC already says that if you give the right-of-way, you don't make any changes to your landscape buffers, your setbacks, et cetera.

My concern is what if the LDC is amended in the future and that provision is deleted and I didn't have in my PUD document that safeguard for my client?

MS. ASHTON-CICKO: That's not correct. You do. It says convey to the county or state per LDC Section 9.03.07.

MR. YOVANOVICH: And if 9.03.07 goes away in the future, because you can amend the LDC in the future --

CHAIRMAN STRAIN: Just add the words at the time of approval of this PUD.

MR. YOVANOVICH: Thank you.

CHAIRMAN STRAIN: Then you're covered.

MR. YOVANOVICH: That's fine.

CHAIRMAN STRAIN: Everybody's happy. It works.

MR. YOVANOVICH: I just want to make sure that we limit what happens to us in the future through changes that may happen to the LDC.

With that being said, I guess it really doesn't really matter, you'll either have a -- you may lose 10 feet on the buffer.

CHAIRMAN STRAIN: Well, and that's the next point I was going to make to you. You guys aren't at a loss on this in regards to either way it happens. You either got a wider buffer that you're not using except for a buffer, or the public takes it and has a smaller buffer that the only detriment could possibly be is to the public. So -- and it actually saves you on maintenance and on the irrigation and other things you may have to do to that buffer.

So I'm not sure it needs to be this big of a deal. So I like the fact if we would cross out that first part of the sentence that you added up to the comma, leave it as the county attorney wrote it, but then after 9.03.07 reference make it reference at the time of approval of this PUD. That way you're covered, county attorney's happy with it and we're good with that paragraph.

So anybody else? I mean --

(No response.)

CHAIRMAN STRAIN: Let's look at Exhibit F. The only changes on those were the first paragraph where it references project it now says owner. Then we get into the language on the bottom of the page.

MR. YOVANOVICH: Do you see it?

CHAIRMAN STRAIN: Anybody have any issues with E and F?

(No response.)

CHAIRMAN STRAIN: And then on the next page we have paragraphs G and H on the top. This is all to do with the signaling and the warrants of 29 and Westclox.

Then further in the page they added the conceptual graphics that this board had requested to be able to read the elevations and the notes thereon.

MR. YOVANOVICH: You need me to put those up? Because I --

CHAIRMAN STRAIN: No, I --

MR. YOVANOVICH: -- didn't print those pages.

CHAIRMAN STRAIN: Not unless someone here -- anybody here need them put up?

(No response.)

CHAIRMAN STRAIN: I've got them in the packet and they look like we had instructed, so --

MR. YOVANOVICH: And Mr. Strain, I don't think there are any further changes from --

CHAIRMAN STRAIN: There aren't.

MR. YOVANOVICH: -- Pages 13 through 15. I could put them up that shows no changes, if you want me to, but --

CHAIRMAN STRAIN: I think that's fine.

Does anybody from the Planning Commission have any further questions on this?

(No response.)

CHAIRMAN STRAIN: What I would like to suggest, if there's a motion to accept this on consent, subject to the changes that were shown on the overhead today and the correction made regarding the paragraph on -- let me get the page so we do it right -- Exhibit E, number two, it's on Page 7.

Is there a motion to that effect?

MR. YOVANOVICH: Can I ask a question? And I know this is unusual, but as you've told me, as you get older you reserve the right to get smarter.

CHAIRMAN STRAIN: No, you -- that came from you, Rich.

MR. YOVANOVICH: You stole that from me, but that's okay.

The unusual part of this request is as I brought up the point on section 9.03 point whatever, my concern was the LDC would change and we would lose the protections that are in the current LDC.

I've got a concern that the LDC could change and somehow affect the approvals we've received in this PUD document. And as we've been doing for the last several years, we're trying to make sure we don't duplicate what's already in the LDC within a PUD document. By way of example, setbacks from preserves, it's already in the LDC. We used to say the setback from preserves is 25 feet. We're not duplicating things like that. We're not duplicating utility provisions, we're not duplicating road provisions.

I would like to see, can we add a provision to not only this PUD, but I'll be asking for this for every PUD forward to basically say that we're not subject to any changes to the LDC that may be adopted subsequent to the adoption of the PUD.

Because I can't anticipate -- I know what deviations I can ask for today, because I know what the regulations are. I don't know what might change in the future, so I can't ask for a deviation in advance.

CHAIRMAN STRAIN: Rich, I'm just not comfortable doing that as broadly as that on the fly like this. And plus it wasn't part of our original motion.

MR. YOVANOVICH: I understand.

CHAIRMAN STRAIN: It's something that we probably ought to look at and have a discussion on it at some point. From a property rights perspective I think everybody that has a right to know what to expect in the future, they ought to be able to do that. I don't necessarily disagree with you, but I'm not sure how broad that should be.

We have things that are absolutely necessary to revise and make better, like water management, certain engineering and things like that. I would hate to see an LDC be referred to that wasn't as comprehensive or as conscious of those safety issues that need to be in it and then have an exception there because of the way it's listed in the PUD. So I'm not real comfortable with that right now. At least for this document we shouldn't even be considering it.

Okay, so with that in mind, unless anybody on the Planning Commission has any other changes or requests, is there a motion to accept this consistent with the discussion we've just had on this from the

overhead.

COMMISSIONER HOMIAK: I make the motion to approve.

CHAIRMAN STRAIN: Motion to approve from Karen.

Seconded?

COMMISSIONER CHRZANOWSKI: Second.

CHAIRMAN STRAIN: By Stan.

Discussion?

(No response.)

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

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

MR. ARNOLD: Thank you.

CHAIRMAN STRAIN: Thank you.

***Next item up is our only regularly advertised public hearing. It's 9.A. This has been continued from December 18th and then again from the January 15th, CCPC meetings. It also was sent back to us by the Board of County Commissioners from when they had gotten it to relook at the -- specifically the address -- to address automobile service stations in proximity to residential property.

All those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter -- I'm sorry, it's legislative, you're right. I keep thinking we're into -- we usually do that on regular items.

So with that we'll go right into the presentation by Caroline. And I know there's handouts, so Jeremy, you're going to pass those out to us, I guess?

MS. CILEK: Jeremy's going to pass out two handouts for each of you. If you could just put those to the side I will get to the maps in a little bit, okay?

Good morning. Caroline Cilek for the record.

Yes, we are here again today following the first rereview in January. And what we've done is go back as requested by the Planning Commission to do a little bit of research, which is illustrated on maps that were provided to you in your packets a week ago. And then we have some more maps today.

What I'm going to do is walk through a Power Point presentation. I have a couple of items that I'd like to bring up before we get into the maps. And at the end I also have some development scenarios that will utilize the maps so we understand what types of development will fall under either a public hearing process or an administrative process.

CHAIRMAN STRAIN: And Caroline, before you go into your presentation, I wanted to know how many members of the public are here that would want to speak on this item? If you could just raise your hands.

Okay. The reason I wanted to do that is after your presentation and before we get into a lot of deliberation, it probably would be good to hear what the public's thoughts are on this so --

MS. CILEK: Absolutely.

CHAIRMAN STRAIN: -- we can include that into our review.

MS. CILEK: Perfect.

CHAIRMAN STRAIN: Thank you.

MS. CILEK: Okay. You all received a revised LDC amendment. And in that amendment we wanted to articulate the Board's conversation and direction and motion that was made at their meeting last October. And so I have these items and I can read them off if you'd prefer, but I just wanted to make sure that you knew that the amendment had been revised both in the reason section and in the LDC text section.

CHAIRMAN STRAIN: I think for the benefit of the public, if they're not on your presentation you're going to use on your overhead or on the Power Point, then could you just read those? There are only four or five small sentences there, if I'm not mistaken.

MS. CILEK: Yeah, it's all these bullet points right here. So I can read them off, I have no problem doing that.

CHAIRMAN STRAIN: You're saying right here. Can you tell us what it is you're referring to. I'm kind of lost.

MS. CILEK: Oh. I think it's --

CHAIRMAN STRAIN: I bet Katie's going to be running over here in a minute.

MS. CILEK: That would be great.

CHAIRMAN STRAIN: It's all this new equipment they have.

I hear the door shut. She's --

MS. CILEK: I'll try to learn how to do this.

CHAIRMAN STRAIN: Thank you, Katie.

COMMISSIONER ROMAN: She's getting her exercise.

MS. CILEK: My apologies. Thank you, Katie and Mike.

CHAIRMAN STRAIN: Now, did we miss anything on Page 1? Because I see this is Page 2.

MS. CILEK: Just a pretty picture.

CHAIRMAN STRAIN: Okay, thank you.

MS. CILEK: Would you like me to read them off?

CHAIRMAN STRAIN: That would be helpful.

MS. CILEK: Bullet point one: Ensure that the required separation between gas stations and residential property is clear, including existing setbacks, walls and buffers.

And what we've done is noted the pages that are -- that have these conversations points that are in your packet.

CHAIRMAN STRAIN: These were pulled --

MS. CILEK: Directly from the meeting minutes.

CHAIRMAN STRAIN: -- right off the transcript from the meeting minutes.

MS. CILEK: Yes. And we did paraphrase the conversation. We couldn't write out the exact text --

CHAIRMAN STRAIN: I understand.

MS. CILEK: -- so we paraphrased.

Two: To be as restrictive as possible regarding this type of development.

Three: Ensure that property rights for all parties are protected.

Four: Commercial properties have by right the ability to develop uses that are less desirable than a gas station.

Five: Examine compatibility and health concerns, in particular fuel vapors.

Six: Require the maximum distance possible from residential zoning and address fuel vapors.

Following that discussion, the Board had a consensus that there was a -- that the distance should be at least 300 feet from any gas station, regardless of the number of fuel pumps.

Following that tidbit, the County Attorney noted it was unclear whether this standard could be accomplished, the 300 feet minimum.

And last, motion by the Board included addressing fuel vapors and a rereview by the Planning Commission.

So when we prepared this amendment we took all these bullet points into kind of a comprehensive concept to pursue our research and the draft amendment.

CHAIRMAN STRAIN: Okay, thank you.

MS. CILEK: In your packets you received a set of maps. These maps do not illustrate all of the gas stations in the county. They were just examples.

And what they showed and what you previously -- these were the ones that were presented, excuse me, in January were the locations of gas stations, the size of them and their proximity to residential based on the buffer of 300 feet, and they also identified sensitive land uses.

Keeping those in context we wanted to then identify again this picture that illustrates fuel pump and then how to count fuel pumps, just to remember this discussion. So this is the fuel dispensing device. These are your fuel positions, i.e., also known as your fuel pumps.

And this is how you would count them. So there's two -- one fuel pump on each side of a fuel dispensing device on most scenarios.

And this gas station has eight fuel pumps.

One of the things that we noticed when we were reviewing the amendment to prepare it for this meeting today was that the definition of fuel pump had some discrepancies in it. The main idea here is that we were introducing the fuel pump as a fuel dispensing device, that terminology, and we were also describing the fuel dispensing device as the column that has the fuel pumps on it in the same terminology.

So what we've done here is tried to remove that conflict and slightly revise the definition. So with your approval, we'd like to make this change to the definition, and I'd love to hear your comments as well. We did not put this in the amendment because we didn't have that direction and we wanted to talk about it before we made the change to the text.

COMMISSIONER EBERT: I have a question for you, Caroline.

MS. CILEK: Sure.

COMMISSIONER EBERT: When your fuel gauge is low, where do you go?

MS. CILEK: Where do I go?

COMMISSIONER EBERT: Uh-huh.

MS. CILEK: It depends where I'm close to.

COMMISSIONER EBERT: Well, when your fuel gauge is low, where do you go to refuel?

MS. CILEK: I go to a gas station with very few fuel pumps near my office.

COMMISSIONER EBERT: Okay. Very few? Anyway, that one's pretty big.

The reason for it is I guess maybe we're old-fashioned, but I go to a gas station. I do not go to facilities with pumps. This has gotten to me, and I'm going you've got to be kidding me, are we that different that the new terminology -- I mean, politically correct, we don't use gas station anymore?

CHAIRMAN STRAIN: That has nothing to do with it. The political correctness has nothing to do with it, Diane.

COMMISSIONER EBERT: Facilities with fuel pumps?

CHAIRMAN STRAIN: Because gas stations, as they were previously known, are not nearly in existence today. You can have fuel pumps with all kinds of uses, including food centers like we do have, including --

COMMISSIONER EBERT: Almost all of them are.

CHAIRMAN STRAIN: -- clubs, centers and membership centers.

Right. They're not gas stations, so you can't use that terminology and clearly explain to everybody. We're trying to capture a wider variety. If you resort to gas stations, which is, well, something you could stand and believe that's the right way to go. I don't see how it's going to accomplish the goal of capturing all the new uses that include fuel pumps.

COMMISSIONER EBERT: Well, most of the stations down here have convenient stores. Whether it's Hess, whether it's Circle K, any one of them. But you go to put gas in there.

I just -- the name facilities with fuel pumps, you might go to a facility to be pumped, but I'm going this, it just -- I guess it rubbed me wrong. I'm going, are we that -- am I that old that we can't even call a gas station a gas station anymore?

MS. CILEK: Two points. One, just to clarify for everyone, Ms. Ebert is speaking about a definition that is in the LDC amendment. It's not the definition that's on the overhead currently. And we utilize facilities with fuel pumps to be all encompassing of all the different types of uses that have fuel pumps and sell gasoline, whether at retail or wholesale. We wanted it to be encompassing.

CHAIRMAN STRAIN: Okay, so the -- could you put the -- so everybody sees the difference? You don't have -- you probably can't, can you?

On the overhead projector could you slide the definition that's in our packet so that members of the Planning Commission can see what -- well, the difference is what you've struck out; is that correct?

MS. CILEK: Yeah, it's right here.

CHAIRMAN STRAIN: Okay. Well, then that's fine, we're good with that.

The underlining is -- the underlined part on top is not --

MS. CILEK: We wanted to show that there's slightly changes to the word, right? So --

CHAIRMAN STRAIN: Yeah, there are.

MS. CILEK: -- it means any self-service. So it's not exactly the same and we moved it up. In that case we have to underline it.

CHAIRMAN STRAIN: Okay. And what it used to read for that first sentence in our packet is just slightly different.

For the benefit of the public, would you -- on the overhead would you slide that there just for a moment or two?

MS. CILEK: And also remember that at the last Planning Commission meeting the direction was to add also known as a fueling position. So that kind of makes it -- let's see here. All right. Switching up.

CHAIRMAN STRAIN: So there's been a slight wording change on this. In that first sentence is what we're talking about mainly. Because the rest of it on that previous slide showed that those were removed strike-throughs.

MS. CILEK: So here we're removing that part that says -- means a vehicle fueled dispensing device, because that's a conflicting language. We can't use that same terminology to describe a fuel pump and what we describe later on in the definition as the stand that holds the fuel pumps on it. That we're also describing as a vehicle dispensing device. And we just -- we want to remove that conflict.

CHAIRMAN STRAIN: Okay. Go ahead, Diane.

COMMISSIONER EBERT: Caroline, I called you on this when we had the original one. And because I went home and did some looking up on the Internet. And the word dispensers, I did find it on there, and I said what about island dispensers, so that we could understand as long as you didn't want to use fuel pumps.

What about island dispensers? Because it is built up on every one that I've seen. They are no longer on the ground.

And as far as -- I just thought island dispenser sounded a little better than just plain dispensers. And rather than using fuel pump handles, could we use fuel nozzles? It would give -- you know?

MS. CILEK: I'm not familiar with the term fuel nozzles in the research that we've done. They've been referred to either as fueling positions or fuel pump. Although I understand that they have nozzles. And I wanted to have the conversation regarding the islands with the Planning Commission.

COMMISSIONER EBERT: Yeah, you said you'd, yeah, bring it up.

CHAIRMAN STRAIN: Which is more comprehensive, island dispensing units or dispensing units?

MS. CILEK: I think the more comprehensive would be just dispensing units, because some may have islands and some may not.

CHAIRMAN STRAIN: Right.

MS. CILEK: I understand that many do. But in case that they are designed and constructed without them, you wouldn't want a lapse in the definition.

CHAIRMAN STRAIN: Thank you.

MS. CILEK: But thank you for your comments.

CHAIRMAN STRAIN: You want to go back to your presentation now?

MS. CILEK: Yes.

CHAIRMAN STRAIN: Thank you.

MS. CILEK: Okay, looking at the changes to the amendment text, we have the one regarding the definition.

CHAIRMAN STRAIN: Didn't come up on the screen. Thank you.

MS. CILEK: Thank you. You may have to keep reminding me.

Okay, so looking at the changes to the text of the amendment we had direction to amend a couple things, and we also added another one at the County Attorney Office's direction.

So we slightly tweaked the definition or the description moreover of the residential property. So I'm

going to take a look at that at C-1. I'll read that out loud.

For the purposes of this section: Residential property shall be any lot which is developed or zoned for residential use.

Then we added a comma and an "and". And new residential property shall be any property that is rezoned to residential zoning district.

And then we've added: Including Estates districts after an effective date.

We want to make it clear that the Estates districts are also included as a residential zoning district, although they are under the agricultural district itself.

CHAIRMAN STRAIN: But I think as we go through this, if anybody from the Planning Commission wants to jump in, just kind of let me know.

Charlette, did you have something?

COMMISSIONER ROMAN: No, not at this time, thank you.

CHAIRMAN STRAIN: On number one, and it was pointed out to me during early this morning that we allow residential uses in ag.

MS. CILEK: Uh-huh.

CHAIRMAN STRAIN: How would that be addressed relative to C-1?

MS. CILEK: Well, in this case they're not included.

CHAIRMAN STRAIN: Okay, but how would you know that?

MS. CILEK: That there's no home there or that --

CHAIRMAN STRAIN: No, if there was an ag. use and they built a house on it, would that -- that would not trigger this issue.

MS. CILEK: It's not triggered.

CHAIRMAN STRAIN: But how would you know that it wouldn't? I mean, how would staff know that?

MS. CILEK: Well, per how we've written it, it would just be residential zoning districts. So -- and that would include PUD's that have residential components and then Estates. Unless it articulates agricultural with a house on it, I don't see that as being included.

CHAIRMAN STRAIN: So when it says rezone to a residential zoning district, that means ag. zoned because it's not been rezoned a residential would not be covered by this paragraph.

MS. CILEK: Correct. And maybe Heidi would like to weigh in on that as well.

MS. ASHTON-CICKO: Well, I think --

CHAIRMAN STRAIN: Heidi, you better turn that mic on again.

MS. ASHTON-CICKO: I think the first sentence it would be included, because my understanding was that if it's developed or zoned for residential use, that included Estates property. That's the first definition. It pro-- but --

CHAIRMAN STRAIN: Well, maybe we should say including Estates districts but not agricultural.

MS. ASHTON-CICKO: Yeah, I thought the including Estates was going to go up at the top, but --

MS. CILEK: Okay, changes would be then --

CHAIRMAN STRAIN: Heidi, could we state in C-1 that agricultural districts are exempted or not part of this? Or excluded?

MS. ASHTON-CICKO: That would be another -- either way you could do it. That might be a better way to do it. Zoned for residential use, excluding ag. districts. No, that wouldn't make sense, because under ag. is Estates. So I guess I'd say including Estates and excluding ag.

CHAIRMAN STRAIN: Right. That's what I'm suggesting. And that would cover the ag. issue.

MS. CILEK: So including Estates, excluding --

MS. ASHTON-CICKO: Ag. Agricultural, the A.

MS. CILEK: Okay.

CHAIRMAN STRAIN: Okay.

MS. CILEK: And then at the very end at C-2, last sentence, we've added: Existing residential and Estates zoned lots shall not be affected by this amendment.

And that's to convey what we discussed last time, that if you have platted lots that are zoned

residential or Estates, and a gas station comes in and occupies a site, that those rights would not be taken away from those property owners and they could build a single-family home on those plats.

CHAIRMAN STRAIN: Okay. Let's move on.

MS. CILEK: Okay. Let's take a look at your new maps. So if you look at the top, they are labeled urban area one and urban area two, I believe. Great.

So at the last meeting you requested that we do a little research on nonconformities that would be created through this process. And what we did was work with our GIS team. And what these maps show is the zoning that is within 300 feet of gas stations of various sizes.

It's important to note that the residential parcels on these maps would not be affected by the amendment as we discussed in the prior slide.

CHAIRMAN STRAIN: So if there was something that was not zoned like an ag. property and they wanted -- or a commercial property and they want to rezone it to residential and it was within 300 feet of the gas station, then that rezone would have to go through -- which they would have to anyway, go through a public process, acknowledge and deal with the proximity of the gas station.

MS. CILEK: Right.

CHAIRMAN STRAIN: Under all scenarios. We don't have exclusions for distances across the -- from six-lane highways or behind rows of commercial buildings, like Sam's Club in North Naples where they -- let's say it was over 300 feet, you've got a giant warehouse building between the fuel facility and the residential. But we don't have exceptions for that.

MS. CILEK: The only exception you have is that this would only apply to gas stations with more than eight fuel pumps.

CHAIRMAN STRAIN: Right. But, I mean --

MS. CILEK: The small gas stations --

CHAIRMAN STRAIN: -- how many of those have we done in the last 10 years? One? Two?

MS. CILEK: It's several.

CHAIRMAN STRAIN: Several. Okay, very few.

So what happens is the ability for someone not only has a problem with the issuance of a -- the ability to build a gas station, but you now have an issue in building the residential too.

MS. CILEK: Well, it would need to go through the process.

CHAIRMAN STRAIN: Right. The intent of the process is Conditional Use or in the case of residential rezone. And the rezone this board and the Board of County Commissioners would potentially be looking at, what issues then if we had that occurrence where the residential project was coming in, what options would they have to deal with?

MS. CILEK: Well, what you would be going through would be the criteria that are identified in the LDC amendment, and you'd be evaluating the proposed facility fuel pumps that has more than eight fuel pumps in relationship to the -- or excuse me, new residential did you say? I'm sorry.

CHAIRMAN STRAIN: Yeah, let's forget the station right now, let's go look at -- I'm sorry, the facility with fuel pumps.

MS. CILEK: You would be evaluating the gas station in terms of where the location of the existing residential PUD is, for instance.

CHAIRMAN STRAIN: Okay, but would the residential then be responsible to mitigate any concerns there might be from their closeness to the gas stations? That's what I'm kind of getting at.

MS. CILEK: Perhaps. But perhaps if there's a warehouse there, you know, a giant 100 square foot warehouse, that would be part of the review process to say well, then that would impede the health concerns of the vapors. Or if there's a six-lane highway. Those factors can be included through the review process.

CHAIRMAN STRAIN: And the decisions that we're looking at are based on the nexus of the vapors.

MS. CILEK: Yes.

CHAIRMAN STRAIN: Okay. It's not compatibility, it's vapors.

MS. CILEK: The amendment does discuss both. Because the Board directed to look at both. So the amendment does. But from the 300-foot distance, it is based on vapors.

CHAIRMAN STRAIN: Okay. So if we know that a reasonable let's say form of mitigation for a house within 300 feet of an existing gas station is a building in between or maybe a six-lane road or a body of water or a wall that's X high, wouldn't those then be -- instead of questioning, instead of putting it into a gray area where they could be turned down, is there a possibility of acknowledging that those particular kinds of elements mitigate the circumstance and they don't need to go through a public process just for that issue?

MS. CILEK: Planning Commission is welcome to make that recommendation. Staff is following the Board's direction, from what we understand. So we wanted to keep it at a public hearing process.

CHAIRMAN STRAIN: And I know the Board's direction. I'm not trying to change that. I just want to understand that there's an alternative out there for the people caught in this issue. And the difference between my thoughts on this and maybe what we're leading ourselves into is if you already have the existing mitigation in place because your building is separated, your home -- or your gas station is separated by a commercial zoned -- I mean, a commercial structure that is 100,000 square feet or you have a six-lane road, is there still really a need to put those people into the system when it's obvious that they've met the mitigation needed?

MS. CILEK: The research doesn't go into that detail, it simply describes a 300-foot distance. And that's what we base this amendment on. If further elaboration from Planning Commission wants to recommend administrative approval process those type of items, that's fine, but based on the research, this is where staff felt comfortable.

CHAIRMAN STRAIN: Okay, thank you.

COMMISSIONER ROMAN: Mark, I have a question just to clarify your point. We began talking about a rezone, which means they'd have to come in with the petition and everything and we'd have to look at various things, including this, if it applied. Are you talking beyond that now? I thought you were talking about the rezone.

CHAIRMAN STRAIN: No, I'm not talking about beyond the rezone in relationship to the residential. Actually, it's a rhetorical question in a way, because if the residential can be protected by the fuel pump facilities by the mere fact that the vapors don't travel across six-lane highways with traffic or they don't travel through buildings or they don't travel through or past 12 or 15-foot walls, and those are the things you got to do, maybe we're better off instead of capturing all these properties into a Conditional Use process or another process, we just set some standards that if some of those meet those already, they don't have to come into the process. It's for only those that don't. And that would eliminate probably a lot of the people that might be thrown into the system that don't need to be. Because when they get there they're going to realize, well, yes, you've got a six-lane road separating you, plus a row of buildings? Why are you here? I mean, if that's all the -- if that's what cures the rational nexus and the concerns over vapors, then if we knew that and that was the solution, I'd rather offer that as a solution that we don't put more people through the system if we don't have to. That's all I'm getting to.

COMMISSIONER ROMAN: But that would be from the residential side. What about from the gas station side?

CHAIRMAN STRAIN: Same thing. If a gas station has got that protection as a mitigation -- if that's the mitigation we would impose on a Conditional Use process but it's already there, what's the purpose of the Conditional Use process?

COMMISSIONER ROMAN: And I don't know that we've looked into all those potential mitigation

--

CHAIRMAN STRAIN: That wasn't the direction of the Board.

COMMISSIONER ROMAN: Right.

CHAIRMAN STRAIN: I'm not trying to change that direction. So in the end today I'll be reviewing this as the Board directed it, which seems to be they want to deal with this 300-foot distance. I'm just not sure that's the only way we could go, so --

COMMISSIONER ROMAN: And I think what you bring up is a valid point. However, I think there might have been a compatibility issue as well that the Board was interested in in terms of the intensity of such a facility next to a residential area.

CHAIRMAN STRAIN: Right. But see, the compatibility brings in, you've got to have some

rational reason of what the compatibility failures are. And our zoning codes supposedly addressed the compatibility issues. No matter what went in on zoning C-4, the buffers and walls required, we're supposed to address that. And the whole basis for this review is to try to find a defensible rational nexus as to what's wrong when these are closer.

If the Land Development Code addresses the compatibility, what is it it's not addressing? And that's how we got to the vapors as the issue. So that's why that's the focus. And I think it's probably the most legitimate focus. But then again it can be mitigated. And all I'm suggesting is we can reduce the number of people that are pushed through a more intense system by simply listing standards as exceptions to needing the system. That might be a possibility. But that's not the one that was directed. I'm just offering it on the table for discussion and we'll end up voting on what was directed today, so --

COMMISSIONER EBERT: Caroline, I have a quick question. In here you say you have five active bulk stations. Where are they in Collier County and who has them?

MS. CILEK: You can look at the initial maps that were provided back in January. I don't know off the top of my head, I'm sorry.

COMMISSIONER EBERT: Well, when you say bulk, what do you mean by that? Are you saying -- what are you saying by bulk? You have five active bulk stations.

MS. CILEK: I would prefer to defer to the methodology that probably gives a description about them that was provided in January. Because I don't want to misstate what they are. But they're not your -- the gas station where I fuel up and where you fuel up.

COMMISSIONER EBERT: So you're saying it's more like the wholesaler?

MS. CILEK: But they're not also the Costcos or the Sam's Clubs. They're more for people who are doing industrial gasoline refueling. Mark, if you want to weigh in --

CHAIRMAN STRAIN: Yeah. Combs Oil, for example, has two or three sites. One of them's right there on Horseshoe Drive. You've got to have a commercial account with them to go in there. And it's not really open to the public, it's open to commercial accounts, and they're bulk. It's a bigger facility.

COMMISSIONER EBERT: It's commercial, more or less.

CHAIRMAN STRAIN: Oh, yes. Yeah, definitely. In fact, those are only allowed in your more intense districts. You can't put one of those in like you can a gas station or a facility with fuel pumps. We're going to get you on that new language.

COMMISSIONER EBERT: You just wait 'til it gets to the BCC.

MS. CILEK: Jeremy related to me that they were identified by FDEP as bulk stations, and that there are three two within the urbanized area and two within Immokalee.

COMMISSIONER EBERT: And two are in Immokalee? Okay.

MS. CILEK: Okay. Let's move on.

So based on the maps that were provided in your packets for today, we also identified the number of lots that are identified. So it's split up into type of existing residential lots. So we split it up between those in a PUD and those in more or less straight zoning/Estates. And then a number of parcels or lots that would be affected, and then whether a public hearing would be required for each of those.

So just to further state that PUDs would go through a -- would be impacted if the zoning is changed in that PUD, residential PUD. And then the straight zoning, those properties are just fine and they will not have to go through public hearing, based on those maps.

Okay, then my handouts that actually just got passed out, these ones, we did not have the time to put them in your packets. But these identify straight zoning in the county. And there are two. Again, just examples. We did the entire county, but just wanted to provide you some highlights here.

And what you can see over in the legend is that there are property appraisal parcels that are identified in C-2 through C-5 that are within 300 feet of residential zoning. These are the green lines. And what you can tell is that underneath is the kind of tan color, and that is a C-3 through C-5 residential zoning -- excuse me, that is zoning that's within 300 feet of residential zoning.

And so the green lines on top of the tan show you all the parcels that would be affected in those commercial straight zoning districts. There are quite a few.

The areas that do not have the green lines on top of the tan are those parcels that are -- or those areas

that are zoned commercial that would not be affected by this amendment.

There are a couple of red lines. Those are parcels that are C-3 through C-5 that are outside of the 300-foot limit. And those are very few.

Any questions on these maps?

(No response.)

MS. CILEK: They're just to illustrate the impacts to straight zoning.

CHAIRMAN STRAIN: You guys did a thorough job.

MS. CILEK: Thank you. We have a great GIS team.

CHAIRMAN STRAIN: Yes, it's good to see it this way.

MS. CILEK: Same thing here.

Okay, next up we wanted to go through several scenarios of when public hearings or administrative approvals would be required based on the amendment. And not all of these scenarios that we're going to show are actual illustrations on the map. We had to make up some of them.

Okay, so first is the -- a facility with more than eight fuel pumps is proposed within 300 feet of existing residentially zoned property. And the red dots indicate those eight or more fuel pump facilities. And here a public hearing would be required.

CHAIRMAN STRAIN: And that's because in these PUDs there's a residential component?

MS. CILEK: That's because that hashing comes from the maps that were provided in your packet and that shows that it's undeveloped residential.

CHAIRMAN STRAIN: Okay. But if the PUDs that are there had a residential component and they wanted to put gas stations where those red dots were, would that also trigger --

MS. CILEK: Different scenario. We can get to that one.

CHAIRMAN STRAIN: No, I'm fine.

MS. CILEK: Okay, in this one, a facility with eight or fewer fuel pumps is proposed within 300 feet of existing residentially zoned property. So here a green dot, eight or fewer, and it's administratively approved.

A facility with any number of fuel pumps is proposed further than 300 feet from residentially zoned property, simple administrative approval.

An existing facility with eight or fewer fuel pumps and within 300 feet of residentially zoned property proposes to increase the number of fuel pumps to more than eight. So it's expanding. This one would go through a public hearing process.

An existing facility with more than eight fuel pumps is within 300 feet of residentially zoned property, proposes to replace and modernize the existing pumps but not change the location or the number of them, that would be administrative.

Kind of the same picture as the first slide. A single-family home is built on an Estates lot consistent with existing zoning approvals within 300 feet of a facility with more than eight fuel pumps. This is administrative approval, because this amendment does not affect those lots that have already been platted and those property rights given.

CHAIRMAN STRAIN: I thought you might go to my question, but if you are, you can just tell me. Back to that last slide.

MS. CILEK: Yep.

CHAIRMAN STRAIN: So if the Estates lot was not built on, it wouldn't make a difference. But the fact it was zoned Estates, it's --

MS. CILEK: Exactly.

COMMISSIONER EBERT: So it's protected.

MS. CILEK: Yes. These could be there. So let's say these gas stations are 15 years old. I want to come in tomorrow and build a single-family home on Estates lot. I could do that.

A mobile home development proposes to be rezoned to a residential PUD within 300 feet of existing facility with eight or fewer fuel pumps. Because eight or fewer, the gas station part is administrative. Obviously there would be a public hearing required for the rezone.

A mobile home development proposes to be rezoned to a residential PUD within 300 feet of an

existing facility with more than eight fuel pumps, and a public hearing is required. Because it's --

CHAIRMAN STRAIN: This would require it for both reasons: The fact that it's residential within a station with more than eight, and just to get the rezone you need a public hearing, right?

MS. CILEK: Sure.

CHAIRMAN STRAIN: Okay.

MS. CILEK: An existing PUD proposes to increase the residential density within 300 feet of a facility with eight or fewer fuel pumps. Because it's eight or less it is -- yeah, eight or fewer it's administrative approval.

MR. YOVANOVICH: Rezone.

MS. CILEK: Yes. And at the bottom I have that. Sorry.

An existing PUD proposes to increase the residential density within 300 feet of a facility with more than eight fuel pumps. And a public hearing is required because of the increase in density.

Almost done.

An existing PUD that is within 300 feet of a facility with more than eight fuel pumps constructs an undeveloped phase of the PUD consistent with zoning approvals. They're making no changes to the PUD. Administrative approval.

COMMISSIONER EBERT: Mark's going to be busy.

MS. CILEK: A new facility with eight or fewer full pumps is proposed in a PUD that does not include gas stations as an allowed use and is within 300 feet of a residentially zoned property. Because it's eight or fewer it's -- that part is administratively approved, but there would be other public hearings required.

A new facility with more than eight fuel pumps is proposed any PUD which includes gas stations as an allowed use but which does not specify the number of fuel pumps that are allowed and within 300 feet of residentially zoned property. In this case, as we've written it, a public hearing would be required.

CHAIRMAN STRAIN: Let me ask you a couple questions about this one. If you're going to tell us in another slide, just say so.

If it's proposed in a PUD at the time the PUD was generated, they wouldn't have known to ask for a deviation or bring up the issue of whether or not the number of pumps mattered.

MS. CILEK: True.

CHAIRMAN STRAIN: How do we figure that -- how do we do that? I mean, I'm just wondering, so a PUD says they want gas stations. The whole world knows it goes through a public process, everybody's notified, we have the NIM, they get the right for gas stations, the code changes and now they can only have gas stations up to eight, even though their PUD may not have anticipated that small of a station. Have we thought that out?

MS. CILEK: This is based on conversations with the County Attorney's Office to include the PUDs as similar to the straight zoning. So that's how I understand it to impact them.

CHAIRMAN STRAIN: So the property rights attained through a public process in a PUD are now modified by the zoning action. They actually got the zoning for 5541, whatever the number is. But now it's not as good as it was because of this change, potentially.

MS. CILEK: As you discussed earlier, LDC is subject to change based on health/safety issues.

CHAIRMAN STRAIN: But we haven't -- usually the PUDs, because they're a separate ordinance, they supersede the LDC and they've always been looked at as the dominating document first. And where they're silent you fall back on the LDC. In this case the PUD isn't silent, it says you can have a gas station. But now we're saying, well, 20 years after you were approved we changed the way we look at gas stations but you have to come under -- you don't get them all, you only get this size. I'm just wondering how that enters into reasonable property rights.

MS. ASHTON-CICKO: Well, I haven't seen a PUD that has a gas station as the only permitted use in a commercial section. There's usually a whole laundry list and they're often hidden in the SIC codes. So I think it's the same as straight zoning and it does give them an opportunity for a public hearing.

What's not clear is whether it would be a -- you know, whether it could qualify under something like site plan with deviations or whether it would be an insubstantial change to the PUD or whether it would actually require a PUD amendment and go through the full process. That part is not clear to me.

CHAIRMAN STRAIN: But you're saying because the PUD isn't a PUD just for a gas station that makes it questionable whether or not the gas station that they listed with all their other uses can be eight or more pumps?

MS. ASHTON-CICKO: I don't see a difference between a straight zoning district that allows gas station in the laundry list of uses.

CHAIRMAN STRAIN: The only difference is a PUD process requires multiple public hearings and notifications to neighbors and things like that. That's why I think they went to the effort to basically request certain property rights on their property through all the public processes required at the time. And I'm just trying to understand why we can legally say now that even though you requested amongst your other 40 commercial uses gas stations that particular one's being limited to only eight, even though we didn't have that rule at the time you got your zoning. It just seems odd that we can do that. I think that's where this is saying -- this is actually what it's saying we can do, or this is what we would do if this went into play.

MS. ASHTON-CICKO: Well, it's not saying you can't do it, it's saying you have to go through a public process to establish compatibility.

CHAIRMAN STRAIN: Then what is -- if it's saying you can't -- it's not saying you can't do it, then you're saying that the request could never be turned down?

MS. ASHTON-CICKO: No, I'm not saying that.

CHAIRMAN STRAIN: Okay. So if the request can be turned down then we could be saying you can't do it, even though they've been previously given that property right.

MS. ASHTON-CICKO: Yes, if it were turned down then there may be some options in the courts for the property owner.

MS. CILEK: Also you would always be able to build the eight facility fuel pump.

CHAIRMAN STRAIN: Right. I'm just more concerned about what we've already committed to with people what we're not doing. Okay, thank you.

COMMISSIONER CHRZANOWSKI: Wait a second, I agree with Mark. I don't think you can make a blanket change to every PUD in Collier County with some type of administrative change. I don't think you can do it. I don't care what the County Attorney says.

MS. CILEK: Well, it's not an --

COMMISSIONER CHRZANOWSKI: I don't. It just sounds crazy.

CHAIRMAN STRAIN: Yeah, I don't know how you get there either. But that's what I was trying to kind of ferret out in the discussion. I didn't find a good cause for what we're doing to be legitimate. I'm just -- okay, I mean, I don't know what else to do at this point. Made the question, so -- Michael, did you come up to say something?

MR. BOSI: Mike Bosi.

CHAIRMAN STRAIN: I see you wandering up, so I figure you might want to speak.

MR. BOSI: And not weighing in on the debate, just a recognition, that when we do adopt amendments to the Land Development Code and if those amendments affect individual PUDs that happen to be silent to that provision of the LDC, then we modify PUDs on a regular base to adoption of new Land Development Codes that oppose standards. If those PUDs happen to be silent for it, then the controlling language of the LDC which would happen to be updated which would have been a change for when that PUD was adopted would be applicable to that PUD.

So we do through LDC amendments on a regular -- on a basis modify existing PUDs.

CHAIRMAN STRAIN: We don't modify uses like this to a PUD. Where have we done that before?

MR. BOSI: No, I would agree, the individual uses would not be -- it's more design standards, bulk standards, those types of uses that would be modified.

CHAIRMAN STRAIN: This is like saying you can have a conven-- if you had food stores in your PUD, all of a sudden we decided food stores are only convenient stores and supermarkets are a different term, and you can no longer have supermarkets, even though you have food stores, as allowed use. But in SIC they're all the same.

So this is the same kind of correlation, we're taking away a right -- it bothers me most where people have gone through the process to get there. I understand the genesis of this whole argument that we have

today about gas stations; it resulted in zoning that was put in place in the Sixties. And the process to do that was just stick them on a plan by a planner in the back room somewhere and tell the limited public who are available. It's a different process than the PUDs go through. PUDs go through a lot of stringent review, including this board and the Board of County Commissioners and numerous public notices. That's why I'm more concerned about the PUD application, Mike. That's what --

MR. BOSI: And, Commissioner, I would say that the basis of zoning, the original basis of zoning, was to study it based upon health concerns. And the basis for this amendment and this process modification towards how they get to that end use that's already approved in a PUD is based upon new health information that we're basing these LDC amendments upon. And that would only -- that to me would be a difference between say a convenience store and a supermarket distinction.

These motivations behind these amendments are based upon health concerns in terms of land uses in the relationship to residential land uses. That would be the only I think distinction that would be the basis for -- if there was a challenge or if there was objections to these amendments, we do base upon the scientific evidence that we've compiled that we think is justification for asking for an additional compatibility review to whether those previously approved uses would be allowed or would be appropriate next to a residential property.

CHAIRMAN STRAIN: You just said compatibility review. We're looking at a view based on health/safety, specifically the nexus being vapors.

MR. BOSI: Yes.

CHAIRMAN STRAIN: Okay. And I guess I go back to the statement I made earlier, we've looked at vapors in a 300-foot distance, including no breach in the vapor flow over that 300-foot distance. But yet we know there are specific factors that do that. And if we have a PUD and we can build in those factors or those factors could be added to the code, the PUD would be subject to those factors then, and it wouldn't necessarily take away their property right.

MR. BOSI: Yes, sir. And I agree. And I agree, I think those factors that you say would be things to reduce or eliminate those health concerns that are the basis for these too.

CHAIRMAN STRAIN: Right. And putting additional standards in to deal with what's become a known issue is a different threshold than changing someone's property rights. And that's all I'm angling at is that the more properties we affect by this, the more potential we have for litigation. It only costs money and is difficult to begin with.

So I'm trying to figure out a way that we can still meet the protection of the public through a -- for vapors in the issue at hand, but not necessarily throw everybody into a mix that could potentially be weighed on different issues than just the vapor and end up having a denial and then we end up in a lawsuit that we don't have a chance of winning, so --

MR. BOSI: And I don't disagree with that.

CHAIRMAN STRAIN: Thank you, Mike. Appreciate it.

COMMISSIONER EBERT: Caroline, I have a question for you.

You keep -- would it be easier if we -- you want to use the word dispenser, correct?

MS. CILEK: For the column, the metal column that has the fuel pumps in it, yes.

COMMISSIONER EBERT: Yeah, you want to use the word dispenser. And would it be easier to say like four dispensers and eight fuel pumps? Would that be easier for the public to understand?

MS. CILEK: At this point we've been going with this, so I think we --

COMMISSIONER EBERT: I understand. But I also listened to the BCC meeting back then, which was confusing as to what it was. So I'm asking you, would it be easier if you used the word dispensers and then put down four/eight, meaning four dispensers, eight fuel pumps?

CHAIRMAN STRAIN: It wouldn't always necessarily correspond in the same ratio. If they had a dispenser that didn't have access on both sides or something like that, that's why I think they're using positions. I'm just suggesting, Diane.

COMMISSIONER EBERT: What's going to happen when they have to -- I'm going to change the name when they have to come in and plug into electric?

MS. CILEK: We'll see. I can't predict the future on that one.

Okay, I'm going to continue on.

Okay, so this concludes our presentation. We just wanted to end with the additional recommendations that staff has based on the research that we've done.

The first one is to instead of measuring from the fuel pumps to the lot line of the residential use or zoning -- zoned area to measure it from property line to property line.

Second one would be to amend the setbacks for all gas stations, including those that are eight or fewer to 50 feet. In this case it would bump up the side I believe setback from 40 to 50.

And then based on research of other jurisdictions, it is common that the lowest tier of the zoning districts that allow for gas stations would be a Conditional Use process. And so we just wanted to present these three options to you again.

CHAIRMAN STRAIN: That's the end of your presentation?

MS. CILEK: It is.

COMMISSIONER EBERT: One quick thing. You mentioned and I saw Mr. Yovanovich's face, you said 300 feet from property line to property line?

MS. CILEK: Yes, property line of the gas station or facility with fuel pumps to the property line of the lot. To the lot line.

CHAIRMAN STRAIN: Okay, does anybody else have any questions of staff at this time?

(No response.)

CHAIRMAN STRAIN: I think we might want to go to public speakers after we come back from a break. And then after public speakers we'll discuss it amongst ourselves. Does that work for everybody?

Okay, let's take a break for 15 minutes, come back at 10:40.

(Recess.)

MR. BOSI: Chair, you have a live mic.

CHAIRMAN STRAIN: Okay, thank you, Mike.

With that, we left off wrapping up the presentation by staff.

Caroline, is there anything you need to add?

MS. CILEK: No, I'm good, thank you.

CHAIRMAN STRAIN: Okay. Then let's move into our public speakers and then we'll get into planning board discussion.

Any member of the public wishing to speak?

I think Vern, you were the only one at this time. Just come on up and please identify yourself for the record. You've got one minute. Just kidding.

MR. HAMMETT: All right. For the record, my name is Vern Hammett. I'm just a Collier citizen and resident. Of course I have lots of concerns about this Land Development Code amendment.

So on July 8th the Board of County Commissioners directed staff to develop and bring forward a Land Development Code amendment regarding the regulation of automobile service stations, including gas stations adjacent to residential property which have more than eight fuel pumps or providing for fueling more than eight cars at any point in time.

So armed with that information, on October 28th Ms. Cilek presented the first draft of this service station Land Development Code amendment to the BCC. And basically the gist of this language allowed for eight pumps or less to be located within 300 feet of a residential property line while still complying with the normal setbacks for service stations.

The option was also available to exceed eight pumps within 300 feet through a Conditional Use request. No limit was set for the number of pumps outside 300 feet.

Now, if you look at this language, this is consistent with the original Board direction. So -- but, however, of course there's dialogue. Our Commissioners had dialogue following Ms. Cilek's presentation and public comment. And it became clear that what our Board really wanted was no pumps within 300 feet of a residential property line.

And what I find interesting about this is that Ms. Cilek even acknowledged this and went so far as to state: So perhaps we can revise the language to reflect your current interest. That's on the record, that's in the minutes.

But for whatever reason this was never incorporated into the last or current version of this amendment. Now, this current version does reference this now; however, I think and I'm paraphrasing, it basically said that the County Attorney was unclear whether they could defend this.

So I previously presented these concerns at the January 15th Planning Commission meeting to you all, but very little Planning Commission dialogue took place following my comments. I sure hope that today we'll have a different response, that you guys will discuss this.

You know, the reality is, is the developers and businesses in Collier County have private attorneys that come up to all these government meetings and advocate on their behalf. We as citizens, we don't have that luxury. What we do have are our elected officials and they make decisions and direct on our behalf. And in this particular case our Commissioners gave very specific direction. They modified their original direction. They wanted it to be more restrictive. And it wasn't followed. And I find this terribly disconcerting. You know, the Commissioners are the citizens' voice. And if they're not being heard then we're not being heard.

So in a nutshell really what I would have liked to have seen is okay, this is the direction from the Commissioners. We want to see no pumps within 300 feet of a residential property line. Okay, great.

The research comes back and for whatever reason staff decides that they can't support that direction. I think the document needs to come out and say look, we get it, we understand what you wanted, but based on our conclusions we can't follow your direction. And this document that you have today doesn't really say that. It's not clear. And I find that to be the biggest issue with all of this, is that basically my voice isn't being heard.

And finally I will -- I just want to add one other detail that I think is really important with this and it's on behalf of my neighbor and also a Collier resident, of course, and it's the definition of what a large gas station is. So basically by staff's own research they say that a facility that has eight pumps has the capacity to pump four million gallons a year. Okay, that is in the category of a large gas station. And all the research, if you look at the research that was done, they reference large gas stations. Well, how can you take eight pumps and put it inside of 300 feet when it has the potential to pump the capacity of a large gas station? And that's the end of all -- any of my information for you guys. Thank you, I really appreciate it.

CHAIRMAN STRAIN: Thank you, Vern. Appreciate it.

Is there anyone else from the public who would like to speak?

Mr. Yovanovich?

MR. YOVANOVICH: Good morning. For the record, Rich Yovanovich.

And again, like I said last time, I'm not here on behalf of RaceTrac.

There's a couple of inconsistencies in the ordinance that I think need to be addressed: Specifically Page 14, the table when it talks about additions or relocation of fuel pumps or underground storage tank, vent rise or opening at existing facilities. I think the word "with" needs to come out. I don't know why that word's there. And then you went within 300 --

CHAIRMAN STRAIN: Before you go too far, the table on Page 14, there's a bunch of -- can you kind of focus on where it is you're talking about so we can understand what you're saying? Caroline will push it for you.

MS. CILEK: There you go.

MR. YOVANOVICH: Right here. You have the word "with". I don't know why.

CHAIRMAN STRAIN: You've got to use the mic, the walk-around, please. Thank you.

MR. YOVANOVICH: The word "with", I don't think it needs to be there. And I don't know why you went from residential to sensitive uses. I think it should have been residential, correct?

MS. CILEK: May I?

MR. YOVANOVICH: Everything else in that table refers to residential.

MS. CILEK: May I just point out that unfortunately the table got cut off, and so it starts on Page 14 and goes to Page 15. And so this column over here, Rich, facilities with fuel pumps, is --

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: And Caroline, the way we normally do this, Rich will interact with us and then we'll ask you for clarification.

MR. YOVANOVICH: She's right. But the sensitive land use terminology should probably just be residential land use like it is everywhere else on the table. That's that inconsistency.

Based upon the presentation I just heard, I understand staff is recommending that the measurement of 300 feet now be from property line to property line, not fueling facility/gas station pumps to residential property line, which I understood to be the original language. I would like to know who's going to call Sam's Club and let them know that their pumps on the corner of Airport Road and 41 -- I'm sorry, and Immokalee Road are now nonconforming. Because if you go property line to property line, the Sam's Club property line is adjacent to I believe the Four Seasons subdivision or Boca Palms may be the other one. But it's immediately adjacent to residential under that definition.

Likewise, if you're in a shopping center that let's say it's a 20-acre shopping center that's on the corner of a big road and you have your gas station on that corner and you have 500 feet of frontage, 600 feet of frontage for your shopping center and you happen to now be next door to residential because you're measuring property line to property line, you now have to go through the process of getting a Conditional Use when I believe the concern has always been where the facilities are located in relation to residential.

So if you put your facility more than 300 feet away, that was the issue. It was not where the property is, it was the location of the facility.

So that change is a pretty drastic change from what was previously discussed and presented to the Planning Commission.

The backup data shows maybe one or two gas stations with eight or fewer pumps that have come through the system in the last 20 or more years. Very few of those. They've basically all been greater than eight or more pumps.

So to say that you can always go in and do eight pumps as an option, I think it's practically not realistic. Gas station regulations and what it cost to put these in, financially you can't make a go of it if you're a mom and pop, four fueling opportunities, six opportunities or eight opportunities. They've all been larger than that. There's a reason for that in Collier County.

One of my biggest concerns, and I brought it up at the other public hearing, is I've done some PUDs recently that are mixed use PUDs, they're within activity centers, so the commercial was limited to the activity portion of the property and we had residential in the back, you know, in the non-activity center property.

And I put a very crude PUD, but I just went through the public hearing process for a couple of PUDs

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CHAIRMAN STRAIN: Looks better than some you've submitted, Richard.

MR. YOVANOVICH: That's good. And I don't think there's any spelling errors either.

That's a serious issue for me. I just went through the public hearing process. In the C parcel we allowed gas stations. There was no hint of any regulation about the size of the gas station. I have an immediately adjacent R designated parcel in the PUD. It's the designation of the R parcel that now if I'm within 300 feet of that I've got to now come through and amend the PUD I just got approved. That makes no sense to me.

Just like if I were just a straight commercial PUD that went through the process, got approved with a gas station with residential within 300 feet, it makes no sense to me for me to go to my client and say well, I got you approved, I really didn't get you approved, we've got to go through the process and I've got to do a Conditional Use or I've got to amend the PUD to get you what you already got approved because I didn't have the foresight to think that maybe some day we were going to change the regulations as to the size of gas stations. Knowing very well that there have not been small gas stations built in Collier County for 20 plus years, and also knowing full well, you know, most if not all of the zoning applications I do I've got residential either near me or across from me. They come to the NIM, they look at the allowed uses that are in the PUD, and we work with the neighbors. Naples Lakes is one of the most active communities. And you've seen it. We go SIC Code by SIC Code. Village Walk is another one, we go SIC Code by SIC Code. For people to say the public doesn't know what's going on, that's not right.

So I think you need to create an exemption for PUDs that have been approved with gas stations as permitted uses. They need to be exempt from this requirement. Because we went through the public hearing

process and it was determined that a gas station is an allowed use in that PUD.

So I would again ask, I said it last time, I think you need to create that exemption for existing PUDs. Because I couldn't ask for a deviation from something I didn't know existed, and thus my comment I'm going to be coming through from now on, because I've got to get certainty for my clients as I'm going through this process. We asked for a gas station, there were no limitations on the size of gas stations, we went through the public hearing process, we got it approved and now I may have lost it, I may not have lost it. I'll have to go through a Conditional Use hearing process, which is no real difference than a PUD process as far as time and expense. And if I lose, I lost what I got previously approved and we'll have to go and decide whether or not we're going to litigate that issue or not.

I think it's unfair to change a PUD. It was a contract between the government and the property owner. It's different than straight zoning under the law. There's no question it's different than straight zoning under the law. And you need to create that blanket exemption for projects that were approved.

Interestingly, the maps that you were presented, I'll acknowledge they do show existing gas stations that will become nonconforming. But it really doesn't analyze how many PUDs will become -- will now be required to go through a public hearing process to keep what they previously got approved because of this change. That analysis has not been done. None of the maps that I could find show anything along 951 south of Golden Gate Parkway. And I know there's a gas station going in on Rattlesnake, or planned to go in on Rattlesnake, that had this document been approved many months ago that PUD that allowed gas stations I guess would no longer be allowed to have gas stations and that property owner would have had to go through and amend a PUD to allow a gas station that's previously approved.

With that, I understand that this is probably a foregone conclusion that's going to get adopted, but I do think you do need some exceptions, and I do think you need to clarify that one provision to be residential and not sensitive uses. Because I don't know what a sensitive use is, it's not defined in the ordinance. And with that, those are my comments and concerns. Thank you.

CHAIRMAN STRAIN: Okay, thank you.

Caroline, can you come back up for a minute or two.

MS. CILEK: Sure.

CHAIRMAN STRAIN: Couple -- well, actually, three or four things to address as a result of the two speakers.

Vern's concern over the direction of the Board. Can you put your first slide back on again. Or second slide, whatever it was. It's the one that talks about the Board's direction. I thought it was your second slide.

MS. CILEK: This is the Board direction slide.

CHAIRMAN STRAIN: I'm sorry, it's not on the screen. I thought you were looking for it all this time.

MS. CILEK: I think it's --

CHAIRMAN STRAIN: Okay. You heard the public speaker, and he understood the direction to say we should be looking at all gas stations within 300 feet, no cut-off like we currently have been discussing.

Did that get missed from this list of bullet points?

MS. CILEK: No, I think that is reflective in the second to last red bullet point, require maximum distance. And then their consensus was 300. However, I will say that the motion by the Board identified that the amendment should look at vapors. I can read you the motion itself, if you'd like.

CHAIRMAN STRAIN: No, it was in our packet. I'm fine.

MS. CILEK: Right, it is.

CHAIRMAN STRAIN: I just -- I wanted to understand to make sure that we're following the direction of what the Board wanted us to review. And that's why I'm bringing it up again. I saw your bullet points. There was a variety of issues of concerns.

The staff reaction to the fuel vapors was as a result of the 2005 EPA study that had already taken into account the vapor reducing mechanisms, both on nozzles and in cars. And out of that study, based on the graphs that you've showed us, the 300 feet was defensible. Or it looked like at 300 feet you've reduced it down to a limitation that some people may argue is not as great as if it was a lot closer. And that's why you're

still using 300 feet; is that your --

MS. CILEK: That's correct. And also based on the motion itself.

CHAIRMAN STRAIN: Okay. The second question, based on that 300 feet there was a volume of gas if dispensed could produce vapors that could be a problem within that distance. And the number that could be produced based on the volume pumped per pump could be reached with eight pumps. So the concern over -- where would we have to reduce the pump size to stay consistent with what we're trying to do from a volume perspective on vapors?

MS. CILEK: Let me see if I can pull it up.

I will say that we proceeded with the eight because it -- one, it was what we previously discussed with the Board. Two, it is -- the eight as Vern identified is the four million throughput. And many of the large gas stations are considered a 3.6 or over. And so I could spend some time looking in the amendment. I don't know where it is off the top of my head. And perhaps --

CHAIRMAN STRAIN: No, I think the question might be simpler. If eight produces four, but 3.6 is the cut-off in the study you relied upon --

MS. CILEK: Six to eight.

CHAIRMAN STRAIN: -- to get to 3.6 we'd have to be down to at least seven.

MS. CILEK: Yeah, I would --

CHAIRMAN STRAIN: No, we don't need to be even numbers. Let's just look at it practically. So if every pump is what, 500,000 or -- no, it's four million -- yeah, 500,000. So to get -- if you were to do seven pumps, then your nexus to the amount of vapor at 300 feet would be below that threshold. Is that --

MS. CILEK: I would need to look at the research again personally to be able to confirm that. I also think that gas stations with eight fuel pumps have the possibility to do four million throughput. That doesn't mean that they actually do.

CHAIRMAN STRAIN: Well, and you could have a 15-pump service station and not do the four million theoretically. So I understand that. But we have to go by the averages and guidance that you found in record, unless someone has a better record. And I know one gentleman from someplace said that the numbers we were using, I think it was one of our first reviews, he didn't tell us what station he represented but he said that there were better studies out. I asked him to please produce them, and he never did. Or at least I haven't seen them.

MS. CILEK: He did. And we actually did use them in our research. I would say that they were not as supportive of his position than he would have probably liked.

CHAIRMAN STRAIN: Okay. I just wanted that clarification. So the pumps in the discussion at eight is greater than the rational nexus used to define the 300 feet. And to get down to that nexus or to stay down below 3.6, we'd have to go to seven pumps or less.

MS. CILEK: Perhaps.

CHAIRMAN STRAIN: Perhaps, okay.

Richard's issue about the sensitivity to land use -- I mean the sensitivity to residential. You did mean residential in that, right?

MS. CILEK: Yes. We will fix that.

CHAIRMAN STRAIN: As far as the PUDs go, a solution to that, similar to some of the things we talked about early today and other matters, why wouldn't we want to limit the PUD issue to those going forward so we're not taking away rights that were clearly established by public process and advertising and just make that the condition going forward, that all PUDs going forward have to be taken into consideration for a -- for the nexus that we're talking about on a 300-foot distance.

MS. CILEK: I think that would be wise of an applicant pursuing a PUD.

CHAIRMAN STRAIN: Okay, but it wouldn't -- I'm suggesting we not put this -- we not put the burden on the PUD that was previously approved to have a gas station use is what I'm saying.

MS. CILEK: The Planning Commission is welcome to pursue that.

CHAIRMAN STRAIN: Okay, I'm just talking with ideas.

Anybody else want to -- Brian?

COMMISSIONER DOYLE: And of course not to negate what you had just said, but of course add

in some types of buffers, like we would do with site or sound. And of course this being a benzene pollution, whatever we could find, whether it's walls or bushes or combinations, or fans, that would be included in the PUDs that are already approved.

CHAIRMAN STRAIN: Well, I mean, that brings in a -- that kind of brings in a twist that you're right, if this whole scenario of protecting neighborhoods against gas stations was approached from the position that there are certain elements that eliminate the vapor concern over safety, that would reduce the number of opportunities to have a challenge to a land use, and it also would provide people with certainty that if they've got these things around there, they could get their gas station approved, if that's what they're deciding to do, or their convenient store or fuel pump facility.

I don't know how we would put those standards on existing PUDs that didn't already have them without putting them in the Land Development Code to apply to everywhere and then eliminate the need for the blanket 300 feet. And it would only then apply to those that can't meet those standards.

For example, if you have a situation like Sam's where you have a big building separating the fuel station, if it's there they can put their fuel station in. If it's not there and they would still want a fuel station, then they would trigger the Conditional Use process. That would narrow down the number of times this would kick into the process. I don't know how to -- I'm not sure we can at this stage figure out a way to do it for just the PUDs, but it's something we could suggest. It hasn't been looked at, that's why we haven't researched it from that angle.

Anybody else have any questions on this?

COMMISSIONER ROMAN: I think that if we would consider that in terms of mitigation as an option for the Board to consider, I think that we have to allow the staff to do some research on what appropriate mitigation might be and what is really available out there to mitigate vapors from a large fuel facility. And so I think in fairness we have to see if that's even an option.

CHAIRMAN STRAIN: Okay. But I mean -- and I don't disagree with you. What do you suggest we do for today, though? We've got to get past today somehow. And we've extended this what, two or three times? The Board can only hold this moratorium -- in fact they probably had the temporary moratorium out farther than temporary already, so we want to get it past -- we've got to get it out of here today and I don't know how to get it there.

COMMISSIONER ROMAN: Well, maybe, and I'm just thinking out loud here, maybe we could make a recommendation on this current PUD issue to give some options to the Board to consider. One would be that they could address this by: Limit this Land Development Code change to PUDs going forward is one thing that I heard you say. The other would be to consider appropriate actions of mitigation and give the staff some time to fill in the blanks there as an option. In terms of a recommendation, Mark, maybe there's another one too we could throw in so that they have some pre thought out courses of action here of which to select from.

CHAIRMAN STRAIN: And that may be the way to get there. For example, we could suggest, we could ask -- we could suggest to the Board to have this not apply to PUDs in the past but only going forward, but that the existing PUDs we provide some mitigation standards that they would have to meet if they're using gas stations.

COMMISSIONER ROMAN: You give them a choice, you know, of which way. You know, I'm thinking something like depending on what we move forward today, but then in our comments saying, however, we did find one area that could be problematic that needs to be addressed. Some of the options that we have come up with for your consideration would be limit this Land Development Code change to PUDs going forward, that standards of mitigation be required on those PUDs going forward, such as, and maybe there's a third one. I just like threes.

CHAIRMAN STRAIN: Okay.

COMMISSIONER ROMAN: That's a thought.

CHAIRMAN STRAIN: I just have to figure out how to word it. I don't disagree with you, I just want to make sure that however -- it's fair. I'm trying to figure out a way to approach it that's consistent.

Basically we've got several items on the table for deciding what to do as to get this past us today. One is should we consider recommending instead of eight pumps going down to seven to meet the volume

concentration used for the whole rationale behind this 300-foot separation.

Second would be to address the PUDs going forward and not the existing PUDs, but look for some other alternative to address existing PUDs.

The third would be to consider conditions overall for needing a CU. Meaning if they meet certain standards maybe a CU can be avoided. I'd suggest we look at the 50-foot -- we recommend the 50-foot separation when adjacent to residential only, not blanket across the board.

That the word sensitive be changed to residential in the table.

And that we add the distance to residential does not include residential in ag. zoned districts.

And that's the notes I've made from our discussion so far. Does anybody have anything else that they think we might want to bring up or put on the table?

COMMISSIONER EBERT: Mark, you just mentioned 50 feet from --

CHAIRMAN STRAIN: The 50-foot setback. Right now it's 40 feet. But I'm suggesting that it's reasonable to go to 50 feet when it comes to adjacent to residential. If it's adjacent to another commercial, I'm not sure the 40 feet is problematic.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: Stan?

COMMISSIONER CHRZANOWSKI: I'm just going to make a few comments but then I'll vote with the majority.

I agree with a lot of -- almost everything that Mr. Yovanovich said.

COMMISSIONER EBERT: Oh, no.

COMMISSIONER CHRZANOWSKI: Oh, yeah, a lot of it. That 300-foot from property line to property line, like he was talking, if you get a project comes in that has a gas station in one corner of a square parcel that's maybe 600 by 600, to measure from the far corner to the property next door, 300 feet, is just insane. So I think it ought to be from pump to structure. But that's just me.

CHAIRMAN STRAIN: Well, no, but that's how it's written now. Nobody's suggested going property line to property line.

COMMISSIONER CHRZANOWSKI: I thought we were talking property line to property line.

MS. CILEK: It was for additional consideration.

CHAIRMAN STRAIN: Those are additional considera-- I didn't bring it up. I mean, are you bringing it up?

COMMISSIONER CHRZANOWSKI: No, I'm not bringing it up. I heard it brought up and I --

MS. CILEK: Those are additional considerations, they are not included in the Land Development Code text --

COMMISSIONER CHRZANOWSKI: Okay.

MS. CILEK: -- and they came from the research, as is all the other.

CHAIRMAN STRAIN: And the reason I -- I mean, the reason I didn't bring it up, maybe others might, but I didn't bring it up is because we base this whole analysis on a rationale of the distance the vapors go. Well, the distance of the vapors don't start at the property line, they start at the vents or the fuel facility as it's written.

So if you measure from those, then you're meeting the intent of what the 2005 study eluded to. At least that's how I --

COMMISSIONER CHRZANOWSKI: Residential properties have very large buffers and preserves between them and something. So if you go to their residential property line instead of to the residence itself, you have the same problem at the other end. So I'm just as glad we're not going there. Okay.

COMMISSIONER EBERT: But Caroline, I did ask you, are you saying from property line to property line, and you said yes.

MS. CILEK: That was for the condition; that was additional considerations. That's what that meant. That's not what the LDC --

COMMISSIONER CHRZANOWSKI: This is why I'm so confused.

CHAIRMAN STRAIN: Well, Caroline in the last slide listed three additional things that we could consider recommending. Out of those three, when I read my list off of notes, I noted the additional 50 foot,

but I suggested it be for residential only. There are two others there, that unless someone brings them up and we discuss them, they would just not go forward with any comment from us and the Board could make their own mind up on it. And one of those was property line to property line.

COMMISSIONER CHRZANOWSKI: Last comment.

CHAIRMAN STRAIN: Yes.

COMMISSIONER CHRZANOWSKI: I agree with Diane about using the word nozzles. I think it's the least confusing of everything that you have brought forth.

That having been said, like I said, I'll vote with the majority, whatever -- are we taking a vote to send this to somebody with approval, or how are we doing this?

CHAIRMAN STRAIN: No, recommendation of approval to the Board with stipulations or recommendation of denial, whatever way we want to go. But that's how we typically do things. And especially the LDC. Because we're the LPA as designated by statute, we have to weigh in on the LDC, so we definitely have to send them some kind of recommendation one way or the other.

COMMISSIONER CHRZANOWSKI: No offense to Rich, but I'll vote with the majority. Just had

--

COMMISSIONER ROMAN: One --

COMMISSIONER CHRZANOWSKI: -- a few comments.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER ROMAN: Stan, one of the things that came up last time, I think you'll recall when we were discussing nozzles --

COMMISSIONER CHRZANOWSKI: I wasn't here.

COMMISSIONER ROMAN: -- was the fact that some of the dispensing units have multiple nozzles on one fueling position. So not all dispensers are designed the same way. And that's what we discussed last time of where nozzles would get very confusing.

COMMISSIONER CHRZANOWSKI: You're right, diesel and gas.

COMMISSIONER ROMAN: Some have five. They have five different -- it's a variety.

CHAIRMAN STRAIN: Ethanol, marine, diesel gas. I mean, right now if you go to RaceTrac out front, they have three or four on every side of the pump. Because they have one fueling station, it's considered one pump in that regard because it's based on the position you can be in. Otherwise they'd have all these pump counts, but they couldn't use them all because nobody could pull up and use them but one at a time.

COMMISSIONER CHRZANOWSKI: Well, then instead of nozzle, I would go with fueling station, but --

MS. CILEK: Fueling position is what we've also identified it to be known as. And that is --

COMMISSIONER CHRZANOWSKI: Just shoot me.

CHAIRMAN STRAIN: You said earlier --

COMMISSIONER ROMAN: We've been down the nozzle road before, Stan. I just thought I'd share that with you.

CHAIRMAN STRAIN: Okay.

COMMISSIONER HOMIAK: You said some of them go to seven.

CHAIRMAN STRAIN: What?

COMMISSIONER HOMIAK: There's two positions at each --

CHAIRMAN STRAIN: No, there's two positions at each pump based on how they lay their facility out. They may be up against a side or a building or a roadway where they can't have a car pull up on both sides and they only have one fueling position. We keep looking at everything in twos, and there's no necessarily -- it's not necessary to look in twos.

COMMISSIONER ROMAN: And some have a separate for diesel.

CHAIRMAN STRAIN: Yeah. So anyway --

MS. CILEK: Can I make one other note? Is that may we still change to remove the conflict within the fuel pump definition? I proposed the change to it, to remove the conflict of using the word device twice.

CHAIRMAN STRAIN: Yes, that's --

MS. CILEK: -- I just wanted to make sure that's in your recommendation.

CHAIRMAN STRAIN: Oh, so your new language that was put on the overhead would be the language we would use.

MS. CILEK: Yeah. I can jump to it, if you'd like.

And staff just identified that transportation ITE refers to this area as a fueling position as well. So if anything, let's just keep that part in the definition so that it's clear to different readers what we mean.

CHAIRMAN STRAIN: Okay. So that brings us back to the beginning. Does the Planning Commission have any recommendations on where they'd like to go with this?

COMMISSIONER EBERT: No.

CHAIRMAN STRAIN: Well, we need to do something. I would suggest --

COMMISSIONER HOMIAK: Or grandfathering?

CHAIRMAN STRAIN: Well, here's what I would suggest based on the notes and discussions we've had. And some of it's my ideas and some of it's you guys have not objected to or commented on. If you have some, just say so. I'm just throwing stuff on the table to get this accomplished.

We -- instead of eight pumps or more, it would be seven -- I mean instead of more than eight pumps it would be more than seven pumps. And the reasoning behind that is it gets it down to where the study's volume indications were based on an average volume.

Number two: We would be looking at the PUDs going forward and other ways to address the existing PUDs. That can't be accomplished today but it would be something the Board could tell staff to work on.

Three: Take a look at limiting conditions -- mitigating conditions that could be in place so that not everyone that has an ample mitigating circumstance needs to come in for a CU. For example, Sam's. Or if Sam's were to come in -- well, not Sam's so much, but a large gas station were to come in and they had a six-lane road and/or a solid building and/or a dividing wall or something that mitigates the vapors, we ought to consider that and not throw everybody into the process.

Four: We consider that we recommend the 50-foot setback for any gas station when it's adjacent to residential.

Five: We change the word sensitive to residential on the table.

Six: We exempt the agricultural zoning from the distance to residential in the first paragraph we talked about.

And seven: We use the new definition language presented by staff.

Those are what I've made notes of as we were going along today. If any of you have any comments on them, now is the time to do it.

COMMISSIONER ROMAN: Mr. Chair, I can reach agreement with your points that you surfaced. However, I want to clarify the two points: One regarding those existing PUDs and limiting PUDs going forward. I can support the fact that we're making a recommendation on that to the Board. But the one area that I'm unclear is on these areas of mitigation to eliminate the Conditional Use request. Is that also going to be a recommendation so that the staff would have time to work on those as well?

CHAIRMAN STRAIN: Well, I mean, it's all recommendation if the majority this board wants it. I'm just suggesting it's another alternative to bringing everybody into the system. If it's so obvious that someone can build a gas station somewhere and that's so much separating it within that 300 feet, it wouldn't even need -- it doesn't become a question why bring them in. But I don't want to mess up today's effort for that clause. We can drop it, and then that can be something that can be considered down the road. I don't know.

But I was just -- I was looking for ways to keep people out of a process that potentially could become problematic from litigation and other issues when it may not be needed because there's no harm in it.

COMMISSIONER ROMAN: But on the flip side of that, you could also see someone come in to try to get a Conditional Use when they don't meet the setback. You know what I'm saying? Where it does affect residential. So those petitions would be generated.

CHAIRMAN STRAIN: Yeah.

COMMISSIONER ROMAN: So there's a flip side there. I would consider that. And all your

points, I can support. That one I could support as a recommendation, not as something we want the staff to actually put in the packet going forward.

CHAIRMAN STRAIN: I have no problem. I just -- I'm definitely going to be supporting this effort, not because I think it's the right way to go necessarily but it's what the Board had wanted us to weigh in on. So it's the best I think that we can produce based on what our direction was. Although I think there are better alternatives to this than what is going forward.

So we're down to six items: Down to seven pumps or more; the issue about the PUDs; the 50-foot setback adjacent to residential; changing the grammatical sensitive word to residential; and exempting ag; and then the new definition produced by staff. Would be those six items.

Anybody else have any issues?

(No response.)

CHAIRMAN STRAIN: Is there a motion now?

COMMISSIONER ROMAN: Can you go over the six items again? Because for some reason I've missed one.

CHAIRMAN STRAIN: Okay. The first one is the -- it would be instead of eight pumps or more, it would be seven pumps or more.

COMMISSIONER ROMAN: Got that. Okay.

CHAIRMAN STRAIN: Second one would be PUDs going forward, it would apply to PUDs going forward, but we would direct staff to look at ways to address existing PUDs.

Number three: The setback would be 50-foot for all gas stations when adjacent to residential.

Number four: We would change the word sensitive on the table to residential.

Number five: When the discussion of what kinds of residential this applies to, it would not apply to residential in an ag. district.

And number six: We would use the new definition language that Caroline put on the screen in the early part of her presentation today.

COMMISSIONER ROMAN: Okay. And then the one point that I have that's missing is the mitigation elements, for staff to explore suitable mitigation. Or do you want to leave that out?

CHAIRMAN STRAIN: Well, that's not what the Board asked us to do.

COMMISSIONER ROMAN: Okay.

CHAIRMAN STRAIN: So I -- I had talked about it, but if -- you know, let's just -- the Board asked us to look at 300 feet or a distance to residential, and that's what -- we probably should stick to that.

I think we've put it on a record there are some other opportunities. And if they want to take them, they can take them?

COMMISSIONER ROMAN: Shall we make it a recommendation?

CHAIRMAN STRAIN: I thought you said you didn't want that as a recommendation.

COMMISSIONER ROMAN: No, no, I was trying to clarify the recommendation. I'm sorry if I was unclear.

No, I think that should be something that we're not voting on to include but as a recommendation to consider suitable methods of mitigation to eliminate conditional use requests.

CHAIRMAN STRAIN: Yeah, that's exactly what I was --

COMMISSIONER ROMAN: I can support that. I don't know how the other board members feel.

CHAIRMAN STRAIN: Anybody?

COMMISSIONER EBERT: I just have a quick question, Mark. It's fun to josh with you.

So we're going to use her new thing so we're not going to use gas station. We're going to use facilities with pumps, period, whether it's a convenient store, whatever it is.

MS. CILEK: That one was introduced at the last meeting and there are no proposed changes to it by staff.

COMMISSIONER EBERT: Well, I called you on those, though.

MS. CILEK: But we talk --

COMMISSIONER EBERT: Okay, all right.

MS. CILEK: -- about those things at the board level. I can't follow direction individually.

CHAIRMAN STRAIN: Okay. Well, we're down to the seven discussions, and we're going to -- one other additional recommendation is that we suggest to the Board consider methods of mitigation to eliminate the need for the CU in all conditions.

MS. CILEK: Does that apply to PUDs and straight zoning?

CHAIRMAN STRAIN: I don't know why it wouldn't. If the mitigation is there, it's there.

See, I think the idea is if it's the same mitigation that would come out of a CU process, then we could just standardize that. In some cases then it would be then no need to go through the process. But -- okay, now is there a motion?

COMMISSIONER ROMAN: I'll move with those changes.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Seconded by Karen.

Discussion?

(No response.)

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

COMMISSIONER DOYLE: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Motion carries 5-1.

Okay. Caroline, I think you're up for the next one too, if I'm not mistaken.

MS. CILEK: I'm joined by Gary McAlpin.

CHAIRMAN STRAIN: Okay. Well, let me announce that next one. Give me a second here.

***Well, first of all, old business, there's none on the agenda.

So the next item is 11, new business. That's the 2015 update to the Floodplain Management Plan. And Caroline and Gary McAlpin are going to be presenting.

MR. McALPIN: Thank you, Mr. Chair. For the record, I'm Gary McAlpin, and I'm going to give Carolyn a break for just a moment.

We're here not to shoot anybody, as Stan has requested a couple times, but we are here to seek your recommendation to approve -- a recommendation for approval of the Floodplain Management Plan that you have before you.

I'm going to talk a little bit about what we did, how we developed the plan and what we think is important in it. And we could deal with it however you want to move forward with it, Mr. Chair, to deal with the details.

But we were asked about nine months ago to update this plan. This plan is required to be updated every five years. And we updated it with the focus to reduce the risk and the vulnerability to floodplain hazards within the county.

This plan is a customized plan. It clearly -- it clearly is tailored to the needs of Collier County. We tried to look at it and look at our existing programs and come to the most effective means for controlling the floodplain of flooding hazards in the county.

We really view this plan as a working document. It is something that we want to use to manage this process in the future. And we developed it, although there are guidelines that we have to follow from FEMA when we develop this plan. We really want it to be a working document, and that's been our thrust all the way through.

You kind of have to look at it, and the way we look at it is a collection of our best management practices. And I think that's very important that because we tailored it to be something that's live, we tried to get the best management practices. And we used our consultant to pull from other communities and come up with what he believed and we believe are applicable to Collier County here.

We had extensive reviews. We've met with the Floodplain Management Committee at least six times in the review and development of this plan; we've had two public meetings in the beginning and one at the end to review this plan; DSAC has reviewed and recommended approval of this plan; and staff has looked at it and has a lot of staff input into this, not only from Collier County staff, but also we invited the City of Marco Island and the City of Naples to come in and participate in this plan development with us with the hopes that we could consolidate and look at it comprehensive (sic) and they would benefit from this, and then when we develop their own plan they could take this as a guideline, hopefully to follow as they went through.

What we did in developing this plan, we conducted a risk assessment that identified the flood hazards, we assessed the county's vulnerability to those hazards, and then examined the capabilities to mitigate them.

We identified six flood hazards in the plan. We identified five goals and objectives, reducing the county's vulnerability to those flood hazards, and then we came up with 24 action plans, action goals, action statements, if you would, to specifically deal with the items that we talked about.

FEMA is very specific. They have a 10-step planning process. We've fulfilled that planning process. If we work through the planning process and submit this plan for the Disaster Mitigation Act, we will qualify for CRS credits. We think that in doing this the CRS credits we receive from this plan will clearly comfortably place us in a Class 6 community.

What this plan is not, and it's important that we understand this, is not an increase in any rules or regulations. It's not an increase, or it doesn't have -- we're not recommending an improvement in any or a tightening of any requirements for the developer's community. But what we're really doing is we're recommending as we've gone through this with the action plans and goals, that we really just look at the existing codes that we have and come into compliance with the existing codes that are available at this point in time.

When we developed this plan we developed it with a thrust of do no harm to any of the surrounding development, so that everything we recommended is consistent with existing codes and ordinance and with a focus and thought of doing no harm as we went through.

And lastly, when you're looking at this, this is not -- does not deal with floodplain compensation. This deals with developing a plan that will enhance where we're at, enhance our capability, make us less vulnerable to flood hazards as we move forward, but it doesn't deal with floodplain compensation.

So Mr. Chair, that's kind of where we're at. We've had a lot of review, a lot of community input into this, and we're asking for a recommendation of approval. And however you want to move forward with this, we're open to that.

CHAIRMAN STRAIN: Okay. I'm just looking at the amount of discussion and questions that I've got. And I know it's not going to get done by lunch, so we'll definitely take a lunch by noon.

But before we do that, I thought in case the members of the public who would like to speak on this do not want to wait around through lunch, we'll do the public discussion now, unless there's a Planning Commission member who wants to get something out on the table before that. And then we'll see where we end up there and go forward.

MR. McALPIN: Mr. Chair, I would like to mention that Phil Brougham, who is a member of the planning committee, was here to speak in support of this. He had to leave. But we have two members of the planning committee here that were Floodplain Management -- planning committee, excuse me, that were in support of this. Phil had to leave. Thank you.

CHAIRMAN STRAIN: Okay. And I would suspect that since this came from the Floodplain Management Committee that they'd be in support of what they sent forward. So if that's all that we're going to hear, I appreciate that, but hopefully we'll get some information that we don't have.

With the exception of Duke, I'm not sure what we're going to get from Duke today. Duke, go ahead. Good to see you.

MR. VASEY: For the record, I'm Duke Vasey. Dennis Patrick Thomas Shawn McVey Vasey, maybe, and I'm a resident. And I'm also on the committee. I was one of the founding members of the committee, so I've been working with it since Jim Mudd's time, 2006.

And the gracious thing that we have right now is we have a plan. And what we have is a part of the

emergency services mitigation strategy. And once that's remembered, that the focus of our committee is merely to satisfy the FEMA requirement in the CRS manual. And I can assure you that everyone on the staff and everything in this plan are functions that the staff is currently doing that have been approved by the Board of County Commissioners that have funding of some level, either through grant funding or AURCIP, or some other element of funding already exists for it.

So what Gary said initially, we're not doing anything new. What we're doing is we're putting it in a book and we're satisfying CRS requirements.

Do you have any questions, sir?

CHAIRMAN STRAIN: I have one about the direction that you've just stated. And when I first got this, I wasn't understanding that it doesn't change any of the current rules. And I've been told multiple times by people that this is just like a BMP, best management practices, for the rules that are already in place.

Is that how you understood it and interrupted it in your review and approval for this meeting today?

MR. VASEY: I do, sir.

CHAIRMAN STRAIN: Okay. Because that's an important feature. There's a lot of concern out there about new rules. And a few people that I've talked to thought that this was establishing new rules. I have not -- I don't know if I've found those or not, but they're going to be part of my afternoon discussion. But as long as that wasn't the intention of the committee, that makes it a lot better. Thank you.

Anybody else? Stan?

COMMISSIONER CHRZANOWSKI: Do you think this -- this document is named the Floodplain Management Plan. Do you think that's the best name for it, or maybe the community rating service or community rating system evaluation and analysis? It's not really a plan to manage the floodplain. Since it doesn't have floodplain compensation in there, how can you manage the floodplain without addressing that? It seems like that's probably why Mark thought that this had stuff in it --

CHAIRMAN STRAIN: Well, if it had floodplain compensation in it I'd be taking a whole different tact here today, because I'm thoroughly against that methodology. I know you're an engineer so you have a different perspective, but it puts a huge burden on the rural area at their expense to the benefit of the urban area and I just don't see that being fair.

COMMISSIONER CHRZANOWSKI: I'm just thinking if we call this the Floodplain Management Plan, it infers that it's a plan to manage the floodplain. Is it?

MR. McALPIN: Mr. Chair, if I might, the reason it's called the Floodplain Management Plan is because that's what FEMA identifies this particular document as.

So what we wanted to do is as we move forward with this for CRS credits, we wanted to -- you know, we adopted that same name that FEMA is familiar, because -- familiar with. Because part of this is again to identify CRS credits to reduce the insurance premiums. So we can call it whatever we want internally, okay, for the Floodplain Management Committee. I don't think the name is so much important as we use it as a living document as we move forward with this thing.

But for FEMA's perspective we need to kind of stay with that name, because that's how they view it and review it.

CHAIRMAN STRAIN: Did that get to your question?

COMMISSIONER CHRZANOWSKI: No, but I don't care.

CHAIRMAN STRAIN: Okay. Thank you, Duke, appreciate it.

Kathy, do you have anything you wanted to -- no?

MS. CURATOLO: Not on that point.

CHAIRMAN STRAIN: Okay. With that, we'll just move right into the document itself.

I don't know how many of you have a lot of questions. I'll certainly defer to your questions first.

COMMISSIONER CHRZANOWSKI: Could I ask one thing? Gary said that DSAC had been given a copy of this document. They have? They were all given a copy of this?

MS. CILEK: The way that I disseminate information to DSAC is I send a memo with a link to it. So DSAC was in your read-aheads a week ahead of time, and that link takes you straight to the plan. And then I actually had a couple other fact sheets, informational sheets that the Planning Commission also received that went out to DSAC as well.

COMMISSIONER CHRZANOWSKI: Just electronic?

MS. CILEK: Yes, electronic.

CHAIRMAN STRAIN: I don't have questions from every page, obviously, or we'd be here for three weeks. I have quite a few though on different pages. I can move to the document based on my questions, and if you all have questions on the same pages or intermittent pages, you can just -- we can just bounce back and forth. Does that work for you?

COMMISSIONER EBERT: That works.

CHAIRMAN STRAIN: Okay. Well, Caroline, my first question is way into the document on Page 1. And way by the way, we'll go to noontime and take a break.

On Page 1 you get into a discussion about goals and objectives. And there are further articulation of these into Pages 60 and 70, I think it is, of the document that I'll elaborate on. But are we supposed to be looking at these as proposed goals and objectives, or are these already adopted in place?

MS. CILEK: These are proposed goals and objectives that are part of this plan update.

CHAIRMAN STRAIN: That's what I thought. So we are inventing new rules and regulations.

MS. CILEK: I don't consider goals --

CHAIRMAN STRAIN: So the goals and objectives that are here you don't think are going to trigger regulation that's going to be impactful on -- as a result of these?

MS. CILEK: There's no proposed regulation.

CHAIRMAN STRAIN: Your mic's not close enough to you there.

MS. CILEK: I'm sorry.

There's no proposed regulation. We're not proposing to change the Flood Damage Prevention Ordinance or the LDC in any way from these.

CHAIRMAN STRAIN: Then I'll walk through a couple of them here where I made notes. The bulk of my notes of these are on the more detailed part of the document.

But objective 1.7: Enforce code requirements of the National Flood Insurance Program.

But wouldn't those have to be adopted by the BCC, and we only adopted certain ones?

MS. CILEK: No. As a community that participates in NFIP, we enforce all those rules. So this is just kind of like reassuring that we are doing that.

CHAIRMAN STRAIN: Okay. Then what is it that we weigh in on periodically, I thought they were rules and standards, to lower our insurance rating by doing other forms of mitigation to offset the flood problems?

MS. CILEK: Sure. So NFIP -- which is the National Flood Insurance Program, so I'm going to call it NFIP moving forward -- has a set of rules. And our ordinance, which is called the Flood Damage Prevention Ordinance, has to include all of those NFIP requirements at a minimum. Beyond that, we can adopt more strict standards.

In the past the county has moved through a process to adopt more strict standards to obtain community rating system credits. So if you adopt more strict standards it's under the CRS program, Community Rating System -- I'm just going to call it CRS moving forward -- and you get more credits. The more credits you obtain, you move up and improve your class rating.

Currently Collier County is a Class 6. We hope in the future to go to a Class 5. But NFIP is a minimum standard, and there are no proposed changes to our Flood Damage Prevention Ordinance to obtain anymore CRS credits.

CHAIRMAN STRAIN: Okay, so the reference to the code requirements of the NFIP are not the standards you're now talking about.

MS. CILEK: We already do an NFIP.

CHAIRMAN STRAIN: I know that. But this is a blanket code enforcement requirements of the NFIP. And you're saying those standards that will lower us to number five are not part of their code requirements.

MS. CILEK: Correct. You have to go beyond the minimums to get credit.

CHAIRMAN STRAIN: Could we say enforce minimum code requirements of the NFIP and those adopted by the Board of County Commissioners?

MS. CILEK: Yeah, absolutely.

CHAIRMAN STRAIN: Okay, could we make -- and if no one objects, could you make that change?

MS. CILEK: Yeah, absolutely.

CHAIRMAN STRAIN: Do I have to write all these changes down to repeat them to you, or we're going to catch these as we go along?

MS. CILEK: I'm going to be -- I'm going to try to write them down as specifically as you say them, so I will ask you again and again until I get it right.

CHAIRMAN STRAIN: Okay. Are you comfortable with this one?

MS. CILEK: Yeah. I have enforce the minimum code requirements of the NFIP as approved, established --

CHAIRMAN STRAIN: As adopted by the Board of County Commissioners.

MS. CILEK: Adopted. Specific.

CHAIRMAN STRAIN: That's a lot more comfortable. I like that.

Objective 1.8. By the way, if I have a little uncomfortableness with rules from the Federal Government, that's unfortunately part of what I think.

Objective 1.8 says: Conduct site investigations, research exposure and hazard data and evaluate proposed modifications to repair and mitigate stormwater management problems.

What does it mean -- we have a whole bunch of departments over at the county. And when it says conduct site investigations, are we establishing a whole new group of people to march out there and start imposing rules that nobody understands or knows about, or what is the intent.

MS. CILEK: I generally look at these goals and objectives to encompass umbrella things that we're already doing, right? So conduct site investigations when there's a problem. When we have a flooding problem, people go out there and try to see what they can do to help it, whether that be the stormwater planning program or whether that be our county engineer working on things, we do conduct site investigations to take a look at problems.

CHAIRMAN STRAIN: So that's what that objective is referring to, those instances?

MS. CILEK: Yep.

CHAIRMAN STRAIN: Okay. Under the next page on goal 3: Ensure protection standards for critical facilities meet the building -- Florida Building Code standards.

I would suggest that we -- let's say as adopted by Collier County. There's a lot of versions, and Collier County actually modifies its current version with some of our own standards. So I want us to be consistent with what we've already allowed.

MS. CILEK: I'm going to add to the end of that, as adopted by Collier County --

CHAIRMAN STRAIN: Yes.

MS. CILEK: -- or as adopted by the BCC?

CHAIRMAN STRAIN: Well, the Board of County -- either way.

MS. CILEK: I'll put BCC for consistency.

CHAIRMAN STRAIN: Okay, thank you.

Now, the mitigation strategies and the objectives and goals are further expanded on Page 23, and that's where I move to next, unless you have something in between.

COMMISSIONER EBERT: I just have one quick question.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: On Page 1, the very first thing is they're doing this in order of a priority, and that's climate change and sea level rise. I'm not a Gore person. This is --

MS. CILEK: If we could talk about that in -- I will find a page, I will describe to you why it is at the top, okay?

COMMISSIONER EBERT: Okay.

MS. CILEK: It may be before 22. Let me find it real quick. I don't think it is, though. It is -- all right, let's do 22 and then as I find it there is a table I want to show Diane.

CHAIRMAN STRAIN: On what page?

MS. CILEK: Well, let's go to 22 first.

CHAIRMAN STRAIN: Page 22?

MS. CILEK: Your comments, your next comment?

CHAIRMAN STRAIN: No, no, mine are on Page 30. I just want -- I mean mine are on Page 23. Is that -- I'm sorry, I thought you were still referring to Diane's comment.

On Page 23, objective 1.9: Develop a policy that addresses incremental surface water impacts throughout the county.

What does that mean?

MS. CILEK: Okay, so if you take a look at Page 23 and 24, you will note that they are under the header of 2008 FMP mitigation strategy status, okay. So this is old language that was in the 2008 FMP.

For all intents and purposes it's just to show what was in there. It really has no foundation moving forward, it's just reflective of history.

MR. McALPIN: It is replaced by the new goals.

MS. CILEK: Right.

CHAIRMAN STRAIN: Okay, that's fine. I didn't realize that, so we'll move on to -- wow, I had a lot of stuff on that, so we're going to save a lot of time here. We might be done. Just kidding. Don't get your hopes up.

MS. CILEK: We're making progress.

CHAIRMAN STRAIN: I'm good to Page 32. There's just something I want to point out. Starts with an analysis of your membership in that committee.

There were 19 members from what I could count, maybe it changed over time, four of which were citizens at large. The balance were people associated with government agencies to some type.

Gary, you're not part of Collier County Planning and Zoning, you're part of the Capital Project Planning and Program Management; isn't that true?

MR. McALPIN: It's true.

CHAIRMAN STRAIN: Okay. And we go down the list, and on the next page we get into the members from the public. 13, Kenneth Bills is a citizen volunteer; from what I could tell he lives in Foxfire.

14, Phillip Brougham, citizen volunteer, he lives in Fiddler's Creek. By the way, Fiddler's Creek is in a coastal high hazard area.

15, Joseph Gagnier is a citizen volunteer. Best I could find he's in Imperial Golf Course -- lives within Imperial Golf Course.

The last one, James Hale, lives in Tarpon Bay.

16, 17 and 18, Lisa Koehler, Clarence Tears and Dennis Vasey, are all in some form connected with agencies and bureaucracies.

What that leads to is 15 out of 19 are government or former government bureaucrats. There are no representatives in this committee from the most impacted district of the entire county and that is District 5, the rural area. Because what's happening as a result of FEMA's latest rules is to the negative side of things that are in the rural area but to the benefit of the urban area. For all the changes that we have to make in the methodology going forward in the rural area, it gets discounts for the people in the urban area. And the ratio of discounts there, even though it's across-the-board discounts in the county, are much higher. Yet the biggest problems are those closer to the water.

I point it out because I think it was highly unbalanced not to have members of District 5 in this committee in some form. And that's all I want to say on that. I just want to get it on the record that that's my position on --

MR. McALPIN: Would you like to change the compensation of the committee moving forward? We certainly -- the Planning Commission can certainly make that recommendation.

CHAIRMAN STRAIN: I think that you ought to seek members from the rural area, because that area is going to be strongly and negatively impacted by what FEMA's going to do to this county. And I know that we're trapped and we have to do some of it, but their voice to the citizens out there would be helpful. That's the suggestion.

COMMISSIONER ROMAN: Well, what has been the system of selecting these citizen volunteers? Is it just asking for volunteers, or how does this come about?

MR. McALPIN: There are certain requirements that we have to have to satisfy the FEMA guidelines on the -- certain participation in the staff. You have to have a floodplain person, you have to have a structural person, you have to have a person from the Building Department. So we have to satisfy those first. And then we could add as we see fit. I mean, it could be modified.

COMMISSIONER ROMAN: I'm just saying, how do you go out and seek people to participate as the citizen volunteers, or do you? Do you just know people and pick people or --

MS. CILEK: People submit an application and then it is approved by the County Manager for appointment. We do not actively seek, but if we're looking to maintain a balance, we might need to do that.

COMMISSIONER ROMAN: Thank you.

COMMISSIONER EBERT: I have a question.

Mark, did we not have participation before in the floodplain from District 5? There used to be a gentlemen that I remember, kind of a big gentlemen, and boy, he was for this. I don't -- what happened to him?

CHAIRMAN STRAIN: I don't recall that, but --

COMMISSIONER EBERT: Yeah, it's bad out in the Estates. And that's where you need it.

MR. McALPIN: We'll make the recommendation --

CHAIRMAN STRAIN: You missed my point.

MR. McALPIN: -- to add a District 5 or District 5 representation to this.

COMMISSIONER EBERT: Okay.

MR. McALPIN: And we'll make it to the County Manager and from the planning committee, thank you.

CHAIRMAN STRAIN: Thank you.

COMMISSIONER CHRZANOWSKI: Gary, your member seven, Dan Summers, on the next page you show him as having an alternate, Rick Zivoloski. Do you know how many meetings Dan Summers has attended?

MR. McALPIN: Rick generally stood in for Dan for most of the conversation.

COMMISSIONER CHRZANOWSKI: Most or all?

MR. McALPIN: I'm going to say most. I can't say that it's been all.

But what we were trying to do was satisfy that emergency management focus and component, and I think that was done very well.

COMMISSIONER CHRZANOWSKI: It seems that emergency management would deal with FEMA more than most people. It seems like Summers should have a very active partner of this and yet in the four years I was on the Floodplain Management Planning Committee I don't remember him attending a single meeting.

MR. McALPIN: I can't speak specifically --

COMMISSIONER CHRZANOWSKI: How about the past four years?

MR. McALPIN: -- to how many meetings Dan Summers attended or not, but I will tell you that we are very well represented by --

COMMISSIONER CHRZANOWSKI: Rick Zivoloski.

MR. McALPIN: -- by the emergency management team.

COMMISSIONER CHRZANOWSKI: I see his name on instead of Rick Zivoloski's, and I was just wondering if he ever attends. Thank you.

CHAIRMAN STRAIN: My next question might parallel Diane's. It's on Page 43 and it starts out with a reference of climate change and sea level rise.

MS. CILEK: This is the table that I wanted to show you.

CHAIRMAN STRAIN: Okay. So why don't you address Diane's concerns. If she can rearticulate those then I'll see if they're covered by mine.

MR. McALPIN: I'll put this up on the visualizer.

CHAIRMAN STRAIN: By the way, for this board, about noontime I'll ask you what you want to do for lunch or not. By that time we probably would have about an hour left based on the amount of questions I have. Because a lot of them were eliminated when I didn't have to debate all those policies and objectives.

So about 10 minutes or so we'll make that decision.

MS. CILEK: Okay. Thanks, Gary.

This table is illustrating the various hazards that FEMA and CRS have as analyzed. So this is a table that is consistent for every jurisdiction that does a Floodplain Management Plan.

And so what we did is looking at the guidelines based on frequency of occurrence, that's how -- and the way that the initial page that Diane questions, this is organized in the frequency of occurrence. So although if you look across the climate change in sea level rise table, frequency is highly likely, spatial extent is limited, potential magnitude negligible, significance low. The frequency of occurrence is how they are ranked. And so because it is at the top as highly likely, that is why it's the first thing.

COMMISSIONER EBERT: It's highly likely.

MS. CILEK: Uh-huh.

CHAIRMAN STRAIN: It's most likely going to happen.

COMMISSIONER EBERT: Yeah, yeah. We're going to be nuked before then. But --

CHAIRMAN STRAIN: Maybe you know something we don't.

COMMISSIONER EBERT: I know Judy Hushon is going to disagree with me, but is Collier County now building to those standards? Are you expecting the one foot sea rise? Are you building to those standards in the coastal high hazard area?

CHAIRMAN STRAIN: The sea rise table that's further in here provided the actual calculations used up to point to 2060. So they didn't see a sea level rise of one foot even up to that date. I think it's well beyond that date. It was .877 of a foot. So it's about -- it's much less than a foot.

MR. McALPIN: For sea level rise we use the U.S. Army Corps of Engineers standards, and we do that for and we incorporate that into all of the beach designs. So we're -- and it is -- we're using the standards that are out there, the recommended.

CHAIRMAN STRAIN: But to further Diane's question, and maybe part of the reason she may have focused on this a little bit is that under this table, 4-1, the frequency of occurrence is highly likely within the next year. Do you really believe we're going to have an impact of 100 -- that we have a 100 percent probability of an impact from climate change in sea level rise in the next 12 months?

MS. CILEK: You know, we actually asked the same question when we were working with the consultant.

CHAIRMAN STRAIN: Pull that a little closer to you.

MS. CILEK: I'm sorry.

We actually asked the same question, our committee, when we were working with the consultant. And what he relayed to us is that it is a 100 percent probability. But that it could be so slow over time. That's why it's still categorized under 100 percent.

CHAIRMAN STRAIN: Okay. So if it's so slow, that means the next sentence where it says between 10 and 100 percent probability, if it's 10 percent because it's so slow in the beginning years, it's not really then as highly likely, is it? Or is it just the fact that any percentage means it's going to happen, therefore it's highly likely something's going to happen, it just won't be impactful. Which is what you're saying --

MS. CILEK: It happens over time is really what that's getting to.

CHAIRMAN STRAIN: Okay.

MR. McALPIN: I think the Board -- I think the team when we went through this and when we reviewed it identified this as a highly likely event. Now, if the Planning Commission disagrees with that, I think these are the criteria that we looked at when we evaluated the vulnerability. So if you disagree with that, we certainly can note that.

CHAIRMAN STRAIN: The idea of climate change, sea level rise and all that, that's in the hands of scientists. And honestly I surely don't -- I mean, I can't get into that. I don't even have the background to understand it. I was trying to understand what it meant. Because if I'm going to have beachfront property out in the Estates in the next year, I'm going to be really pleased in one regard but I'll be very sad in another regard.

MR. McALPIN: I don't think we're saying that.

CHAIRMAN STRAIN: Okay. Anybody else up to Page 43?

(No response.)

CHAIRMAN STRAIN: My next question is not a question, it's another generalization. On Page 50, it's the NCDC Severe Weather Reports For Collier County. Now this goes for 64 years, from 1950 to 2014. And it says: The property loss from all events for 64 years has been \$9 million, with one death and zero injuries. Is that how that's to be read? Is that what it -- I mean, that's what it seems to say.

MS. CILEK: I would take the NCDC table -- you must read it in relationship with the above paragraph that describes NCDC data. Because it's different. All of these like SHELDUS NCDC, the next one on the next page, they are all created differently. So the reason why they're all in here is because they give a little bit more light each time, right?

So in this case I think the important part here, and I don't even know if this above it describes it, but from what I recall, NCDC data is basically information that's provided by lots of different sources: County, state, federal, emergency officials, law enforcement, SkyWarn spotters, so it comes in from all different places. And that's one reason why it has such a breadth of time. And then two, also that's why the numbers are a little bit different.

CHAIRMAN STRAIN: Yeah, but look at table 4-5, SHELDUS. It has less types of incidents, same period of time -- or almost 10 years less. It's got 54 years instead of 64 years. Under that one the property loss is over 13 and a half billion. But they have eight deaths. So how can someone not count a death?

MS. CILEK: It's super important to read the paragraph above it. And Gary and I made sure that they explained this, because we were very concerned early on that the tables would be misleading if they didn't describe how the data was collected.

So in this case if you read the underlined language with the paragraph directly above, Table 4-5, it says: Losses for multi-county events are distributed equally across counties, with the exception of fatalities and injuries. If details on the location of fatalities and injuries are provided in the original data, then SHELDUS will reflect it.

But it's really that first part. So this is multiple counties, it's not specific to Collier County, and that's what's really important.

CHAIRMAN STRAIN: So the way we would read this then, out of the eight deaths only one was in Collier County.

MR. McALPIN: That's true, Mr. Chair.

And I think what we -- we had a lot of discussion about this. But it's information and it's data, and it's the best information that's out there. It's not -- and so what we did is we included it in the report so that it would give an order of magnitude, okay. And that's really what you want to -- the way we took it is this is an order of magnitude number to kind of set things and frame things in the right perspective. And the first one is specific to Collier County and the second one deals with Southwest Florida.

CHAIRMAN STRAIN: Okay.

MS. CILEK: I would just like to know that where I could have the counties identified, such as on Page 46 you see a whole slew of counties listed, I tried to include it so that it would print in perspective these numbers and associate the number of counties that were impacted by these things. So I couldn't do that.

I asked for the SHELDUS and they can't do that. But they were able to do it for the FEMA and FDE and Florida Department of Emergency Management data. So where possible we tried to put things in context.

CHAIRMAN STRAIN: Okay. My next question is on Page 78. This is a result of a review of a prior boat dock extension that I did called Haldeman Creek. In Haldeman Creek it's a easement for drainage. And it's called that on the maps. I tried to find out who was in charge of that creek, because it was dedicated to the DOT. DOT said they probably don't have it, but they weren't sure. Collier County was going to take a look at it. And the reason I'm bringing it up is because in this plan you talk about the primary and secondary stormwater conveyance systems. And in one section of the plan that we'll get to you actually say that the Big Cypress Basin is in charge of certain parts of the plan.

Well, I meet with Lisa Koehler, and I've met with Jerry Kurtz. They don't touch -- well, Jerry Kurtz doesn't look at anything below the weirs. So the -- they look at all this water upstream but they don't look at can it flow downstream. They just look at it goes over the weir and after that they drop their involvement.

And then I talked to Lisa, because someone said, well, it's probably Big Cypress that takes care of that. So no, they don't either. They don't look at it. And so I said, well, who is looking at the capacity needed downstream from the basins that our entire county drains and flows? No one could give me an answer in time for the analysis of Haldeman Creek. The balance was nobody knows who does it. DOT thought Collier County might ultimately be in charge, but no one knew.

Well now I get this plan and you guys are looking at all the drainage and saying how, you know, you've got to have all these flow water concerns and you got to look at our appurtenances that go into the canals and all this, but nobody's looking at them below the weir.

So in order to support your plan I'd like to know how you are going to verify that the drainage upstream of those weirs can actually get out to the Gulf.

MS. CILEK: We can certainly look into it. I don't know if we're going to be any more successful than you were though.

CHAIRMAN STRAIN: Well, but see how important it is, though? If you block the outflow, it's going to back up. And if no one's looking at that, how can we possibly know that we've got a system that's functioning like it's designed to function?

And, you know, it's ironic, when I first realized nobody has looked at this, I thought that's got to be wrong, because it's the most practical thing that you'd expect is that yeah, we can make it all the way out to the Gulf.

MR. McALPIN: So noted, Mr. Chair.

CHAIRMAN STRAIN: Okay. Gary, that's I guess the only response I would have expected, but I kind of wanted to make a note of it here today, because it doesn't fit with how careful this plan's been laid out, and how conscious everybody is supposed to be of floodwaters when we don't even know if our floodwaters can make it out to the Gulf.

MR. McALPIN: It's a good point, it's a point we have to address how that is maintained, and it's so noted.

COMMISSIONER CHRZANOWSKI: Could I --

CHAIRMAN STRAIN: Yes.

COMMISSIONER CHRZANOWSKI: You kayak. The new Gordon River kayak way, the launch there behind Jungle Larry's by the zoo, by the --

CHAIRMAN STRAIN: It's not long enough.

COMMISSIONER CHRZANOWSKI: I know, it's not long enough for me, but we did it anyway. And when you go to the left and try to make it to the Amyl Gate at Golden Gate, you can't. I mean, you just can't. It's just a tangle of everything. I guarantee you it's catching stuff that's --

COMMISSIONER DOYLE: I made it.

COMMISSIONER CHRZANOWSKI: How did you get through?

COMMISSIONER DOYLE: Underneath. Just a lot of --

COMMISSIONER CHRZANOWSKI: High tide, low tide?

COMMISSIONER DOYLE: It was very high tide.

COMMISSIONER ROMAN: Use your mic.

COMMISSIONER CHRZANOWSKI: Very high tide? You launched there and you went left?

COMMISSIONER DOYLE: Right up to Golden Gate Road, yes.

COMMISSIONER CHRZANOWSKI: Wow. We tried.

COMMISSIONER DOYLE: It's fenced in.

COMMISSIONER CHRZANOWSKI: Yeah. We tried about two weeks ago and couldn't make it. But it was --

CHAIRMAN STRAIN: You and duke are a kayaking team. So now you're probably going to give them a mission. I bet you they're going to be trying it again.

COMMISSIONER CHRZANOWSKI: No, we're not going to try it again. No, that sucker was blocked.

MR. McALPIN: You're talking about the --

COMMISSIONER CHRZANOWSKI: I'm talking about the Naples Bay, the Gordon River, from

the downstream, where like he's talking about, the Amyl Gate at Golden Gate, out to Naples Bay, there's a lot of blockage in there.

CHAIRMAN STRAIN: You know, out of this whole study you guys are doing, maybe one of the things that ought to be brought to the attention of the Board is this issue, if you consider it important enough of an issue involving floodplain management, that it could be somehow looked at through your office to make sure someone is at least doing the homework that these are going to work. It defeats the whole program if you can't get the water off the land.

MR. McALPIN: We'll address it, Mr. Chair.

CHAIRMAN STRAIN: Thank you.

COMMISSIONER EBERT: Mark, may I say something?

CHAIRMAN STRAIN: Sure.

COMMISSIONER EBERT: You know, at the Haldeman Creek there was a gentleman who got up and spoke in front of us. And he -- I believe it was Donna. He said what happened there was you had so many trees and everything that it just lifted. It was horrible because it could not get out. There was just too much junk in there to even make it out. So that was his concern about the 42 docks was it's going to go up against them and we're really going to be in trouble. So Mark is right.

CHAIRMAN STRAIN: And it's 12:00. And what I would suggest, I think we can get through this in an hour. I don't know how hungry you guys are. But if we took a 15-minute break and then came back and finished up, we could avoid a two-hour stay-over and probably narrow it down to an hour or so. Does that work for you all?

Well, let's take a break 'til 12:15 and come back. Is that okay with you, Cherie'? Okay, we're on a break.

(Recess.)

(Commissioner Ebert is absent from Boardroom.)

CHAIRMAN STRAIN: Okay, everybody. Thank you. Okay, that was a short break. We'll try to wrap it up here in a little bit, and we'll move through. Diane Ebert had another commitment so she had to leave, and so we will move on.

We left off talking about the drainage system on Page 78, so let's move -- my next question will be on Page 158. So does anybody have any questions between -- up to Page 158?

COMMISSIONER CHRZANOWSKI: Yeah, just one comment.

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER CHRZANOWSKI: If you look at Page 102, you look at Tropical Storm Bob, the third storm down, they talk about the amount of rain that fell. And the page before says that Bob happened in '85 over a span of like five days.

Look a little about halfway down that paragraph, and over 22 inches at the Golden Gate landfill. I was working with Thomas Brothers Farms, which is just on the north side of 41 at that time. They had a couple of gauges. They had 24 inches. That storm dropped 22 to 24 inches over six square miles. And it's where there's residential now. And I always tell people that the reason I always buy flood insurance wherever I go, that storm happened over the span of a day or two, not much more, maybe even only a day, the bad part of the rain. No matter where you live in Collier County, if that storm hits you, you're going to flood. These systems are designed for 15 inches in three days.

That storm, wherever you are, if that storm hits you tomorrow, you're going to flood. That is no design in Collier County that will withstand that. So I always tell people you should buy flood insurance for that reason. Because if one of these bizarre storms hits, it's -- you're under water, and you're better to have the insurance than not. Just a little comment.

CHAIRMAN STRAIN: Yeah, and if you don't mind me asking a question about the comment. If it rained say 24 inches in that little bit of time and all of the 24 inches didn't percolate into the ground but stood there on the ground, which is not likely, why wouldn't it have dissipated out and why would it have gone above the required slab elevation that usually is 24 inches above the crown of the rural road, not asphalt road.

COMMISSIONER CHRZANOWSKI: Out in Golden Gate, if you're forced to build above the road and the road --

CHAIRMAN STRAIN: You are.

COMMISSIONER CHRZANOWSKI: Okay.

CHAIRMAN STRAIN: I mean, that's why --

COMMISSIONER CHRZANOWSKI: Yeah, but like Verona Walk you're not 24 inches above the road.

CHAIRMAN STRAIN: No, you're 18 --

COMMISSIONER CHRZANOWSKI: Those are the proj -- no, you're not.

CHAIRMAN STRAIN: Oh, what are you --

COMMISSIONER CHRZANOWSKI: You're above the 25-year, three-day -- the road is at the 25-year, three-day storm. The buildings are at the 100-year three-day storm. They are only a few inches above the road below buildings.

CHAIRMAN STRAIN: Then in that case you're right, that's going to be a --

COMMISSIONER CHRZANOWSKI: Yeah. The thing, we had trucks, survey trucks going through that area. And one of them drove into a canal, simply because they couldn't see the canal. The water had just flowed over everything. The ground was just totally flooded for six square miles. Yeah, it was -- that was a bad one. But that could happen any time.

CHAIRMAN STRAIN: Okeydoke.

COMMISSIONER ROMAN: I have one thing before we get to your page, Mr. Chair.

CHAIRMAN STRAIN: Yes.

COMMISSIONER ROMAN: And this is more of a question more for Caroline.

On Page 152, should we include the Marco Island High School on that list?

MS. CILEK: We can. I'm --

CHAIRMAN STRAIN: You've got to use the mic there.

MS. CILEK: Oh, I'm sorry.

We can. I'm kind of curious as to why it's not in there, since this came from the state.

COMMISSIONER ROMAN: Probably because it's relatively new. So Marco Island Academy is the --

MS. CILEK: When did it open?

COMMISSIONER ROMAN: Oh, I want to say we might be two years now.

MS. CILEK: Okay, yeah, I can add it.

MR. McALPIN: Marco Island High School?

COMMISSIONER ROMAN: Marco Island Academy, which is the high school.

MS. CILEK: Put it under the other two schools.

CHAIRMAN STRAIN: And then my next question is a few questions past that. Actually on Page 159.

When it refers to FIRM, F-I-R-M, table 440, NFIP Policy and Claims Data Pre-FIRM. That means before FEMA started monkeying with us like they did a couple years ago.

MS. CILEK: The FIRM is your Flood Insurance Rate Map.

CHAIRMAN STRAIN: Right.

MS. CILEK: So a pre-FIRM is before Collier County had a Flood Insurance Rate Map, which is 1979.

CHAIRMAN STRAIN: Okay. So in 1979 -- up to '79, table 440, is this how it's read, that up to '79 the total amount of paid losses was \$7 million?

MS. CILEK: Yeah, for pre-FIRM structures.

CHAIRMAN STRAIN: And the total premiums were about nine million. Few columns to the left. Then FEMA comes along and wants us to do all these rules and they charge us premiums of 25 million, but the paid losses are only 1.6. Who keeps that profit?

MS. CILEK: I don't feel like I can fully answer that question, so I'm going to just defer to FEMA's --

CHAIRMAN STRAIN: But wouldn't this seem to indicate that since FEMA came along and they've taken the price of our premiums and multiplied them times three and our losses have decreased by a magnitude of what, 75 percent, we've got a huge spread between what we pay and what we use. Where does

the rest of that money we pay in go if we're not using it for claims here? I mean, there's \$23 million out there floating around of money paid by citizens in Collier County for premiums instituted by FEMA that we're not getting the benefit from because the total paid losses since we've been under FEMA's rules have been 1.6 million. That seems to be what this table's saying.

MR. McALPIN: We'll get an answer for you, Mr. Chair.

MS. CILEK: I mean, I understand your concerns, but the money goes in the NFIP and they use it as they need.

CHAIRMAN STRAIN: So we're the donor county for everybody else who needs assistance, and we have very little is what it looks like.

MS. CILEK: I don't think I can speak to that.

CHAIRMAN STRAIN: Have we looked at self insurance? Because then we could keep the 25 million and dole out the 1.6. And 25 million over all the years since 1979 would have been a substantial bundle of money to use in case we ever had a catastrophe.

MS. CILEK: As we're an NIF community now, that's the Board's direction, and --

COMMISSIONER CHRZANOWSKI: Can I -- there was a push to look at self insurance for a while. And it happened right around the time that we were getting this new set of maps, which was unfortunately right about the time that 9/11 hit. And they put FEMA under the Department of Homeland Security, and everybody we were dealing with at FEMA had their email address changed to @DHS.com.

And we were told that Governor didn't want to go self-insured because it took money away from the Department of Homeland Security that his brother had just instituted, so --

CHAIRMAN STRAIN: Oh, I love politics. Okay. Thank you for that explanation. Makes me feel a lot better.

Page 185 is my next question. Anybody have anything up to that page?

(No response.)

CHAIRMAN STRAIN: And my questions here, is your ranking of your facilities where I guess these are storm centers where people go in case there's a hurricane. For example, Barron Collier High, Big Cypress, Avalon, they are only rated for a tropical storm and a CAT 1. But if it's a CAT 2 it's the wrong place to be; is that what this is saying? And does Dan Summers agree with that?

MS. CILEK: No, these are -- the sources for this come from the Collier County Tax Appraiser, the Florida Department of Emergency Management, and NOAA. So I believe that these structures and facilities are rated and then provided to the Florida Department of Emergency Management. So if they -- you know, that's what's consistent with what they have.

CHAIRMAN STRAIN: Okay, but here's the problem. When PUDs come through this board, a long time ago we requested that EMS -- or emergency services take a look at the PUDs and sign off on them, and if there's any concerns that there's some kind of mitigation -- and they've been looking at them.

But I had thought a long time ago when we looked at some of the schools as refuges for protection of citizens for the population that's here during the summer, that we had based on the number of population we have in the summer we have enough square footage set aside in schools for those people to flee to. But I had never understood that those schools, like Big Cypress, is only good in a cat -- tropical storm. I mean, Big Cypress is out in the Estates.

So why are -- does -- has Dan Summers acknowledged that our storm shelters are only good for -- many of them good for tropical storm or just a CAT 1 hurricane?

MS. CILEK: We can confirm with Mr. Summers, if you would like, but --

CHAIRMAN STRAIN: Would you ask him to take a look at this table 4-57 and see if he concurs with it?

MS. CILEK: Rick was a part of our committee, obviously, and I'm sure he was aware of this table, but I will speak with both he and Mr. Summers.

CHAIRMAN STRAIN: But see, that's going to have a fallback impact on how we look at our excavation -- evacuation routing and where our storm centers are. Because if we're telling in a public document that you're being sent to a storm shelter and we know it's only good for a Category 1 but we know that the storms ranked at a Category 2 or 3, there's some huge liability there for people getting hurt and

government misguiding people.

So I think it ought to be resolved for sure and that's why I'm suggesting we take a closer look at it. And there's a whole bunch of schools there, I'm sure you'll look at them all.

Trying to see where my next item is.

And that might be all I -- no, there's a whole nother row.

Oh, Page 204. Does anybody have anything through Page 204?

(No response.)

CHAIRMAN STRAIN: The bottom of Page 204 says, the last paragraph before the bullet, the Basin's priorities for maximizing flood protection for the primary system include. And the bullet that continues on to the next page, the second one, protecting existing canal right-of-way from encroachments and unauthorized uses.

That's exactly the issue that came about at Haldeman Creek. I asked -- again, and Lisa Koehler may be someone you may want to talk to before the Board hearing. How much of this they're really doing, and they do it for the area. You know, they deal with the areas upstream of the weirs. But she confirmed again that they don't do any of this below the weirs. And if she's not doing it, I don't know who is looking out for that. And so --

MS. CILEK: We will check with Lisa and perhaps it needs --

MR. McALPIN: -- to be combined with the other one.

CHAIRMAN STRAIN: Right, it's the same issue. You're right, Gary.

MS. CILEK: -- to be removed.

CHAIRMAN STRAIN: Page 207, you're asking for the -- it says on page -- Item 5.1: The following umbrella mitigation strategy was developed for this FMP. And it says implement the action plan recommendations of this plan.

Do you have a page where those are succinctly bulletized on it that you could refer me to?

MS. CILEK: Yes. Actually, if you keep going, let me check on that.

CHAIRMAN STRAIN: I haven't gone down my list yet, so maybe I caught it, but at the time I highlighted that I was trying to figure out what it was you were referring to.

MS. CILEK: Page 20 is where they start and it's a table. So it has existing mitigation action items that are carried forward from the 2008 plan. And then also there are about 13 new ones. So starting at 220.

CHAIRMAN STRAIN: Okay, that's right. I didn't -- that's fine, my question's answered. I highlighted that so I would -- I was going to go back and undo it when I found it and you're right, I did find those.

My next question will be way back I think on Page 217.

Yeah, anybody else have any questions through Page 217?

(No response.)

CHAIRMAN STRAIN: If not, 5.2.1, coordination with other planning efforts. The county's local mitigation strategy, LMS, I don't recall receiving that. Do we have that somewhere?

MS. CILEK: Are you on 5.3.1?

CHAIRMAN STRAIN: On Page 210. I'm sorry. My electronic version has different page numbers in some cases. Page 210.

MS. CILEK: The LMS.

CHAIRMAN STRAIN: Yeah.

MS. CILEK: It's on the website. I don't have a --

CHAIRMAN STRAIN: Can you send me a link --

MS. CILEK: Absolutely.

CHAIRMAN STRAIN: -- when you get back to the office?

MS. CILEK: I will say that it is going through an update right now, so it will probably go like the -- the 2015 will go to the Board perhaps in April. And there's a draft one on line that you can take a look at.

CHAIRMAN STRAIN: Okay.

MR. McALPIN: Mr. Chair, where were you? What question --

CHAIRMAN STRAIN: Page 210, Item 5.2.1. And third down it says: County's local mitigation

strategy. I just wanted to have it so I could read it.

On that same page under 5.2.2 under your goal setting exercise, they listed topics that I guess the committee members were concerned about. Improved stormwater management was one of the bullets. And improved/more affordable housing.

First of all, what does improved more affordable housing have to do with the Floodplain Management Committee?

MS. CILEK: The exercise was really all encompassing, it just got people to think about different things they were for in the future in for Collier County. So we've had things that dealt with flood issues and things that didn't.

CHAIRMAN STRAIN: Do you know what they thought needed to be improved in regards to stormwater management? Because every -- practically every set of opposition we have come into these chambers to discuss their position when they're fighting PUDs and things like that is oh, we're getting flooded, we have stormwater drainage problems and all that. And in reality none of that's as a result of the new additions usually, it's the result of people that have been there before all the current policies were in place.

So do you know, are there any particulars? I'm just wondering how that got to rise to the top.

MR. McALPIN: If there were particulars, Mr. Chair, it was included in the goals.

CHAIRMAN STRAIN: You've got to use the mic.

MR. McALPIN: If there were particulars, Mr. Chair, it was included in the goals that we had developed later. Excuse me, in the action plans, one of the 24 action items that was there. It's -- you know, we -- that's what I would say.

MS. CILEK: Yeah, that's good.

CHAIRMAN STRAIN: Let me see where I've got to go next.

I understand that the goals and objectives that start on Page 212, those are early drafts, so they're not the ones we're talking about today; is that correct?

MR. McALPIN: The goals are.

MS. CILEK: 212. These are the ones that are in the plan. They should be consistent with the ones that we looked at on Page 1.

CHAIRMAN STRAIN: Okay. So the comments I made on Page 1 will apply to this page.

MS. CILEK: Exactly.

CHAIRMAN STRAIN: Okay. And this is the page where I had a few others. Under goal three, which is on Page 213, objective 3.3. Implement flood mitigation measures or strategies as necessary to protect critical facilities.

Instead of as necessary, because that's pretty open-ended, could we say as necessary and financially feasible?

MS. CILEK: Sure.

CHAIRMAN STRAIN: I mean, the commitment to do everything that's necessary is huge.

And objective 4.1, this may be a little redundant, but these seem to be a little more detailed than the previous ones. Maintain and enforce regulations to protect and restore wetlands and ecological functions for long-term environmental, economic and recreational values.

Again I was going to say as have been adopted by the --

MS. CILEK: That's fine.

CHAIRMAN STRAIN: -- Board of County Commissioners.

4.3 I would suggest the same thing. Pursue water management approaches and techniques that improve water quality and protect public health as adopted by the Board.

Objective 4.4, there's a reference to provide recreational benefits. Preserve and maintain open space and flood prone areas to reduce flood damage to buildings and to provide recreational benefits.

What does that mean? I mean, if you're on private property and they've given up say TDRs or some kind of density transfer to release their property, you're saying that we're going to allow it for recreational benefits too?

MS. CILEK: I think this is just illustrating the fact that when you preserve open space it often can

kind of do double duty and provide a recreational benefit as well.

A lot of the areas that we preserve as parks also provide a stormwater management but are great places to take your family.

CHAIRMAN STRAIN: Are these goals and objectives going to be like what we're used to, that they're going to eventually have implementation language?

MS. CILEK: You know, a lot of these goals actually are supporting things that we're already doing, and that's kind of how we framed them. So we feel that we are already doing a lot of these things and we want to continue to do that. Perhaps maybe in the future there's other things that can fall within them, but right now they're -- you know, a lot of them, if they're already adopted by the Board, we just wanted to show that they're a goal and we're going to continue to go forward with them.

MR. McALPIN: And there's no -- and Mr. Chair, there's no prohibition against new projects or programs as we work off items that -- the 24 items that we've identified, as we work off them that we can't add projects that specifically address any one of these goal items.

MS. CILEK: If needed.

MR. McALPIN: If needed.

CHAIRMAN STRAIN: Okay. I'm moving through anything I've got left.

I thought it was interesting that you have these -- all these goals and programs on Pages 215 and 216 that the committee addressed but not one of them said to reduce government regulation, but I guess they weren't there for that.

MR. McALPIN: Are you recommending that as a goal, Mr. Chairman?

CHAIRMAN STRAIN: It's my personal goal, to be honest with you.

I'm getting about to the end of my stuff. Does anybody else have anything they want to --

COMMISSIONER ROMAN: Yes, I had a comment and it goes back to Page 213. I think you were just talking about one of the goals there on that page, Mr. Chairman.

CHAIRMAN STRAIN: Yes.

COMMISSIONER ROMAN: I had met with Gary and Caroline to discuss this report after I had my first read through, since this is my first time looking at the floodplain review, and one of the questions that I had for them was how dune plantings and plantings along the shore are being used to create the healthy system, the healthy dune system, in addition to some of our needs for renourishment and other actions that we have to take.

And in talking with them, it seems like there's a fairly active county program for dune restoration, and we discussed several successful examples.

When I was looking at the report, I noticed that in particular down on Marco Island the Hideaway Beach that seems to come up in terms of its need for restoration projects quite frequently, I was talking with Gary about that dune system there along that edge, and I asked him if it might not be possible for him to take a look at that in the future and wrap that into goal number -- you know, on the objective number four, because it seems to be pretty bare in terms of any types of dune plantings there that might help along with the groin projects and the other projects along that shoreline. So we had that conversation. And I know he's been successful with projects throughout the county, and maybe there's a way to take a look at it there. I'm not the scientist, I'm not the expert, but that's what I asked in our discussion, and I was wondering, you know, how the Board feels about that.

CHAIRMAN STRAIN: Gary, is that something that you could look into?

MR. McALPIN: We could certainly work with the Hideaway Beach Taxing District to see if they would adopt that in a dune restoration program.

The issue is, is that is a private beach that is controlled by an MSTU. So to the extent that we would have goals, that from a county perspective we would need to work that with the City of Marco and with Hideaway Beach, but we certainly could talk to them.

COMMISSIONER ROMAN: Thank you.

CHAIRMAN STRAIN: Okay, does anybody else have any questions they need to ask?

(No response.)

CHAIRMAN STRAIN: I'm slowly going through my stuff and most everything has been answered

so far.

Page 238. Item 7.1.1, role of the Floodplain Management Planning Committee and implementation of monitoring and maintenance. They're going to convene quarterly of each year to ensure mitigation strategies are being implemented and the county continues to maintain compliance with NFIP.

Is that the minimum amount that they need to --

MS. CILEK: I mean, honestly we're going to maintain compliance with our Flood Damage Prevention Ordinance. It does have things that are more stringent than NFIP requirements. But the Board's approved that over time, those various changes. But yes, ultimately, the NFIP, we are always --

CHAIRMAN STRAIN: Well, no, I'm just suggest -- you've got 15 people who are government employees or someone employed by the taxpayers going to be sitting in these meetings as a requirement of this plan. And I'm just wondering if that's necessary for them all to sit there four times a year if they could get by with less, because the plans are rolling along and everything's -- you've got staff over there monitoring, and Gary's -- I'm sure Gary's department is going to be on top of it.

MS. CILEK: Quarterly basis is what I think is required for the CRS --

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

MR. McALPIN: But Mr. Chair, that doesn't mean that we -- you asked us to take a look at the board and make some recommendations to the County Manager. That doesn't mean that we can't, you know, adopt in a way or recommend a reduced board or a different type of board with region five and also look at the timing if we have to stay at a quarterly basis. But, you know, we could certainly look at the head count associated with that too.

CHAIRMAN STRAIN: You know, if your department's sending out summaries of where you're at on a regular basis or you can report to them and by email, because we're all up on electronics now, and then you can only meet less frequently, it saves a lot of money. I mean, I know what it cost now to have all the staff at every meeting and have those meeting rooms set aside and 15 bureaucrats show up to talk while they're paid on tax dollars to be there, I'd just as soon we minimize instead of -- unless there's a reason for it, Gary. And I -- you know, once this program's up and rolling, we're already there.

Also, I notice on the list of people -- oh, HOAs. And that came up because you've got an MFPC invitation list, and it's on Page 244. I was looking through those. You didn't invite a lot of HOAs. And the reason I was concerned about that is because some of the language I've read falls back to discussions about HOAs becoming responsible for their internal water management systems and they have to -- there was talk one time about getting certification of all of their systems on a regular basis to make sure they're functioning like designed.

There's a huge outcry about that. They didn't understand and it got to be a real problem.

Another thing you might want to look at, make sure somehow some of those HOAs presidents get invited.

MS. CILEK: Sure.

CHAIRMAN STRAIN: It would be good to have that, at least their representation so they're not eliminated from the process.

MS. CILEK: And I'm actually glad you brought that up. We're having an HOA president meeting I think later this month at the Growth Management Division, and I'll bring that up and see who wants to be included on the list that is sent out.

CHAIRMAN STRAIN: That would be a good thing to do. That's an excellent idea.

On Page 292 there was just a listing of completed surveys. How many surveys were sent out? 83 is all that responded, and that kind of drove a lot of stuff. And I'm just curious as to 83 out of how many, the whole county?

MS. CILEK: I mean, the survey was on the website and it was also made, you know, aware that people, that when they came to meetings. So it was just interested people who wanted to participate.

CHAIRMAN STRAIN: So out of -- okay.

COMMISSIONER ROMAN: So you would have to be aware that you would want to learn about this in order to seek it out. We might be able to do a little bit better in terms of gaining some interest from the public or notice.

MS. CILEK: Well, actually, I didn't turn to that page, but in the future we could probably add it to our -- where we could, like a public notice, we could add it to the public notice, a site that says here's a survey about it, if you can't make the meeting, you know, provide feedback, something like that.

MR. McALPIN: Moving forward you could do something different.

CHAIRMAN STRAIN: You know, one of the biggest --

COMMISSIONER ROMAN: Because I would have done it if I would have known.

CHAIRMAN STRAIN: One of the greatest concerns I've heard about every time someone brings this issue up in this particular plan was that they're going to put more problems on us in regards to FEMA and floodplain and compensation and all that, and it wasn't until after I met with you and Caroline and started understanding that this isn't doing that, it's already been done partway. Having that clarification to the public would probably avoid a lot of stress that some members of the public feel by things they read like this.

MS. CILEK: I agree.

CHAIRMAN STRAIN: And that takes it to the end of the questions I had.

Does anybody else have any questions?

COMMISSIONER CHRZANOWSKI: Just a comment. Usually I'd recommend putting a little flier in their utility bill, but people in Golden Gate, in the Estates, they don't get utility bills. And they're probably more concerned about stuff like this than most.

CHAIRMAN STRAIN: That's -- yeah, that's most of who I've heard it from.

COMMISSIONER CHRZANOWSKI: I have no idea how to tell those people that there's something out there they should pay attention to.

MS. CILEK: We still send a letter to everyone who lives in the special flood hazard area. So basically if your home is within the 100-year floodplain. So we send out information on notice every year to them.

CHAIRMAN STRAIN: Could you, when you have an item coming up of particular interest like this, a big item, there's some groups in the rural area, especially the Golden Gate civic group, they're real active. You know Mike Ramsey --

MS. CILEK: Yeah, I know --

CHAIRMAN STRAIN: -- he's attended some of your meetings.

MS. CILEK: He did.

CHAIRMAN STRAIN: And Mike would make sure that everybody was aware of it. So anyway, it would just help.

MS. CILEK: Yes, we're learning as, you know, this process has gone --

CHAIRMAN STRAIN: And I'm done. I'm assuming you guys made the notes that you needed to make from our discussion.

Does anybody else have anything?

(No response.)

CHAIRMAN STRAIN: And Cherie' wants to make sure she makes her next appointment, so --

MS. CILEK: There are a couple of minor tweaks I'd like to make. I'm not going to point them all out. They're very mundane, like one references Southwest Florida Water Management District and obviously the data comes from South Florida, so if you guys are okay with that type of thing, I'd like to make sure that this is as clean as possible.

CHAIRMAN STRAIN: Any grammatical changes I don't think effect the impact of the plan.

MR. McALPIN: Scrivener's errors.

MS. CILEK: Scrivener's errors, yeah.

Let me think. There's one other one I'd like to bring your attention to. It is on Page 77. Since we have 15 more minutes.

MR. McALPIN: Does that give adequate travel time?

MS. CILEK: Looking at the box under August 4th, it says highest measured rainfall amounts. On the very bottom is red text. And if it's all right with everyone, I propose that we change it to: Is in excess of a 50-year rainfall for Naples rather than is equivalent to a 50 to a 100-year.

We got various data sources that -- and I feel more comfortable with it, it's just in excess.

CHAIRMAN STRAIN: I don't think that rises to a level of concern.

MS. CILEK: And then I would like to also chat with the committee about one of the mitigation action items that is on our list. I believe that's Page 220. Actually it's two of them. The Page 222, number three at the top, in my translation to the consultant it got a little abbreviated. And it says, under number three, support the top three stormwater planning projects, including -- I want to add the words not limited to. Because once these three are complete, you know, hopefully so in the next five years, we're not limited to those. I want to continue to support all of those projects that are prioritized by stormwater plans. So good there.

And then with number seven, which it says coordinate with the Big Cypress Basin following the completion of the Southwest Protection Levee as part of the Picayune Strand Restoration Project.

Just from conversations with staff, I think it would be better to not include this on the mitigation action items and rather address it if needed at the time when it's done. I think we need more information about how it affects flooding generally.

MR. McALPIN: I think those were on 221 and 222.

MS. CILEK: No, this coordination is number seven on 222. Yeah, sorry.

CHAIRMAN STRAIN: Anybody else have any concerns?

(No response.)

CHAIRMAN STRAIN: No, I think --

MS. CILEK: Okay. So I'm going to let that one go. Again, if it's needed at the time we are -- at the time it's completed, we can always think about it as a committee and address it.

That's it for me.

CHAIRMAN STRAIN: Okay, does anybody else on the Planning Commission have any questions?

(No response.)

CHAIRMAN STRAIN: Any members of the public wish to speak? And there's only one, and she's not getting up.

Okay, with that, is there a motion to make a recommendation of approval subject to the discussions and notes that staff has made as a result of that discussion?

COMMISSIONER ROMAN: So moved.

CHAIRMAN STRAIN: 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 DOYLE: 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.

Thank you all very much. I appreciate it.

MR. McALPIN: Can I make a comment?

CHAIRMAN STRAIN: Sure.

MR. McALPIN: I just want the board to recognize the tremendous effort that Caroline put into this developing and working with the plan, working with me and the consultants to make this thing happen. And she's done a great job. And I think that sometimes we go through and we don't necessarily recommend -- recognize the people who have made significant effort. So I wanted to bring that to the board's attention.

CHAIRMAN STRAIN: Thank you. I would agree, it's come out real well. And I certainly appreciate the clarifications both of you have given. Not only to me but as Diane had said and others on this

board. Because without that, this would have been a much more difficult meeting. So thank you both.

COMMISSIONER CHRZANOWSKI: Will this be reflected in her salary?

MR. McALPIN: You know what, you'll have to talk to Jamie in the back.

CHAIRMAN STRAIN: ***Okay, that gets us to public comment. Again, I don't see anybody wanting to comment.

So with that, is there a motion to adjourn?

COMMISSIONER ROMAN: So moved.

CHAIRMAN STRAIN: Second by?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Karen.

All in favor, signify by saying aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

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

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 12:50 p.m.

COLLIER COUNTY PLANNING COMMISSION


MARK STRAIN, Chairman

These minutes approved by the board on 2-19-15 as presented or as corrected .

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