

June, 4, 2015

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
June 4, 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:

Jeff Klatzkow, County Attorney
Ray Bellows, Zoning Manager
Thomas Eastman, Real Property Director, Collier County School District

CHAIRMAN STRAIN: Good morning, everyone. Welcome to the Thursday, June 4th 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. Chrzanowski?

COMMISSIONER CHRZANOWSKI: Here.

COMMISSIONER EBERT: Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER EBERT: Ms. Ebert is here.

Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER EBERT: Ms. Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER EBERT: Mr. Doyle?

COMMISSIONER DOYLE: Here.

COMMISSIONER EBERT: Ms. Roman?

COMMISSIONER ROMAN: Here.

CHAIRMAN STRAIN: Great. We're all here. That's a rarity.

***Just for the addenda to the agenda, I don't know any changes. There aren't any changes that I know of. I'm going to at least for the benefit of the public that are here let you know the schedule for this morning. We have two regular rezoning or zoning actions to hear this morning. The first one will be Lely Resort. That is a continuation. We heard it once a couple of weeks ago.

The second one is a -- some changes to an existing planned unit development called Lane Park Commercial Planned Unit Development. That will be right after Lely.

Then the third thing up will be the Collier County Land Development Code discussion, including the amendment to the RLSA and the SRA areas out east. A lot of that is being continued from the last meeting as well.

For the timing of this all, I would -- all these items will most likely be heard this morning, so if anybody's watching and wants to know when they should be here for any one of them, the first two will probably within -- we'll probably get to both of them within the first hour, hour and a half. And then the last one which is the LDC we'll probably hear before noontime. So for those of you wanting to know the schedule.

***That takes us to Planning Commission absences. We have two meetings scheduled for the Planning Commission I'd like to make sure we have a quorum on. On June 6th, which is Monday night at 5:05, we have a meeting --

COMMISSIONER HOMIAK: Isn't that the 8th?

CHAIRMAN STRAIN: On the 8th. I'm sorry, you're right, it is the 8th. Why did I say the 6th? Yeah, anybody want to come in Saturday?

COMMISSIONER HOMIAK: Saturday, no.

CHAIRMAN STRAIN: There, changed.

On June 8th at 5:05, which is Monday night, we have an LDC hearing on two items, which will be the gas station waiver area 5.05.05 of the LDC. And then a change to the setbacks for golf course maintenance buildings. That will be heard next Monday night.

Does anybody know if they're not going to be able to make it?

(No response.)

CHAIRMAN STRAIN: Good, we have a quorum.

On June 18th is our next regular meeting.

Ray, do we have anything scheduled for June 18th?

MR. BELLOWS: Yes, we have items.

CHAIRMAN STRAIN: Does anybody know if they're not going to be making it for our next regular meeting on June 18th?

(No response.)

CHAIRMAN STRAIN: Okay, got quorums twice.

***Electronically we were sent the minutes for the May 7th, 2015 meeting. Does anybody have any changes? And if not, is there a motion to approve?

COMMISSIONER HOMIAK: There's just one. Change on the bottom of Page 77, it says Chairman Nance. It should be Chairman Strain.

CHAIRMAN STRAIN: Good point. Okay. Anything else?

(No response.)

CHAIRMAN STRAIN: Is there a motion, subject to that change?

COMMISSIONER HOMIAK: Motion to approve with that change.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER EBERT: I'll second.

CHAIRMAN STRAIN: All in favor signify by saying aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

***The next item up is the BCC report and recaps. Ray?

MR. BELLOWS: During the last Board of County Commissioner meeting the item for the Vincentian PUD was continued to the meeting in I believe June, a later meeting in June.

CHAIRMAN STRAIN: Okay. That's it?

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: Okay, thank you.

***The chairman's report. Just a reminder, on June 8th, next Monday night, the second item we're going to be discussing is 2.03.09 which is the golf course maintenance setback section. That didn't get to you all in the current packet that was sent. So you need to pull that from the 5/21 CCPC packet you received. So it's not that lengthy, it's just a few pages, but make sure you bring that and are ready to discuss that at Monday night's meeting, because it wasn't in the packet with the service station changes.

There are no consent agenda items today, and we'll move right into the first public hearing.

***Item is 9.A, it's a continuation from the May 21st CCPC meeting. It's PUDA-PL20140002040. And it's a Lely Resort Community Planned Unit Development.

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

(All speakers were duly sworn.)

CHAIRMAN STRAIN: Disclosures on the part of the Planning Commission. We'll start with Stan.

COMMISSIONER CHRZANOWSKI: Nothing since last time.

CHAIRMAN STRAIN: Tom?

MR. EASTMAN: No.

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: Just staff.

CHAIRMAN STRAIN: And I've talked with staff and I had met with the applicant's representative.

COMMISSIONER HOMIAK: Nothing since last time.

CHAIRMAN STRAIN: Brian?

COMMISSIONER DOYLE: Nothing.

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: Just additional conversations with staff.

CHAIRMAN STRAIN: Okay, with that we'll move right into the hearing with the presentation by the applicant.

MR. YOVANOVICH: Good morning. For the record, Rich Yovanovich, on behalf of the petitioner and applicant.

CHAIRMAN STRAIN: I'm sorry, before you start I would like to make sure, after the packet was sent out staff sent another version out, and I want to make sure everybody is reading off that version. On the bottom left side it should have in the footnote, first line towards the end it should say, revised 6/02/15. So that's the one we will be using for review today.

COMMISSIONER EBERT: I didn't pull it down.

MR. YOVANOVICH: I'll go page by page.

CHAIRMAN STRAIN: Okay. Go ahead then. Sorry to interrupt you.

MR. YOVANOVICH: That's okay.

Again for the record, Rich Yovanovich on behalf of the petitioner. With me are Brian Stock and Keith Gelder with Stock Development, Alexis Crespo with Waldrop Engineering, and Jim Banks with -- he's my transportation consultant today.

Mr. Strain, I don't know how you want to do this. We kind of left off with we had gone through a bunch of revisions. I think the only issue that was unresolved at the time was the transportation commitment regarding Triangle Boulevard.

CHAIRMAN STRAIN: No, there were a few other issues. For example, on the C-2 parcel to the south, in discussions that I had specifically from this chair, for example, I asked if you had a site plan so you could show us how you were going to utilize that wall or where it was going to go to get a better picture of it, and you said you did and so I didn't see it in the packet because I assumed you didn't want to make it part of the record in regards to the packet but you'll at least need to show us that so we can get an idea how that wall fits in, because the language doesn't give it clarity.

MR. YOVANOVICH: Okay, we had included a wall cross-section, I believe, that showed you the wall and the plantings that would be around the wall. I don't think we have -- Keith, do you have a site plan that I can show, a conceptual site plan?

CHAIRMAN STRAIN: Well, the issue was and is, how did you -- by the language that you were suggesting, how does that line itself on that parcel? Because you wanted -- you were arguing -- not arguing, you were stating that the issues of noise mitigation and loading dock mitigation would be tempered by this wall and this landscape. I asked to see that relationship.

Does anybody else recall that?

COMMISSIONER ROMAN: Yes, I do, because those were some of the questions I had for staff. In the original PUD document they referred to an Exhibit A, and there was no Exhibit A. So then in the new documents it was Exhibit I. And when that cross-section was presented, it was only a cross-section of the wall in relationship to the landscaping, not in relationship to the parcel.

And that was one of my follow-up questions I hope staff has an answer to today, or maybe the petitioner. I likewise remember that.

CHAIRMAN STRAIN: What we can do, Rich, we'll walk through this step at a time and we'll see how much more we may need to understand this. We could always hold off on a decision until a couple hours goes by, you could get something possibly emailed over to one of the aides and maybe get at least something so we understand where you're talking about.

MR. YOVANOVICH: Okay, I understand, Mr. Strain, fine.

CHAIRMAN STRAIN: I think we can get it accomplished today, we just may have to go through a couple of hoops to get there.

MR. YOVANOVICH: Okay. Well, anyway, I recalled the Triangle Boulevard being the major issue. I know there were nitpicking -- that's probably not the best word.

CHAIRMAN STRAIN: No, that's not a good word, Richard.

MR. YOVANOVICH: There were small issues that you wanted to see the actual language that you

will have in front of you and I'll go page by page on that. But maybe it was the Triangle Boulevard issue, since it was such a big issue, is the one that just stuck out in my head.

But we'll address the conceptual site planning issues for you as well. And perhaps if I put this aerial up, it could be used for purposes of that discussion as well.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: I want the record to reflect I got that right on the first try.

COMMISSIONER EBERT: Wow.

CHAIRMAN STRAIN: For those of you that have blank screens, on the right side hit the second button down on the flashing machine there and that will pop it up for you.

MR. YOVANOVICH: For purposes of the Triangle Boulevard discussion, and the discussion where we were going to, one, use being allowed to be above 20,000 square feet not to exceed 60,000 square feet, that's the parcel we're discussing for purposes of the Lely Resort PUD.

If you look at Page 3 of 4 of your ordinance -- two for two.

COMMISSIONER ROMAN: Could we zoom in on that just a little bit, please.

MR. YOVANOVICH: This is the version that Mr. Strain was referring to. And this is the lang-- we had a meeting with transportation staff in the County Attorney's Office to address Triangle Boulevard. The ultimate plan is to have a study done of Triangle Boulevard. The county will do the study. The county will determine what if any modifications to Trail Boulevard will occur. We'll pay our fair share of what those improvements need to be.

In the meantime, to allow the SDP to go forward, there will be a \$50,000 bond posted because that's kind of -- that's about the ballpark staff is thinking may be our requirements. If it's more, we'll pay more through the pro rata share process. If it's less, we'll pay less. But we'll put up a bond when we do our Site Development Plan for that parcel.

But this is the language that was agreed to primarily drafted by Heidi in the County Attorney's Office and I understand reviewed and approved, I know by my side, but I also understand it's been approved by the county's side.

So that's the first change and addresses the Triangle Boulevard.

CHAIRMAN STRAIN: Well actually that might be the second. Because up on top under 3.02, you added the Triangle Boulevard commercial piece after 2.07.

MR. YOVANOVICH: You are correct. It was not highlighted in the yellow for me to know that I was supposed to point that out.

CHAIRMAN STRAIN: There's a couple of them I think that weren't.

MR. YOVANOVICH: Okay. But that -- remember back when you brought that up, Mr. Strain, about making sure we dealt --

CHAIRMAN STRAIN: No, it's good that it was added. I only would suggest that in the first part of that 3.02 section it says on lands designated as "R", except as permitted in 2.07. I think you might want to follow that trend where it says or C-2 or C-3, where expressly permitted -- as permitted by Sections 5.02 and 6.02. 5.02 is C-2, 6.02 is C-3. Because there are particulars to the commercial on those two parcels in those sections, and that might clarify it in a manner similar to the residential.

MR. YOVANOVICH: That's fine.

CHAIRMAN STRAIN: And as far as transportation, I do have some questions, but I'll defer to the other members first, if anybody has any issues with that transportation paragraph?

(No response.)

CHAIRMAN STRAIN: This fair share -- I'm more comfortable with it that you're agreeing to it, but it still doesn't answer questions that I'm trying to understand. First of all, the performance guarantee shall be released by the county upon execution of developer's contribution agreement by owner or upon creation of a commercial MSTU, basically, by the county.

Would the developer's contribution agreement solely be between you and the county? I mean, that's not typical what I would think if it's a fair share is all you're paying. Are you going to get a broader developer's contribution agreement for other people who are contributing to that intersection and all of you being on the same DCA?

MR. YOVANOVICH: No, sir.

CHAIRMAN STRAIN: Okay, so you will have a DCA strictly with your company or with your applicant's company and the county.

MR. YOVANOVICH: Yes, sir.

CHAIRMAN STRAIN: Okay. Did you know about the DCA in 2003 that your applicant currently retains?

MR. YOVANOVICH: The one that I drafted?

CHAIRMAN STRAIN: Yes, the traffic DCA.

MR. YOVANOVICH: Yes. This one.

CHAIRMAN STRAIN: Yeah, one of the paragraphs in there, and I've read it, I mean, I don't have it for the overhead, refers to that this is all of your mitigation for your improvements. And I know you've agreed to this. I'm not debating that. I'm just trying to understand the reasoning as to why we have to create another DCA when the last one supposedly solved all the problems. And where is the end point on this? I'm just trying to understand the justification. And I don't know if it's from your side to get that explanation or from county transportation, but I certainly would like to understand why this is necessary.

MR. YOVANOVICH: I'll let the county explain why they believe we should pay more.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: We have agreed to address some conditions that the county claims are site related conditions that were not originally addressed by the previous agreement.

CHAIRMAN STRAIN: Well, I know. And what's happened over the years through different actions, I know that applicants sometimes will agree to just about anything to get their project through because of the stage in which it's coming forward. They need to get it going. That shouldn't be a means for something to be done that is not consistent with the rational nexus that would have driven this, especially when you have a DCA previously that said it was all done.

So is anybody -- and I don't see transportation people here, but Amy's coming up. Good.

Which is kind of interesting. Why isn't anybody from transportation here today, Amy? I mean, I know you represent the department as a director, but you have other specialists here.

MS. PATTERSON: For the record, Amy Patterson. Trinity Scott will be here. She's tied up in another meeting. So if you want to hold off until she gets here, if you'd feel more comfortable.

CHAIRMAN STRAIN: No, she should prioritize her meetings.

MS. PATTERSON: Meeting ran over.

CHAIRMAN STRAIN: I mean, she still should prioritize her meeting, she'd get up and leave when you have another commitment.

But anyway. Okay, so are you able to answer this question?

MS. PATTERSON: I can.

The -- my understanding of the issue is that we are attempting to address the operational impacts of this proposed development versus those that were addressed in the 2003 DCA.

We did sit down again with Nick and the applicant last week to go over these issues. He was involved in the 2003 DCA.

CHAIRMAN STRAIN: Can you tell me what operational characteristics have changed between the 2003 DCA and this one?

MS. PATTERSON: My understanding is that there are a number of traffic problems up and down Triangle. Not just to do with this proposed development but the traffic is backing up at the intersection. There are some things that have changed and that's why an analysis is being requested to look at Triangle Boulevard as a whole, from beginning to end. And that would impact the other parcels yet to be developed as well.

We're not trying to put this burden solely on this applicant, but have them address what's strictly related to them and the others the same. There's the row of restaurants particularly that comes to mind that is in the process of working with our development review people on looking at their piece of this equation as well.

CHAIRMAN STRAIN: Well, I looked at the traffic intensity or the intensity of the land uses in

there. They haven't changed. And that's why I'm wondering if they haven't changed, why is it that we feel the DCA that previously was finalized needs to be amended by a new one, under what basis that is. And normally we try to link these things, and you know that better than anybody because of your experience with the impact fee side of things. I'm trying to understand what the rational nexus is between this additional DCA versus the other one that was finalized and approved and done. And I have -- I can't get there yet because I haven't -- I mean, obviously -- if you don't have that information readily, we probably are going to -- we may have to wait on this one 'til later this morning. Maybe somebody from transportation can look at that and get back?

MS. PATTERSON: I'm not entirely certain that -- we can wait for Trinity to get here, but I can tell you that we've been working on this together, and this is at -- we've worked with Nick Casalanguida on this, and this is the direction that he has given, that this is what needs to be done with Triangle.

CHAIRMAN STRAIN: His direction has to be consistent with our policies and our codes, so --

MS. PATTERSON: I understand.

CHAIRMAN STRAIN: And I'm doing this to protect Nick, to make sure that his direction is -- and that's all I'm asking is for someone to tell me what that the rational nexus is that's different now than it was in 2003.

MS. PATTERSON: Okay.

CHAIRMAN STRAIN: And that would be helpful. Before the day's over.

MS. PATTERSON: Absolutely. If you -- let me go and see what I can find out. And as soon as I have some more information, we can come back up and provide it, if you want to --

CHAIRMAN STRAIN: We'll just go along with the other things.

Thank you, appreciate it, Amy.

COMMISSIONER EBERT: Maybe Nick could come up.

CHAIRMAN STRAIN: We won't ever see Nick again.

Anybody else have anything on that page that they'd like to ask about?

(No response.)

CHAIRMAN STRAIN: If not, let's move on to the next section. We've got Exhibit A, and then section two. No changes there. We have a table on page -- it's actually listed 2-9, but Exhibit C with some dates and some unit counts changes.

Anybody have any issues on that?

(No response.)

CHAIRMAN STRAIN: We move on, we get into the C-2 commercial and professional side of things and that lists all the standards.

There's some new language on Page 5-2. And this is the reference to the one building at 60,000 square feet.

Anybody have any questions, concerns?

COMMISSIONER EBERT: It's for only one building, correct?

CHAIRMAN STRAIN: That's right, only one building. And the remaining 40,000 -- I believe they have 100,000 cap. The remaining 40,000, it falls back to the previous standard.

The next page --

MR. YOVANOVICH: Just to clarify, it's one user can exceed 60,000 square feet. It may ultimately be in a standalone building, but it was always -- when you were saying "building", I just want to make sure we understood it was one user can exceed 60,000 square feet.

CHAIRMAN STRAIN: Yeah, that's how I understood it.

On the next page there's a couple of new sections added. And this is the one that involves the graphic that we were asking for last time on number 12.

Number 11 is talking about amplified outdoor music. Again, it was noted that some of the sounds coming from that parcel would be mitigated by this wall and hedge, and that's why we asked to see where it was going to go graphically.

MR. YOVANOVICH: Hold on, Mr. Strain.

CHAIRMAN STRAIN: Number 12 gets into that specifically.

Go ahead.

COMMISSIONER ROMAN: We also talked about hours of delivery and a couple other things when we were discussing that, so it's all related.

CHAIRMAN STRAIN: Right.

MR. YOVANOVICH: I will email that to staff so we can make it part of the record so I don't have to leave my iPad.

CHAIRMAN STRAIN: You're thinking of putting a Hobby Lobby. That's good. I mean, Hobby Lobby is a good building.

MR. YOVANOVICH: We talked about that last time.

CHAIRMAN STRAIN: Yeah.

MR. YOVANOVICH: That's the site plan that we're --

CHAIRMAN STRAIN: His iPad should be part of the record now. Thank you, we appreciate that.

MR. YOVANOVICH: I just made that clarification, me and Tom Brady. We don't want to make our phones part of the record.

We anticipated that the wall, along with the Exhibit I plantings around the wall, would basically run from Triangle Boulevard --

CHAIRMAN STRAIN: And you're not on -- yeah, you're going to have to zoom out a little bit on that 'til we get to triangle. Okay.

MR. YOVANOVICH: We would expect the wall to run the length of where we're connecting to the corner of the building where the loading dock is to address the sound related issues. Assuming that this is the actual site plan that gets built. If things move around, the concept was as is we would have the wall go the entire length of the building for noise related issues.

But conceptually this is a site plan that's being considered right now. It will go through the review process with county staff, but the wall would be basically from this corner for the building.

CHAIRMAN STRAIN: Okay. But Rich, why wouldn't we -- why wouldn't we look at taking the wall around to the end of the radius of that curve, that if you were to orientate this property, that would be the northwest corner of the property. So you have a curve on the northwest corner. And the reason I'm suggesting that is those two spots that you have that look like they're in a drainage field most potentially are dumpsters or whatever. And if that wall were taken around that radius to where the radius ends, you'd be up closer to the parking spaces and that would fully encompass that corner.

MR. YOVANOVICH: Mr. Strain, the reason we didn't think you needed to go all the way around -- if you can zoom in a little bit, Mike -- you can see the parcel here.

CHAIRMAN STRAIN: Right.

MR. YOVANOVICH: All you have is golf course over that way. And we -- as we talked about the last time, we thought it would be a nice place for a restaurant to be between the Hobby Lobby, and that's a nice view. So we thought that we would be addressing the noise concerns of the residents to the north. Am I getting the right direction?

CHAIRMAN STRAIN: That is north, yeah.

MR. YOVANOVICH: Okay. The wall would address their concerns regarding noise and still provide an opportunity for a nice view for a restaurant user. And there are no homes where you're talking about extending the wall to.

CHAIRMAN STRAIN: Could you put your site plan back on then?

Those two spaces that they appear to go into your drainage easement, it's dry detention, it looks like, what are they? Are they parking spaces or are they a dumpster?

COMMISSIONER ROMAN: Can we point to those so --

CHAIRMAN STRAIN: They're right at the beginning of the radius.

I mean, it looks like a dumpster area, because that's typically how they're shown. And if that's the case, that's going to create some noise. I want to make sure that the wall goes beyond that.

MR. YOVANOVICH: That's fine.

CHAIRMAN STRAIN: Okay, so you will agree that the wall will go to the end of the radius?

MR. YOVANOVICH: We'll make sure -- well, ultimately -- depending on where the dumpsters

ultimately end up, Mr. Strain. If the concern was because of this site plan the dumpsters were in that location you want the wall to wrap around, then the answer would be yes, we'll do that.

CHAIRMAN STRAIN: Lacking that, where would you suggest the wall would have ended then?

MR. YOVANOVICH: It would have ended at the end of the building. That's what we talked about the last time, which would have been -- I'm assuming this is the loading dock. It would have ended right here, and that's what we're talking about.

CHAIRMAN STRAIN: Well, what you just pointed to is not at the end of the building, it's just past the end of the building. A straight line from the end of the building parallel to what's there would have taken you out directly to where that catch basin is practically past that corner. So you're now saying about what, 50 feet past the corner?

MR. YOVANOVICH: What we were talking about, Mr. Strain, as I understood it at the last meeting, is roughly that area right there would block --

CHAIRMAN STRAIN: Which side of the pen?

MR. YOVANOVICH: The bottom side.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: And it's not to scale.

CHAIRMAN STRAIN: I know. Neither is -- well, I'm trying to put something in writing that matches what you're saying. So I don't think that stopping that wall immediately at the very end of the building towards the north end is appropriate. You're looking at about 25 or 30 feet past that north, past the end of the building then; is that --

MR. YOVANOVICH: That's fine. I mean, I think if you get that detailed in this PUD, I don't think we need to. The concept was --

CHAIRMAN STRAIN: We don't need to change it then. I mean, you're getting more detailed in the size of the building, and that's a critical component from the time that this Planning Commission heard it a few years back.

MR. YOVANOVICH: Mr. Strain, the concept I'm talking about is if you say it's got to go 25, 30 feet past the width of the building, this is a -- I was told the concept was we need to have a wall that goes the width of the building to make sure there's no noise issues. You said put it in a conceptual site plan.

CHAIRMAN STRAIN: Well, you volunteered the wall.

MR. YOVANOVICH: We brought a concep-- no, I'm pretty sure I didn't volunteer the wall.

CHAIRMAN STRAIN: You said we need the wall to protect the -- to mitigate the amplified sound and the loading area. Okay, that was your idea that it mitigated that. We're not disagreeing with you.

MR. YOVANOVICH: The amplified sound was addressed by the restaurant conditions. We have a loading dock issue. You can see there's a wall around the loading dock, there's walls around dumpsters. They're required to have walls around them.

But the concept was we're going to put a wall in place to address noise issues and it would go the length of the building. I don't want to get into it's got to go 25 feet past the building, because there may not be noise generated from that portion of it. We said we'd go the whole length and I don't want to go back and amend the PUD because I'm 23 feet or I'm 20 feet.

CHAIRMAN STRAIN: Well, at the same time you have another issue that involved this wall that I think is really a noise related issue and that's the loading hours and times. That was one of the things you guys talked about at your NIM. And I think that's what Charlette started out.

So if you don't want to put the wall past it, then are you going to have no deliveries in the back of the building?

COMMISSIONER ROMAN: I have another question here too, Mr. Chair.

Rich, I have another question that piggybacks on what the Chairman was saying.

Why are you having the deliveries go deep into the site along the water, with your loading dock placed on the far end of the building? You've got the higher intensity actions and activities going all the way along the water along the back of the building in order to get to the loading dock or to get to the dumpsters.

It would seem reasonable to me that those activities would be closer to Triangle Boulevard so that those heavy trucks wouldn't be going into the site along the water. That might help you with your -- where

the wall ends and where were it -- you know, where it begins. It just seems you're bringing all the heavy intensity delivery, dumpster emptying and all that deep into your site along the water. And you know noise travels greater across large bodies of water, which that is.

I know it's just a conceptual, but I just don't understand why the loading dock is so far into the site.

MR. YOVANOVICH: Well, you know, I --

COMMISSIONER ROMAN: I mean, that would solve your wall problem and your restaurant views by not having that high intensity over there.

MR. YOVANOVICH: Are we -- are zoning hearings going to start turning into Site Development Plan hearings?

CHAIRMAN STRAIN: If needed to protect the public, yes.

MR. YOVANOVICH: Well then, Mr. Strain, it's okay. Just make sure everybody else who comes to the podium has to bring a site plan --

CHAIRMAN STRAIN: You made commitments at the NIM, Richard, and we're trying to follow up with the commitments you made at the NIM. You said certain things would be addressed. Had you not said that we wouldn't have been bringing it up today.

MR. YOVANOVICH: Well, if I had not said that --

CHAIRMAN STRAIN: We wouldn't have recognized it. I had no idea what your layout would be there. We would have been concerned about noise and we would have done it in a more global manner by basically saying the entire north side has to be protected with a wall and landscape buffer. Items like that would have been addressed more globally. You specifically said in the NIM that you would address the loading dock, the hours of operation and things like that. So now we're asking you to follow up on that.

MR. YOVANOVICH: Well, I am.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: And I told -- and what we talked about at the last meeting was we would bring a wall the length of the building.

CHAIRMAN STRAIN: I specifically asked for a site plan.

MR. YOVANOVICH: And I brought you a conceptual site plan that showed you where the wall would be.

CHAIRMAN STRAIN: That's great.

MR. YOVANOVICH: Right now what you're saying is -- and it was a conceptual site plan, recognizing that things can change, okay?

CHAIRMAN STRAIN: Right.

MR. YOVANOVICH: I don't want this site plan as part of the record because it could change, and I don't want to amend a PUD because of a site plan change.

I'm simply saying right now where that loading dock is we will take the wall where you asked it. If the loading dock shifts closer to Triangle Boulevard, why do I need to go 25 feet past the end of the building? That's all I'm asking is for some flexibility.

And if you want to say it's got to go 25 feet past the loading dock or the length of the building, whichever is longer, we can do those things. I don't want to get into a requirement of 25 feet past the end of the building if it's unnecessary to address the noise concern.

CHAIRMAN STRAIN: I think part of it is to address the compatibility concerns to the -- you have people to the north across water. Water doesn't protect sound and activities very much, or view. So by adding the wall and a buffer in that location for any building that's there addresses that, because you're asking for a 300 percent increase in the size of the building.

MR. YOVANOVICH: No, I'm not.

CHAIRMAN STRAIN: Yes, you are. You're going from 20,000 to 60,000 at 300 percent.

MR. YOVANOVICH: No, Mr. Strain, I already have the ability for a grocery store to go to 60,000 square feet.

CHAIRMAN STRAIN: But this is not going to be a grocery store.

MR. YOVANOVICH: It's going to be less intense. A grocery store could go on that site in that location under today's rules with none of these safeguards.

CHAIRMAN STRAIN: Right.

MR. YOVANOVICH: Correct?

We're doing better. We're doing a less intense use than a grocery store. And I doubt anybody can say with a straight face that a Hobby Lobby is more intense than a grocery store, as far as deliveries and everything. We're addressing the concerns about deliveries with the wall. We think we're addressing them fairly in putting a wall there past the loading dock.

We've also said if the dumpster is where it is on this conceptual plan, we'll wrap around to address the dumpster. I -- we could put that in words. The dumpsters have to be enclosed anyway.

CHAIRMAN STRAIN: I've already put it in words.

Your comment about the grocery store is a little bit impractical. Across the street they have a new Fresh Market. And right in the adjoining shopping center to this one they already have a Publix. I'm not sure what else you'd want to put there.

MR. YOVANOVICH: I understand Winn Dixie and other grocery stores are coming back to town. I don't know.

CHAIRMAN STRAIN: I don't know of any of them that close to a competitor like Publix that would make -- I mean, someone would be run out of business for sure.

So I understand your need to go to a larger building, and I -- honestly, from the experience that we've had recently with different members of the public at town meetings, a lot of people would like to see buildings of a larger size. Our code is a little restrictive when it comes to that.

MR. YOVANOVICH: We are addressing these conditions we think in a fair and appropriate way. I just don't want to get pinned down to you absolutely have got to go 25 feet past the end of the building if it's unnecessary. That's all I'm saying.

CHAIRMAN STRAIN: Charlette, did you have anything else you want to --

COMMISSIONER ROMAN: No, I think I've made my comments. I just don't think that maybe 25 feet, depending on where that's located, will even be enough. So I agree with you, Mr. Chair, on that. It's hard to say.

MR. YOVANOVICH: I'm sorry, I missed that. I was talking to my client.

CHAIRMAN STRAIN: I'm not sure, it's kind of like some other issues that have come up recently. What's the big issue about a wall? I mean, I just don't see how -- that's not -- in the scheme of things on a project and the amount of work going on in this area, what's the deal with the wall?

MR. YOVANOVICH: We're not objecting to the wall, Mr. Strain. We're just trying --

CHAIRMAN STRAIN: Okay, but even if it goes 25 feet more or less, what's the problem? I mean, it's just not that big of a monetary issue. Where is the problem coming from, Richard?

It's kind of like sidewalks. I mean, you know, we've got this issue all of a sudden with certain standards that are minuscule comparing the cost of all the things. What you are able to negotiate just on Triangle Boulevard to what you've agreed to -- and I'm still not conceding that's the right thing, not on your behalf but on the county's -- that is a huge savings just on that effort alone. So what's 25 feet of a wall? I don't understand why there's such a digging your heels in so much on this one, Rich.

MR. YOVANOVICH: Because some things are just not necessary.

CHAIRMAN STRAIN: But yet something that's not proven to be necessary, like that 50,000 contribution for fair share contribution, you'll jump for that and do it. Okay. I mean, that's interesting.

MR. YOVANOVICH: It's like death by 1,000 cuts. You know, we keep getting asked to do more and more and more. What we're saying is we don't mind doing things that will address concerns. And we get the loading dock could be a concern. We don't mind addressing that.

So I mean, do you want to draw a line on my iPad that says it's going to be right here?

CHAIRMAN STRAIN: Not on your iPad, no.

MR. YOVANOVICH: Is that what you want to do? Is that okay? Can we end it there?

CHAIRMAN STRAIN: The 25 feet past covers. That's the point I'm talking about. It's about where you're at right now.

MR. YOVANOVICH: If that's the line, then that's okay.

CHAIRMAN STRAIN: I mean, it's just not -- you guys are coming in asking for something, we're

trying to assure the compatibility with the neighborhood that's there. We went all through this in detail back in whatever year it was this was amended last time. That's why you had what you had in this document. So you're asking for a change, there needs to be some -- make sure we're still compatible, especially with a size like that, and then based on what was said at the NIM.

I'm comfortable -- or Charlette, does that work for you at this point?

COMMISSIONER ROMAN: I mean, this is so conceptual. I mean, the intent is, is to block that sound from traveling across the waterway there.

CHAIRMAN STRAIN: Well, here's the language I would suggest that would fit whether this was conceptual or not. The wall on the C-2 parcel will run from Triangle Boulevard to 25 feet past any building or dumpster location on the north side of this parcel. That covers everything.

If they move the dumpster outside past the building, it's got to be covered. If they -- which means they'll design it better than doing it there. They'll design it behind the wall. And that takes it past the building if they put the loading dock at the very end of the building like they show here. But that will get most of that covered, I think.

COMMISSIONER ROMAN: I think that's in the right direction for sure. And that would be the cross-section that was a part of our packet, is that what we're looking at, in terms of that wall?

CHAIRMAN STRAIN: Yes. That cross-section was written originally for the C-3 parcel to the north between the two lakes, but it's the same one that they've said they would build here.

COMMISSIONER ROMAN: In the Exhibit I?

CHAIRMAN STRAIN: Correct.

COMMISSIONER ROMAN: Okay, we can put that up later.

MR. YOVANOVICH: Mr. Strain, what page would you like to consider next?

CHAIRMAN STRAIN: We're on -- we're still on Page 5.3. There is a couple things, one more thing -- well, two more things on 12. Sorry, one. The last line: The loading dock shall be on the commercial interior side of the wall.

And I'm suggesting we want -- they ought to have flexibility to put that -- if they want to put it towards Triangle Boulevard.

COMMISSIONER ROMAN: Oh, definitely, yeah.

CHAIRMAN STRAIN: That language, Ray, says the loading dock shall be on the commercial interior side of the wall.

Would that still allow them to put it on the Triangle Boulevard side of the building, since the wall would be alongside that side anyway?

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

As long as the loading docks are actually on the inside of that masonry wall.

CHAIRMAN STRAIN: They're fine.

MR. SAWYER: They're fine.

CHAIRMAN STRAIN: Good. Okay, then we can move on to the next page.

The next change is on Page 6-2. This is -- this one was here last time, it's just the language involving the uses for residential up on C-3.

Then the page after that is 6-3. There's some additional new language there. It limits the buildings to what was stated in the NIM to 50 feet or four stories, and it talks about the wall and landscape buffer that's shown as Exhibit I. Exhibit I applies to both the C-3 parcel and the C-2 parcel.

Then the last section is your deviations on the last few pages. There's been some language added to the deviations.

Go ahead, Diane.

COMMISSIONER EBERT: Rich, it just so happens that this is coming forward at the same time we are changing our Land Development Code. And so I was kind of going back and forth with them.

Number two, deviation, which is normally a combined sign area of 64 square feet, okay. 32 square foot is like a sheet of plywood, four-by-eight sheet of plywood. And they're already allowing two of those. Now what you want to do is go 80 square feet per sign.

I wouldn't even mind doubled. You're tripling this. I'm not in favor of number two on that one. It

just seems extra large. This should be brought down some somehow.

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

I believe you're correct. We mirrored this deviation off recent deviations you had approved for Esplanade of Naples, San Marino and other master plan PUDs. I believe you're correct in that this should be requesting a combined sign area of 80 square feet per entrance. So we can make that change.

COMMISSIONER EBERT: Okay. Because the way it's written here --

MS. CRESPO: I understand.

COMMISSIONER EBERT: -- is 178 square feet, and that is enormous.

MS. CRESPO: Thank you.

COMMISSIONER EBERT: Number three, going from eight to 10 feet is fine.

Number four, how many amenities are in this area?

MS. CRESPO: Let me look to Keith to assist in that. There is a theater project I believe that Stock is undertaking in the near future. There's a tennis club. There is the resort pool area. So there's future plans for the Players Club tract and we wanted to build in the flexibility to do additional signages for each of those attractants within the overall amenity complex at that time.

We did run into this issue with the tennis club, and Mr. Bellows was able to help us get the appropriate signage for that specific use. But through this process we were looking for the flexibility to address additional signages that amenity continues to expand to service the residents.

COMMISSIONER EBERT: But you're doubling the sign thing there again also, the sign size.

MS. CRESPO: Correct. In the case of the tennis club, it was a wall sign, very tastefully done, reviewed by your sign review staff. So they're not necessarily monument signs that reach that square footage. But I believe staff was comfortable with the size being proposed based upon the designs that Stock has brought forth in the past.

COMMISSIONER EBERT: Okay. So you will correct number two then?

MS. CRESPO: Yes, ma'am.

COMMISSIONER EBERT: And I see that there is a limitation on number four, no more than six signs?

MS. CRESPO: Yes, ma'am.

COMMISSIONER EBERT: Okay. It was just number two that was really giving me heartburn.

CHAIRMAN STRAIN: Anybody else have any questions on the deviations?

(No response.)

CHAIRMAN STRAIN: Mike, I have a question from the new language. Was it -- I'm assuming you originated the new language on the number one: When 90 percent of the dwelling units are sold this deviation terminates and reverts to the LDC.

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

Yes, that was added. It's similar to language that we used I believe on one of the last projects.

CHAIRMAN STRAIN: No, you're right. But that's why I kind of thought you might have done it. How did you see that 90 percent being calculated?

MR. SAWYER: Honestly, that's going to wind up having to be monitored in some fashion.

CHAIRMAN STRAIN: Well, but see, Lely's never going to reach 90 percent. Never. They've got 8,900 units of which they're not going to build nearly that amount, at least they've said many times. So that is kind of like an ineffective statement.

I was suggesting that maybe there's a different way to get where you're trying to go. I haven't got a solution for that because I wasn't sure what you meant. But if you meant for the gross project density, I don't believe they ever plan on getting there.

MR. SAWYER: At this point, honestly, Chairman, what we were trying to do is just try and get some form of consistency with this particular deviation. Because quite honestly right now we're kind of all over the map on this particular deviation.

CHAIRMAN STRAIN: Well --

MR. SAWYER: And admittedly, in this particular case that might not in fact be the best direction to take. It's just our effort to try and be a bit more consistent. That's all.

CHAIRMAN STRAIN: Well, this direction would mean it's perpetual, because it's never going -- I doubt if it will ever happen. Too many of the big projects don't ever reach their 90 percent because they always ask for more than what they actually build.

MR. SAWYER: Arguably so.

CHAIRMAN STRAIN: Wouldn't we be better off suggesting that 90 percent refers to the housing tract to which the temporary signage refers?

MR. BELLOWS: For the record, Ray Bellows.

I believe that's probably a better way of doing it. Because you're right, most PUDs have a surplus of units.

CHAIRMAN STRAIN: Okay. Anybody else have any questions about the overall document that came to us this time with the revisions from last?

(No response.)

CHAIRMAN STRAIN: Okay --

COMMISSIONER ROMAN: I have a question.

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: Is there a need -- we touched on it last time, and I briefly mentioned it earlier. Is there a need, with the provisions that we've taken into account, with the wall to address the delivery hours in any way?

CHAIRMAN STRAIN: Well, that's a good question. I think the wall does mitigate the delivery. I'm not sure from the -- would that wall and the hedge in the distance that the buildings are, the nearest residential are from that, I'm not sure a truck coming in at night would have any impact.

Staff, do you guys see an issue there?

MR. SAWYER: Again, for the record, Mike Sawyer.

It's often difficult to limit those hours of deliveries. A lot -- in some cases you've actually got independent truckers coming in with those deliveries.

The assumption is always going to be that those hours are going to be fairly consistent with the hours of the store itself, assuming that the hours of the store are fairly reasonable. Quite honestly, from a staff standpoint as long as you've got the wall and the landscaping in place, that really should address principally most of those issues.

You tend to honestly get more noise coming off of dumpsters and those types of things which are -- you know, do not follow quite honestly the hours of the store necessarily. Certainly even occur, you know, randomly, you know, during the weekends as well. And that's partly why we do have standards to have those dumpsters enclosed with walls as well.

CHAIRMAN STRAIN: Okay.

COMMISSIONER ROMAN: I'm satisfied.

CHAIRMAN STRAIN: Thank you, Mike. We'll wait and see if we have -- what kind of input we may have on it.

The last and remaining item was the transportation issue. And, you know, it's hard -- I don't know if we should all rise for his presence. But a friend of ours has come back to join us, and I'm anxious to hear what he's got to say.

Nick Casalanguida, who is now Deputy County Manager, has graced us with his presence. It's good to see you, Nick.

COMMISSIONER ROMAN: He actually came here.

MR. CASALANGUIDA: I apologize I'm not wearing a coat.

CHAIRMAN STRAIN: It takes a lot to get you out of that new corner they stuck you in upstairs -- or downstairs. So I'm -- and you're closer too.

MR. CASALANGUIDA: See the office space with the red stapler? I'm in that location.

I'm sorry I'm not wearing a coat. No disrespect to the board, I was coming from another meeting.

As far as the transportation is concerned, we met with the applicant's representatives and we're trying to do something that's fair and reasonable, which is everybody pays their fair share.

I don't think it's an issue, Mr. Chairman and Planning Commissioners, that the county is trying to

exact an unreasonable repair to this road. It doesn't function properly and it's all site related, not capacity related, which was the DRI analysis that was done in the past; do the roads meet adequately enough to address the development impact.

The issue we have with Triangle Boulevard is site access, the approach to the intersection, the driveway that's too close to McDonald's and Tamiami Trail. That is not usually a county requirement that we take care of. Usually the developers do.

The challenge that you have is a lot of these out parcels have been sold and so there's out parcels that are impacting that intersection and that approach that are not related to this development here.

So what we've suggested to the developer is he puts up a bond of \$50,000, we do a master traffic study and potentially come to the Board and place a special taxing district and an MSTU over all the commercial properties and we fix these approaches properly for all of them, but they all pay their proportionate share. And that's what we've laid on the table as an option.

CHAIRMAN STRAIN: But why when the 2003 DCA was put together and everybody agreed to it that acknowledged that by meeting the conditions of the DCA, they've met all -- and the word that was used was all -- of their obligations for traffic. So what has changed since 2003 to now in regards to the intensity that was intended for this area of the project that would trigger a new demand?

MR. CASALANGUIDA: You're "all" statement is based on off-site and road capacity improvements. In other words, do the roads as they tie in -- and Grand Lely, these roads, do they meet the adequate needs of these developers for these to all come on line. That's the intent of that.

It's not site related. That means a turn lane into the project. It doesn't mean when a project comes in that they've got to put in a turn lane or change the access management or modify configuration of signal. That's directly related to the site development. So I don't want to mix those two.

They have satisfied all the quote, unquote transportation improvements related to capacity. They have not satisfied what I would call site impact analysis related improvements that are all always the responsibility of each individual out parcel and the developers that come on line.

CHAIRMAN STRAIN: But isn't this a county road? Didn't we take this road over?

MR. CASALANGUIDA: We did take the road over. But even on county roads that we have now, if a developer comes on we don't build a turn lane for them.

CHAIRMAN STRAIN: No, but if they're site related, they build it.

MR. CASALANGUIDA: And this is site related. These access improvements are directly related to the impact of these sites, not additional traffic using the roads from the county related projects that are in the area, or residential.

CHAIRMAN STRAIN: So somewhere in the grand scheme of things, when parcel C-2 or the C-2 parcel was envisioned to be built out, we all knew that there were going to be more cuts and median changes to Triangle Boulevard; is that a fair statement?

MR. CASALANGUIDA: I would think so. As they come on line you make adjustments based on the type of intensity that comes in for each site specific improvement. Otherwise, you know, if it developed as multiple little out-parcels you would have a different driveway configuration. If it was one grand mall, you do different driveway configurations. And those are all site-related improvements. Those aren't system related improvements. See, our impact fees don't even cover these.

CHAIRMAN STRAIN: The MSTU that's proposed, wouldn't that have to be voluntary based on the people there or can we impose an MSTU without the agreement of the property owners?

MR. CASALANGUIDA: I believe the Board -- and, you know, the County Attorney -- I believe the board can impose a MSTU, a special taxing district.

MR. KLATZKOW: The Board can always impose an MSTU.

CHAIRMAN STRAIN: Okay. Well, that kind of helps understand it better. My concern is not that we -- I know we need relief in the traffic, I know the residents there do. It's just a manner in how it's paid for and what's the fair way to approach it.

The rational nexus is what I was looking at. And if it was believed that this parcel would always need additional changes to this Triangle Boulevard, I'm comfortable with that statement as long as the applicant's not going to object to it.

MR. CASALANGUIDA: Mr. Stock is a reputable builder. And I think the county, in fairness to Mr. Stock or anybody that comes in, I wouldn't expect them to pay for all this, this one out parcel, two out parcels.

The problem is these out parcels, many of them have been developed already. So you've got to kind of find a way to retroactively say, you know, ladies and gentlemen, you've got to work together. And typically what the county does is says we don't issue DOs, but so many parcels have been developed, it would be unfair to this applicant and the other applicants to say you can't go forward until we resolve this.

CHAIRMAN STRAIN: The general alignment that comes across from that road going -- I guess it goes east to west, the first one after you come off of Triangle Boulevard off the 41, and looks like it lines up with the main entrance of this parcel to the opposite side of the street. Is that remaining?

MR. CASALANGUIDA: Probably not. You're probably going to have to do some configuration to get that approach to work out to 41. You'll probably have to go back 3 to 400 feet. You know, some of the traffic engineers talked about a roundabout towards the back so people could go in, turn around and come back around and approach that intersection. Because right now the cross traffic backs up so much that the through traffic can't go forward anymore.

CHAIRMAN STRAIN: Well, that's what I was worried about. I mean, it's too close for a second light, I would assume.

MR. CASALANGUIDA: Right. And so a roundabout may work. And in the other out parcels along 41 along 951 are going to be developed. So the concept would be is the county would take on the traffic study over the next 12 months in coordination with a couple of public meetings with all the owners of these out parcels, developed and undeveloped, and say these are the recommended improvements, this is the anticipated cost, bring an item to the board and say we would like to, you know, talk about an MSTU, have them all paid for it over time and let's get it fixed properly, one time.

CHAIRMAN STRAIN: Okay, thank you. And now that we know how to get you out of your office, we'll have to do this more often.

Go ahead, Stan.

COMMISSIONER CHRZANOWSKI: When you prorate the cost of each one of them, we're going to have to pay -- I assume it's by the traffic load they put on Triangle Boulevard?

MR. CASALANGUIDA: Yes, sir.

COMMISSIONER CHRZANOWSKI: How many owners do you think there are?

MR. CASALANGUIDA: I don't know. We'd have to do the -- we do the analysis when we do the traffic analysis. I put that in the work orders to break out, you know, each individual parcel on the traffic data as well too.

COMMISSIONER CHRZANOWSKI: Okay. Thank you.

MR. CASALANGUIDA: You're welcome.

CHAIRMAN STRAIN: Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Let's go to staff report. Mike?

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

I did email out late, I apologize for that. The revised ordinance as mentioned previously, the date at the bottom is 6/2/15. Staff is still recommending approval of the petition. And certainly we'll answer any questions that you might have.

CHAIRMAN STRAIN: Are there any questions of staff?

(No response.)

CHAIRMAN STRAIN: Mike, your recommendations, I believe it's -- you have three recommendations. I'm assuming two and three are still ones that you're moving forward, or how are you standing in your recommendations from the prior staff record?

MR. SAWYER: I believe those recommendations have now been incorporated into the ordinance.

CHAIRMAN STRAIN: Okay. So we don't have to reference your staff recommendations in our decision.

MR. SAWYER: Right. Staff is fine with the ordinance the way that it is.

CHAIRMAN STRAIN: The way that it is, okay, last time around.

Okay, with that, we will first go to registered public speakers and then any people that may want to speak on this matter.

Ray, do we have any registered public speakers?

MR. BELLOWS: No one has registered for 9.A.

CHAIRMAN STRAIN: Okay. Does anybody wish to speak on 9.A, which is the Lely project?

Okay. With that, Rich, I'd like to go over some stipulations to make sure that when we do make them that we're all on the same page.

Number one, we will retain your iPad.

Number two, we're going to --

MR. YOVANOVICH: Can I clear it?

CHAIRMAN STRAIN: No, that's the best part of it.

COMMISSIONER EBERT: Write it off as a business expense.

CHAIRMAN STRAIN: Number one: We will add the section references to Section 3.2 involving the C-2 and C-3 sections.

Number two: The wall that will be added to the C-2 parcel along 41 will run from Triangle Boulevard to 25 feet past any building or dumpster location on the north side of this parcel.

Number three: Deviation number two, finish -- because you may have -- there's only four of them. Should be combined -- should be for the combined areas of the sign at 80 square feet.

Deviation number one (sic), we'll add that the 90 percent applies to the housing tract that the signage refers to.

Okay, what was it that you wanted to --

MR. YOVANOVICH: Mr. Strain, I thought what we agreed to was the 25 feet past the loading dock and we would go to the dumpsters.

CHAIRMAN STRAIN: Well, we didn't say 25 feet past the loading dock. 25 feet past the building has always been the --

MR. YOVANOVICH: I'm sorry, I meant building. But we were going to go to the loading dock, not 25 feet past the loading dock. Because remember, that's all golf course view.

CHAIRMAN STRAIN: So it would read: Run from Triangle Boulevard to 25 feet past any building or -- I don't like the word to, because you could stop in the front.

MR. YOVANOVICH: To the rear? To the end?

CHAIRMAN STRAIN: To the end of any dumpster location on the north side of this parcel.

MR. YOVANOVICH: The dumpsters are enclosed anyway, so it's like it's a double protection.

CHAIRMAN STRAIN: I know, but the buffer and things that go with that wall would be beneficial.

Those are the four suggested stipulations. So with that, we'll close the public hearing and I'll entertain a motion or discussion, whatever the board prefers.

Anybody?

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

CHAIRMAN STRAIN: Okay, motion made to approve with the stipulations we just suggested, subject to the language of course we had in front of us on this --

COMMISSIONER EBERT: I'll second.

CHAIRMAN STRAIN: Seconded by Diane.

Discussion?

(No response.)

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

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

MR. YOVANOVICH: Are you going to waive the need for a consent hearing?

CHAIRMAN STRAIN: Yes. And generally we do that by not saying we need one, but does anybody here see the need for a consent hearing? I think it's all pretty clear.

Staff, are you clear on the changes that need to be reviewed when they come to you before it goes to the board?

MR. SAWYER: Yes, we are, Chairman.

CHAIRMAN STRAIN: Okay, with that, there's no need for a consent. Thank you.

***That takes us to our next item, which is 9.B. 9.B is a petition for the Lane Park Commercial Planned Unit Development. It's PUDA-PL20140000867.

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

(All speakers were duly sworn.)

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

Stan?

COMMISSIONER CHRZANOWSKI: None.

CHAIRMAN STRAIN: Tom?

MR. EASTMAN: None.

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: None.

CHAIRMAN STRAIN: And I did talk with staff, most likely, I can't remember specifically, but I certainly talked with Mr. Hancock for a few minutes yesterday, I think it was.

Karen?

COMMISSIONER HOMIAK: Nothing.

CHAIRMAN STRAIN: Brian?

COMMISSIONER DOYLE: No.

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: No contact.

MS. GREEN: Mr. Strain?

CHAIRMAN STRAIN: Ma'am, you can't address from the audience. When we get to public speakers or we get to the public portion, you're more than welcome to stand up.

With that, Tim, it's your presentation.

MR. HANCOCK: Good morning, Mr. Chairman, members of the Planning Commission. My name is Tim Hancock with Stantec. I'm here today representing Radio Road Joint Venture, LLC. Their owner's representative Mr. Andrew Saluan is also in the audience.

The PUD before you today really has two simple -- I'll say three simple approaches it's trying to accomplish. First and foremost, there are uses that were capped as to square footage, such as a hardware store capped at 1,800 square feet when this was originally approved. Those caps run counter to what the market is looking for out there. The property is limited to 50,000 square feet in total. So why a 1,700 square foot hardware store is okay and a 2,100 square foot is not has no basis in the marketplace.

So what we've done is gone through the PUD and we've stricken a lot of the square footage cap limitations primarily for the retail uses. Again, think of 50,000 square feet as a maximum, so you don't have to worry about it being a super store or a large-scale commercial because the size of the property limits that.

The second component that we look to do is provide for the opportunity for off-site relocation of the preserve. The preserve is less than one acre in size but because this PUD kind of predated the off-site preserve opportunity, we needed to write that opportunity into the PUD so that should the owner wish to move that preserve off-site, they can do so.

CHAIRMAN STRAIN: Tim, just so that we can follow along better with your discussion, that graphic that's on the overhead right now is the wrong project.

MR. HANCOCK: Let me put up our site plan.

I guess I would also like to get points for getting it right the first time.

And to give you probably the key third item is that the property currently sits at the northwest corner of Livingston Road and Radio Road. And that is on the bottom left of the master plan you see here, that's the intersection of Livingston and Radio.

The previous approved site plan actually had a preserve location where the land is vacant and there's no vegetation. So we needed to address that. But also it did not have an access to Market Street, which is to the north of the project. And it makes sense to us that the development of this parcel would very easily serve from a convenience commercial the industrial park that it is a part of. So by having an access of Market Street, we have the ability for all the folks within the industrial park to access the site to and from without going out onto Livingston or out onto Radio Road.

The final issue and one that may be a subject of discussion, I believe we have one registered speaker, Mr. Bellows, is that correct?

MR. BELLOWS: Correct.

MR. HANCOCK: May be an issue of the vacation of a drainage easement.

Let me share with you another exhibit. This exhibit shows this property is heavily encumbered by drainage easements throughout. The drainage easements occur primarily along Livingston Road here. There are conveyance easements stretching across the property here and all the way down here. So the developable area really lies within this box.

These are conveyance easements in this area. This easement, a 50-footer right along the roadway here, is not for conveyance, it's actually for storage or quantity, if you will. In other words, there's no outfall down here, it just acts like a part of the bathtub.

Again, to orient you, this is Livingston Road, this is Radio Road. This is the portion of that that is not conveyance. It was an easement strictly for stormwater management that serves the overall basin you see outlined here.

What has already been approved is, and on March 13th the South Florida Water Management District approved a modification to the environmental resource permit that allowed this storage quantity to be relocated to this lot. Radio Road Joint Venture also owned this lot. So this area here -- and if you can imagine within basin number seven, if the ditches are not being used to convey water, they're being used to store water and allow it to percolate. That was the sole function of this area right here.

So this property here is now taking the place of that. So within the basin there's been a zero net loss of water storage, and the ERP was approved to allow that to happen.

Subsequently the Board of Commissioners on April 28th vacated this portion of the easement because it has been replaced by this.

And so again, if you can imagine that there's -- if you have to hold 100 gallons of water in your hand within basin seven, and this was holding 10 gallons, that 10 gallons now has been replaced over here.

So that has already been approved by the South Florida Water Management District. The easement has already been vacated by the board, but that vacation is now reflected within the PUD and the master plan that's contained within the PUD.

Those are the key issues that are the basis for the rezone request being made today. And I will be happy to answer any other questions you have rather than go on a full boat presentation. But I felt those are the highlights and the issues that I thought may be of concern or to be addressed.

CHAIRMAN STRAIN: Are there questions at this time?

Stan?

COMMISSIONER CHRZANOWSKI: No, just a comment.

What you call that basin is a subdivision called Production Park. It's about 30 years old. I was one of the engineers on it. And he's right in everything he says, so --

CHAIRMAN STRAIN: Good. Anybody else?

(No response.)

CHAIRMAN STRAIN: Just a comment. I said this to you on the phone. I review a lot of PUDs, and this was one I honestly couldn't find fault with. So I -- the fact that you're removing those limitations to me is a real good thing. The people that have spoke out at Town Hall meetings that I've attended have

expressed frustration over the fact we have limited these buildings to such a small size and we could have better product diversity and better pricing and competition and more destination retail if we didn't do so. So I think what you're doing seems to be the trend and I'm glad to see you came in with it for that matter, so --

MR. HANCOCK: Thank you, Commissioner.

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

MS. GUNDLACH: Good morning, Commissioners. We do have a staff report. Staff is recommending approval of this petition.

CHAIRMAN STRAIN: Short and sweet. Thank you, Nancy.

Anybody have any questions of the staff report?

(No response.)

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

Sir, if you want to speak, you're more than welcome to now. If you're satisfied that you've heard all you need to, that's fine too.

You'll have to come up and use one of the speakers and tell us your name for the record.

MR. FIELDHOUSE: Larry Fieldhouse. I own the property behind the -- this here, this Lane Park. I guess my concern was with this drainage easement change, but I just -- I want to make sure I -- Stan, is it? You said that you agree that everything was -- is acceptable and it will not cause me a problem?

COMMISSIONER CHRZANOWSKI: It shouldn't.

MR. FIELDHOUSE: The drainage?

COMMISSIONER CHRZANOWSKI: That system is a backbone swale. And it is conveyance, but it's also, like you said, storage in percolation. The system has worked fine, as far as I know, for 30 years.

What he's planning on doing is not going to have any net effect on it. I can't see a problem with it.

MR. FIELDHOUSE: All right, thank you.

COMMISSIONER CHRZANOWSKI: You're welcome.

CHAIRMAN STRAIN: Thank you. And we're glad to have Stan on this panel, because he is a historical authority on the drainage in this county, so his comments are well thought out.

We appreciate it, Stan, thank you.

Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Okay, I don't know of any stipulations as a result of where we're at, so is there a motion in this particular regard?

COMMISSIONER ROMAN: I'll move to approve.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER EBERT: I'll second.

CHAIRMAN STRAIN: Is there a discussion?

(No response.)

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

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

And my comment -- is there anybody here that sees the need for a consent? I'm sure we don't. So that goes away too.

Now with that, we are about to get into the SRA amendments -- the various LDC amendments, the first of which will be the SRA discussion. But it would be a good time now to take a break for 15 minutes and then we can probably plow through these before lunch and be finished at a reasonable time this morning.

So let's take a break to 10:25 and return and we'll move into the LDC amendments at that time.

(Recess.)

MR. BOSI: We've got a live mic.

CHAIRMAN STRAIN: Oh, Mike Bosi's back to the seat. We know now. Thank you, Mike.

***If everybody will please take their seats, we'll resume the meeting and we'll move right into the Land Development Code amendments. They'll be Item 9.C. These are the items that were left over from the last meeting that we had started on. We'll start out with the private amendment for the Land Development Code, which is the RLSA private Land Development Code amendment section.

With that, we'll move right into it. Our -- Wayne, are you going to be making the presentation on this one?

MR. ARNOLD: Yes, sir.

CHAIRMAN STRAIN: You gave Richard a break, huh.

MR. ARNOLD: He was a little tired from the last item.

COMMISSIONER EBERT: At his rate of pay?

CHAIRMAN STRAIN: Okay, well, let's move into the -- right directly into the changes and things that have happened on this one since the last time. Do you have any -- do you want any discussion to begin with, Wayne, or how do you want to proceed?

MR. ARNOLD: I'm Wayne Arnold for the record with Grady Minor and Associates.

And after our last meeting we took away our notes and compared those with Caroline's notes and edits have been made to the document that you had. And I think we're on the right track. I know that you had some comments you shared with me, but largely I think that we're pleased with moving forward as a private initiative with what has been offered to you.

CHAIRMAN STRAIN: Okay. And I think the way we'll approach this, we'll just go to the pages each one at a time and look at the changes and if we have any comments we'll make our comments at that time.

I think the first page up in the upper right-hand corner of the documents is your page numbers, instead of at the bottom.

I think the first change is on Page 11. Is that what you've got too, Wayne?

MR. ARNOLD: I have page numbers on the bottom, Mr. Strain, on the version I have.

CHAIRMAN STRAIN: Well, I've only got pages on top.

COMMISSIONER ROMAN: I've got them both places.

COMMISSIONER HOMIAK: They're on the bottom, same as the top.

CHAIRMAN STRAIN: I don't have any on the bottom. Well that's great.

COMMISSIONER ROMAN: We've got them in both places and they're the same so far.

CHAIRMAN STRAIN: I know, but if you all have got them on both places and I don't have them at all, that's interesting.

COMMISSIONER HOMIAK: It looks the same.

CHAIRMAN STRAIN: I hope it is. We'll find out when we get there.

MR. YOVANOVICH: What's the time of the conversion, Mr. Strain?

CHAIRMAN STRAIN: Mine doesn't have a time frame on it. It came --

MS. CILEK: Chairman, is your footer being shown on your document?

CHAIRMAN STRAIN: There's no footer on my document.

MS. CILEK: Well, the rest of the planning commissioners have printouts that have footers on them.

CHAIRMAN STRAIN: And usually what happens, Judy takes those printouts and converts it into a PDF, of which I -- that's how it's done electronically.

MS. CILEK: It's this time as well.

CHAIRMAN STRAIN: Something may not -- let's assume -- I mean, we're going to walk through the changes anyway, so we'll make sure they're all the same.

First change, Wayne, is on Page 11.

MR. ARNOLD: Yes, sir. It's a highlighted change --

CHAIRMAN STRAIN: That adds the NIM process to the public notice requirements.

MR. ARNOLD: Correct.

CHAIRMAN STRAIN: Anybody have any comments?

COMMISSIONER EBERT: Yeah, we're already getting information that they knew nothing about this out there. I got a letter saying that you did not do a NIM meeting out there at the previous Planning Commission meeting way back, that that's one of the things that were promised.

MR. ARNOLD: Yes, ma'am, we did. I'm well aware of that. But these changes are to the Land Development Code, these are not to the Ave Maria SRA.

CHAIRMAN STRAIN: LDC amendments don't require NIMs.

COMMISSIONER EBERT: No, I know they don't.

CHAIRMAN STRAIN: The difference here is this particular LDC amendment would affect a specific area. A lot of them do. And some of them affect the whole county. And I think that's the only difference.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: On Page 12 we have some -- we begin with some underlined changes on 4-B.

Anybody have any comments on Page 12?

(No response.)

CHAIRMAN STRAIN: Caroline and I did speak on this.

COMMISSIONER HOMIAK: 4-B? It's 13.

MR. YOVANOVICH: It's 13 for us.

CHAIRMAN STRAIN: I'm sorry, I'm going by the original underlines. Your actual change is on Page 12, not just the highlighted ones. That's the page.

And the reason I was going to take the underlined page at a time, because there are some look backs that may need to be corrected. Nothing on your part for the applicant, but under B it refers to on the fourth line applicants shall be required to submit and process a new application complete with permit, supporting data as set forth in the Administrative Code.

I couldn't find the Administrative Code where this was addressed. And Caroline and I had a talk about it. What was your solution to that discussion?

MS. CILEK: We're actually requesting for direction in the next LDC amendment cycle to update the Administrative Code. We can however do an update earlier than that if it would be helpful and bring something back within the next month or two.

CHAIRMAN STRAIN: My only concern is if they want to implement some of these changes prior to that process completing, which unfortunately takes quite a while, how would they be able to proceed?

MS. CILEK: Well, the most closely related application and section within the Administrative Code would be the PUD provisions for substantial and insubstantial changes and those are in the Administrative Code, we could use those and enter them and then make the updates to that Administrative Code when it's appropriate.

CHAIRMAN STRAIN: And I think that's a good solution.

MS. CILEK: Perfect.

CHAIRMAN STRAIN: Is it one that you have to state in this language or can you -- the fact that it's on record and everybody acknowledging it good enough?

COMMISSIONER ROMAN: This is an SRA.

MS. CILEK: I think if it's an interim measure it would be worthwhile to go that route, but I'd like to hear from the County Attorney's Office as well.

CHAIRMAN STRAIN: This occurs twice, by the way.

MR. KLATZKOW: I think the practice is to bring the administrative change at the same time as this change. That's your best practice. So now we're talking about second or third best practice. So I guess the second best practice is you're going to use your PUD processes? Okay.

CHAIRMAN STRAIN: But this isn't going to the Board until when?

MS. CILEK: This will go to the Board on July 14th.

CHAIRMAN STRAIN: Oh, well then Wayne has plenty of time to draft the changes to the Admin.

Code that you could review and implement, right?

MS. CILEK: Changes to the Admin. Code are done by staff so that --

CHAIRMAN STRAIN: I know, they're done by staff. And then it goes only to the Board. So we don't -- it doesn't have to be held up for our hearing. The Admin. Code --

MS. CILEK: Correct.

CHAIRMAN STRAIN: Well, is it possible then to get this -- the Admin. Code amended to reflect this reference by the 14th of July?

MS. CILEK: We will do our best.

CHAIRMAN STRAIN: Okay. I mean, and if we can't, we'll do the fallback position, which is number two and go to the PUD.

COMMISSIONER ROMAN: I have a question, Mr. Chairman.

CHAIRMAN STRAIN: Yes.

COMMISSIONER ROMAN: Caroline, you might have addressed this just now and I might have missed it, but how is the insubstantial change defined? Did you say that that was currently in the code, or --

MS. CILEK: The insubstantial change for an SRA?

COMMISSIONER ROMAN: Correct.

MS. CILEK: If you look on Page 13.

COMMISSIONER ROMAN: I'm there.

MS. CILEK: It's C, little C. And basically it's things that do not -- it's changes that are not substantial and changes that are not minor.

CHAIRMAN STRAIN: But what I --

COMMISSIONER ROMAN: But where's the definition? That's my question. Who determines that and is there a definition? That's my question.

CHAIRMAN STRAIN: Here's what happens. When someone wants a change, they go to this section under substantial changes and they review numbers one through 10. If they trigger any of those numbers, they are substantial. If they don't trigger any of those numbers they are insubstantial unless they go down to minor and they qualify for one of the minor which is then administrative. It works well. We've been working with it continuously. So it does -- so anything that is not substantial and not minor, anything remaining is insubstantial.

COMMISSIONER ROMAN: And I think you're all aware that we received some correspondence on this in terms of from the community about, you know, is this already being determined to establish a path forward and maybe it leaves it too open ended. And I think you saw that correspondence too.

CHAIRMAN STRAIN: Well, it originated and was sent to me as well so I saw it.

And the point that I think is beneficial here -- first of all, this is in line with what the Planning Commission requested when they came in for their amendments last fall. But the key element is they, like others, they're going to be doing neighborhood information meetings in order to perfect these. So if they need a substantial or an insubstantial change, they'll be coming in to do a NIM, and that NIM will dictate the -- the community will be notified.

COMMISSIONER ROMAN: For either one?

CHAIRMAN STRAIN: That's my understanding, yes.

MR. ARNOLD: Correct.

COMMISSIONER ROMAN: All right, thank you.

CHAIRMAN STRAIN: Which I guess then takes us to the next page, Page 13. There's some new language in yellow.

Does anybody have any questions on Page 13?

(No response.)

CHAIRMAN STRAIN: I have a couple points. I want to go back to number three. That does -- it is a little different than the standard LDC insubstantial or substantial change language in the sense that besides five percent there's a five-acre cap. I know we talked about it last time, you guys didn't feel it should apply to you and I think your reasoning was that you're such a large project. But I'm not sure why that carries, because you only have 312 acres of preserve on your project. That's far less than many of the bigger projects in

Collier County like Pelican Marsh or Pelican Bay or Hacienda or Fiddler's Creek or all those other larger projects that are thousands of acres like you are.

Why would we want to change this just for your project? And I'm not seeing why it would be negative to you guys.

MR. ARNOLD: Well, I think Rich's presentation last time was it was because these are large projects. The SRAs will be large-scale projects. Five acres is a very small number with regard to our overall acreage. But I think too maybe the PUD section needs to be revised too and maybe the five-acre threshold is too small for some of those large-scale projects.

CHAIRMAN STRAIN: Well, and that may be true, but I don't think that we should be changing it for one without changing it for all. And so for whatever it's worth, I can't -- I don't see that as being a big threshold issue for this whole process. I think we ought to mimic the PUD language that was the intention of what I believe the Planning Commission thought last fall when you had your amendment. And I think that provides a lot of opportunities for you guys to do things like typical developments are able to do them in Collier County. So I'd just as soon we leave the language identical in regards to this item and put the five-acre cap back in.

MR. ARNOLD: I think from the applicant's standpoint we would prefer to continue to offer the language that we have suggested. And I sense that there may not be a consensus of the Planning Commission on supporting our language, but I think we'd like it to move forward.

CHAIRMAN STRAIN: Well, I'm not saying nothing's going to -- we're not here to stop something from moving forward, it's just that we're suggesting things that would make it a little easier for us, for all of us. I mean, we can vote on these one at a time if there's a difference on the Board. I for one can't see the downside to the five-acre cap to be consistent with the rest of the county. That's all.

MR. ARNOLD: Mr. Strain, I don't want to be argumentative, but keep in mind that if it's not a substantial change, it becomes an insubstantial change. It's really one of which process do we proceed through, a Hearing Examiner process with a NIM or do we proceed through the Planning Commission and Board process. I mean, either way we still are having an advertised public hearing to deal with that issue if we want to impact preserves of greater than five acres.

CHAIRMAN STRAIN: And I think you just missed my point. I'm just trying to be consistent with what we already have in the code for the rest of the county. I don't see the difference needed for this section of the county. That's all.

And that's the only piece I have, and it's more of a consistency issue than anything else. I mean, anybody else want to weigh in, go right ahead.

(No response.)

CHAIRMAN STRAIN: We can move on down towards C, C-1. There's the second reference to the Administrative Code. I just wanted to point that out, so that has to be addressed as well.

Go ahead, Charlette.

COMMISSIONER ROMAN: Where exactly are you, please?

CHAIRMAN STRAIN: I'm on Page 13, the last sentence that's under-struck, it's in C-1.

COMMISSIONER ROMAN: Okay, thank you very much.

CHAIRMAN STRAIN: And that takes us then to the next page, Page 14. Page 14 has some language under D, modifications to street cross sections in accordance with procedures established in LDC Section 6.06.01(N) and 10.02.04(A)(5).

I have reviewed and read those very carefully. I can't see -- and is Ray Bellows here?

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Good. I can't see why you need this if it's in the LDC. Ray, would you mind telling us why, if it's already an LDC, why this wouldn't be available to them as it is?

MR. BELLOWS: Good morning.

CHAIRMAN STRAIN: Thank you, Ray.

MR. BELLOWS: For the record, Ray Bellows.

It doesn't necessarily have to be placed back in if there's other LDC provisions that cover or apply.

CHAIRMAN STRAIN: So if they didn't have this item added, they could still apply to whatever

benefit those two sections of the code are there for.

MR. BELLOWS: Correct.

CHAIRMAN STRAIN: Because it doesn't exempt SRAs.

MR. BELLOWS: No.

CHAIRMAN STRAIN: Okay, so then I'm trying -- thank you, I needed to understand what the purpose of -- so Ray -- or I'm sorry, Wayne, why did you want -- I mean, out of the entire 4, 500 page LDC, why did you pick this piece to want to add back in? What was your -- what's the goal?

MR. ARNOLD: Our goal is to be allowed to ask for a deviation from the road cross-sections that are expressed in the LDC. And there's -- the LDC has, what did we say, 18 or 19 cross-sections for roads that pertained to SRAs.

This was meant to take you back to a process, and the 6.06.01 reference establishes a process by which you can request deviations through either the preliminary plat process or an alternate process.

I do think my disagreement with that insertion of process, it refers to private streets only in that section. It doesn't allow you to ask for an exception for a street if you may dedicate it to the public.

CHAIRMAN STRAIN: Well, I'm all in favor of you being in this regard treated the same as the rest of the county. I don't have a problem with that. But I don't see the need to put it here. And if it's already in the LDC, I can't see why you need to emphasize it here. You just got acknowledgment from the Zoning Director that it would be applicable to you. So how is it needed then to repeat it here? Because in essence then you're saying we've got to repeat almost the entire code for those sections that apply globally to the county land, and I'm not think (sic) that's a good idea. I'm not thinking that's the right way to go.

MR. ARNOLD: You know, I think -- Rich, did you want to speak?

MR. YOVANOVICH: Just briefly.

Mr. Strain, I agree. But historically we've been not allowed to use that provision within the Rural Land Stewardship Area. And it may be because of the other glitches in the code that said you had to ask for your deviations at the first development order. If the interpretation is now, now that we have a provision that says you can ask for a deviation at any time in the project that the entirety of the deviation process in the Land Development Code will apply to me anyway, that's fine. But we have -- that's why we put that in there, because historically we -- and it may have been because of the timing of the request for the deviation. So it was belt and suspenders. If you're telling me once we get the deviation that says you can ask for a deviation at any time, all of the Land Development Code provisions regarding when and how you ask for deviations will apply to the Rural Land Stewardship Area, we would agree that you don't need that cross reference.

CHAIRMAN STRAIN: And it's my understanding that the SRAs for some reason had this unique qualifier for deviations that said the only time you can have a deviation is if you apply for it once in the beginning of your project for your first SDP, which these projects can go on for 30 years. So to think that you wouldn't need another deviation throughout the entire life of that project is really impractical. So from that perspective, for the benefit of everybody, not just for the landowner but for the change in the market conditions that would benefit everybody, including people that live there, I think that change in that deviation section is warranted. But at the same time I don't see why duplicating this language then is needed. And that's what I'm getting at.

MR. YOVANOVICH: And I would agree with you, as long as once we get the first step done which is you can ask for deviations at any time, then we can ask for deviations under any of the Land Development Code processes, that would be fine as well. I just want to make sure that those processes will apply uniformly throughout Collier County. Which I understand the Chairman is saying, and Mr. Bellows is saying that is true.

CHAIRMAN STRAIN: And I've just heard that. And Mike, if you're also the -- he's the zoning manager, you're the zoning director, so --

MR. BOSI: Mike Bosi, Zoning Director. It stems from the specific prohibition of deviations that are expressed with that SRA language. With the modifications that are being introduced with this amendment, that all available provisions of the LDC that are not preempted by the SRA will be applicable to this SRA, as you've discussed. So you're right, this would be duplicative in nature.

I understand the applicant's position wanting to have a clarity because of the prohibition of seeking

the deviations from the prior language, but the modifications being introduced within these Land Development Code amendments, those provisions of the LDC will be applicable.

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

Okay, let's move on to the next page. Actually, it is the next page. Does anybody have any questions or comments concerning the underlining on the following page, Page 15?

(No response.)

CHAIRMAN STRAIN: I hope it's page 15. It is for me.

COMMISSIONER EBERT: It is.

CHAIRMAN STRAIN: And Caroline and I did speak, and I mentioned it to Wayne when I spoke with him yesterday. K, or actually L has the underlined paragraph. There are three times in that paragraph it refers to variations or deviations. Wherever it refers to "variations or", those two words should be struck everywhere in that paragraph. Because 4.08.07(J)(8) only refers to deviations, and Caroline agrees with me. So we'll be looking to take out the word variation. The variance is a different standard than a deviation, and I think that their intention is deviation, so that cleanup can be done.

That takes us to Page 16. There are two changes on Page 16. An SRA chart which was omitted just because I believe of being able to fit it in here. And then the new change referencing an addition of a local street cross-section called 6.A. And this is the one we talked about last time that removes the requirement for the sidewalks on both sides of the street.

That will come up further on in this document under the text part of it, but this is where it's added as a figure.

And we talked about it last time. I don't know what this board's feelings are. And I'll let you all go first.

Anybody have any comments?

COMMISSIONER EBERT: I believe we should hold off on that.

CHAIRMAN STRAIN: And I likewise stated that last time. I think that if Ave Maria needs those changes they'll have the ability to come in as a deviation to the -- and ask for them. But they'll have to do it through a NIM process so the people who are concerned about it would be notified. And I think that's a better way to go than do it unilaterally as a standard. Because that is even in conflict with the urban area of Collier County. The urban area of Collier County requires sidewalks on both sides of the street. We've had this discussion many, many times.

So I'm going to suggest that 6.A not be incorporated into the LDC amendment. But that's just me and we'll decide on how that comes out during the voting process.

COMMISSIONER EBERT: And I'll second that.

CHAIRMAN STRAIN: And the next page where there's changes is Page 17. There's some underlined amendment changes there.

Anybody have any questions?

(No response.)

CHAIRMAN STRAIN: If not, I think the next page is Page 23, I think. Yes, it's Page 23. This again is the same thing. This is where they textually added 6.A as a -- and crossed out the words "on both sides of the street" in reference to sidewalks.

I again don't think this is the proper way to go. I think if each SRA wanted to do that, they have the opportunity to do it initially when there's NIMs and notifications to the public involved are more relevant.

Anybody have any comments?

COMMISSIONER EBERT: No, we will be having a workshop on this, correct?

CHAIRMAN STRAIN: Not on this. We're going to have a workshop on sidewalks, yes and now --

COMMISSIONER EBERT: Correct. So that's why I'd like to hold off and see what comes out of that.

CHAIRMAN STRAIN: Well, out of that workshop we will probably ask the Board to consider a policy on the whole issue so we have direction from the Board on how they want to see these. We have it come up too much, and that would just resolve the issue.

And at the end of this we'll ask for public comment on this particular one. So I know there's people

in the public who may want to comment on this.

And the next item up would be on page, I think it's 28. 28 is the SRA economic assessment. We asked that the applicant make changes relevant to what they -- what they were more concerned about, or at least it seemed. And there are two things that have occurred. The fiscal impact analysis model that started to be developed by the State of Florida, and I'm not sure what the state's position is on it, but the Board of County Commissioners had at one point accepted that as our fiscal impact model. That's referred to in 1.A. Since then we've realized that's a difficult model to validate. And because of that difficulty, it wasn't as valuable as we had originally thought. And so it has not -- now I understand it has been dis-adopted as our fiscal impact model.

Staff has approached the Board with some alternatives. We're still vetting that out. And I think the vetting process that the replanning effort has will eventually come back with a new solid substitute for that.

Until then the applicant had suggested, well, these five-year reviews subject to the FIAM doesn't make a lot of sense. And I concur with that. I think we didn't have a problem with that. But the last time they came in there was a lot more crossed out than just the reference to the five-year review. We actually suggested they focus just on that. Most of this has done that. There are a couple of things that need to be considered. 1.A was crossed out and really it shouldn't be. 1.A will be the fiscal -- the Collier County fiscal impact model when Collier County adopts a new one. So it doesn't hurt to leave that language in because it will be utilized when the replanning effort is done. Until then we have to fall back on 1.B. And that's back to what the applicant can do on any particular SRA in regards to addressing the alternative fiscal impact model.

And I would suggest with Big Cypress coming in -- by the way it's got a new name, but it's simpler to remember it as Big Cypress -- they would be the first ones probably utilizing 1.B. Because 1.A doesn't exist right now.

Wayne, did you have any heartburn over that?

MR. ARNOLD: I guess only to the extent that I'm not sure, did the Board take official action to abandoned the FIAM as its fiscal model?

CHAIRMAN STRAIN: I thought I was told they did.

MR. BOSI: The last discussion related to it, they said no longer to utilize the FIAM.

MR. ARNOLD: But I guess my question is, I mean, was that done by resolution or ordinance? And is there still something officially out there. And if so, the second paragraph probably needs to be altered because maybe it should allow the county to approve an alternate methodology in lieu of -- I just don't know the legal status of that.

MR. BOSI: Well, I don't think the county -- Mike Bosi, the Planning Director.

I don't think the county has an alternative to suggest as of this moment as an alternative to the abandoned FIAM.

CHAIRMAN STRAIN: And it says in that 1.B that if the county has not adopted a fiscal impact model, which we now have learned they have not, as indicated above, the applicant may develop an alternative fiscal impact model using a methodology approved by Collier County.

So I think what I would suggest that means is you guys -- it's not going to be you, it's going to be the next SRA, they would produce something that similar addresses the elements in the SRA economic assessment in some manner and they get approved, or it either gets accepted or not or tweaked. And that's not unusual. I think that would work a lot better than what we have.

So I'm suggesting L.1.A not be crossed out, it be left in. And whenever it does apply in the future, great.

MR. ARNOLD: I think we're fine with, but I'll let Rich confirm something with --

MR. YOVANOVICH: I just wanted to confirm one other thing. We also discussed that that methodology would be developed through the applicant and staff through the pre-application hearing process. We would submit it and we wouldn't be second guessed at the time it got in front of the Board of County Commissioners as to whether or not the model was appropriate. And I think we all agreed that that would be a staff level decision on what the model would be and the Planning Commission wouldn't second guess the model. And I think Mr. --

CHAIRMAN STRAIN: I don't remember that discussion, Richard. And by the way, the pre-app

that's coming up -- and what hat are you wearing now, the Big Cypress hat?

MR. YOVANOVICH: I'm wearing the hat of what the code's going to say.

CHAIRMAN STRAIN: Because if you're wearing a Big Cypress hat, that means your fees get to be split.

MR. YOVANOVICH: I'll give a discount for that. But we did -- I specifically recall the Chairman saying that we wouldn't second guess staff's methodology for determining fiscal neutrality when we got to the Planning Commission. Because my biggest concern was if the detail's not in the Land Development Code, I go through a couple years of analysis, I get in front of the Planning Commission and the Planning Commission says, you know, we don't agree with the methodology that staff came up. I know we had that conversation, and I know it was said that don't worry about it, we'll respect staff's methodology.

CHAIRMAN STRAIN: Okay, you have more detail in your memory than I have. Maybe that's because you're what, one or two years younger. But I'll tell you right now, if we had to review a new SRA in regards to what's in paragraph L and it talks about the public facilities, there would be two things I would look for to make sure all those facilities listed in AUIR capital improvements A and B were included and there'd be something to address affordable housing.

MR. YOVANOVICH: Which is not a fiscal neutrality issue.

CHAIRMAN STRAIN: Well, we don't know that yet. And if affordable housing is ever elevated to an element where we've got another basis to review it by, it needs to be reviewed for the SRAs too. You can't tell me that the balance of the county should be questioned every time they come forward with a project for their ability to assist in affordable housing. I don't mean exactions monetarily. But the more of a direction of incorporating something for affordable housing. That we should just ignore an area equal -- bigger in size than the urban area and it's going to have the same population. So I think affordable housing would be a very good element to consider when another SRA comes forward. And I for one will be considering it.

MR. YOVANOVICH: Mr. Strain, what we've always said through the affordable housing discussion has been if the county comes up with a methodology that's applied to all property owners within Collier County when they come forward to rezone their property, it would apply to all property owners. It wouldn't be on a case-by-case analysis. So I think you and I are saying the same thing. If the county adopts a methodology that applies to all undeveloped and unzoned property that would apply also to the RLSA, fine. But the county so far has not adopted a methodology for properties within the urban area to analyze affordable housing. Correct?

CHAIRMAN STRAIN: Not yet.

MR. YOVANOVICH: Right. And I'm saying if they do it would apply to the urban area and it would apply to the Rural Land Stewardship Areas, correct?

CHAIRMAN STRAIN: Well, then part of L, part of the -- if you look at the fourth line down, it starts with the word "services", then there's a semicolon. It says, transportation, potable water, wastewater, irrigation water, stormwater management, solid waste, parks, law enforcement, emergency medical services, fire and schools, and on top of that we will add affordable housing. And I have no problem then understanding that affordable housing be part of the analysis that comes through.

MR. YOVANOVICH: Well, Mr. Strain, with all due respect, that's not been vetted. This is our amendment. And what we need to be doing is talking about the restudy. And there's going to be a restudy. And if the restudy says we want to look at affordable housing in the Rural Land Stewardship Area, then come back, change the Land Development Code to add that requirement. But don't do it on the fly as we've been painted into the corner on some of the issues that haven't -- sidewalk for one. If the Board decides from a policy standpoint that they want to look at affordable housing through the restudy, great. But the Board hasn't directed that at this point 'til it covers (sic) part of the Rural Land Stewardship process.

CHAIRMAN STRAIN: Okay. And the Board can certainly listen to any considerations this panel may have to offer as suggestions for improvement to the document that's in front of us. So I appreciate your input, thank you.

COMMISSIONER HOMIAK: I just have one thing while we're on this.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER HOMIAK: L.1.A. This language at the bottom, accommodate affordable or

workforce housing, that comes from who?

MR. BOSI: That's --

COMMISSIONER HOMIAK: From you?

CHAIRMAN STRAIN: That's existing language.

MR. BOSI: -- existing code language.

COMMISSIONER HOMIAK: Affordable or workforce. But the definitions are -- shouldn't it be gap or affordable workforce housing? Because the definition for low income housing now that I see is affordable workforce housing. And then there's a definition for gap.

MR. YOVANOVICH: The interesting thing is the language that --

COMMISSIONER HOMIAK: This isn't right.

MR. YOVANOVICH: -- already exists says I don't have to be fiscally neutral if I provide affordable or workforce housing. I don't have to be fiscally neutral. That's what the current language says. Exceptions to being fiscally neutral to be granted if I provide affordable housing doesn't say I have to provide affordable housing to be fiscally neutral. That's what the language is.

CHAIRMAN STRAIN: Who's disagreeing with you? Where are you going with that statement?

MR. YOVANOVICH: My point is why are you adding it to an analysis of fiscal neutrality when the code already says I don't have to provide affordable housing as part of my project and I could be exempt or an exception for providing fiscal neutrality if I do provide affordable housing. Why are you going to add it as a consideration for fiscal neutrality?

CHAIRMAN STRAIN: Two reasons. You started out this conversation by trying to tie us to whatever staff approved on a pre-app. To be honest with you, at a pre-app staff's not going to have time to prove anything.

Mike?

MR. BOSI: Clarification. The alternative fiscal model is an alternative fiscal model that's developed by the applicant that's approved by the staff. Staff is not going to dictate it's going to be a conversation with the fiscal professionals as to what they believe is the appropriate way to try to establish this fiscal neutrality. I just wanted to clear that up.

CHAIRMAN STRAIN: No, and I don't disagree with you. That's how I understood it. But all I was trying to say is if that development that staff looks at and staff -- why staff would accept this without Board consideration would surprise me. But if the applicant thinks that a pre-app you're going to accept a fiscal analysis model and this board's going to be bound by it, someone's really mistaken.

But at the same time, since he did bring this up as a concern in trying to tell us we would be accepting it, I'm going to tell you right now one of the considerations that this board needs to look at, whether it's just me or all seven or six of us, is the affordable housing component. Not necessarily saying you got to have one. You may be in a position where most of the housing you have out there is affordable. But that's going to be a component of consideration that's not listed under L. So I'm just trying to make it clear that if it were to come forward without that as a consideration, we have a right to question it. That's where I was going.

MR. ARNOLD: Can I ask for a clarification on that point?

CHAIRMAN STRAIN: Sure.

MR. ARNOLD: You're not suggesting that for this amendment we add that language. You're taking this forward as part of maybe a review, a new SRA?

CHAIRMAN STRAIN: Well, as a new SRA I'm telling you what I'd -- no, it's not struck language in this. I don't -- I'm just making it very clear that contrary to Richard's thought that we would accept whatever staff puts on the table, no, we're going to have input on whatever staff puts on the table. And I think staff would be mistaken if they put something of that magnitude through a pre-app and say here, it's a done deal. Pre-apps are way too premature to be able to know that.

Michael?

MR. BOSI: Just for clarification in the discussion point we're having related to, this is an analysis of fiscal neutrality and that means what is the cost obligation for the county to provide infrastructure and services to the new town. And they need to demonstrate neutrality within that cost provision or that cost

expenditure from the county standpoint.

The provision of affordable housing is not an infrastructure component. An affordable housing is a range of pricing that is normally set by the market or allocated through an agreement to provide for affordable housing within a certain range through an affordable housing density bonus agreement or an agreement as such.

And in that way, I think what Commissioner Strain and the Commission's looking for within the future SRA's is an analysis in terms of how that town is going to provide for affordable housing. But it's not directly related to a fiscal analysis in the sense it's not a capital expenditure that the county will incur to have to service that town. But it's interrelated to all the issues that have been described as what is important to the county and also what are the price ranges and what are the expected -- how is the issue of affordable housing going to be addressed by the SRA. But I do not see that as a necessarily -- as a quantifiable component within a fiscal analysis. I think it's an analysis that's outside of your fiscal analysis, but it's part of the overall SRA submittal. And I think that will be discussed as part of the upcoming pre-app that there will need to be an effort from the applicant's team to address affordable housing in its relationship to that proposed SRA.

CHAIRMAN STRAIN: Well, and that's fine, Mike, I don't necessarily disagree with you. But I want to show as an example the current FIAM process has a full tabbed component for affordable housing. It does factor into fiscal neutrality; at least the last model that the Board adopted and that we utilized on Ave Maria did provide for that.

I'm not saying that's necessary now. What I am saying is that first of all, Ave Maria, their price points are great for affordable housing. It works out really well. In fact we know people that are moving out there because of the price points. That's a good thing. But I want to make sure that somehow we will be evaluating that, regardless if it is or not listed in that group of listings in L. And I'm not going -- myself, I will not be one tied to a model or any kind of actions that don't allow that to be considered. So whether staff agrees to that or not, that's something we all should talk about.

COMMISSIONER EBERT: So you want to keep -- under L, you want to keep 1.A in there, Mark?

CHAIRMAN STRAIN: Yes, there's no reason to take it out.

COMMISSIONER EBERT: Very good, I wrote down to keep it.

COMMISSIONER ROMAN: And Mark, you also mentioned, and this is where I'm unclear, and I think this goes with Karen's question, you mentioned when you read that long list of parts of the analysis, you added the word affordable housing. Are you -- and I think Karen, that goes to your question, should it be affordable housing, gap housing or workforce housing?

CHAIRMAN STRAIN: Yeah, the terminology --

COMMISSIONER ROMAN: Yeah, whatever the definition is. But are you still proposing that we add that word in there? That's what I'm asking.

CHAIRMAN STRAIN: Because it says at a minimum the analysis shall consider the following public facilities and services. And to argue that affordable housing is not in a component of fiscal neutrality would then demean the process that we have already accepted that was adopted by the Board in the FIAM model.

So I'm saying that is one of the elements that we will be considering as well. Whether it's part of the model or else, it's going to be considered.

Now, the applicant's saying it's not going to be -- they don't want it changed in their submission. And I'm not real concerned whether we add it there or not. I think the record's clear, it's going to be questioned. This is their private LDC amendment. I can understand that concern. So I'm not -- I don't -- doesn't matter to me if we add it to that point or not. But one way or the other it's going to be considered and we're not going to have our hands bound by a staff action that doesn't consider it. So at least I as one member am not.

COMMISSIONER ROMAN: And then we'll get a clarification on what the terminology is and the definitions are.

CHAIRMAN STRAIN: All that will happen during the replanning effort that's already more or less started, yeah. The Board's already put it underway.

COMMISSIONER ROMAN: Okay, thank you for the clarification.

CHAIRMAN STRAIN: Does anybody have any other questions on that?

(No response.)

CHAIRMAN STRAIN: I think that's the last page. So we basically have a few changes that we're suggesting to this. And I'll be glad to reiterate those.

First of all, under the substantial changes we're going to be adding the five-acre cap to number three, I think it is. Just like the rest of the county has.

MR. ARNOLD: Mr. Strain?

CHAIRMAN STRAIN: Yes, sir.

MR. ARNOLD: Could we somehow I guess indicate those that we agree to disagree on? And I think the five-acre cap will be one of those and the sidewalk issue would be the second.

COMMISSIONER ROMAN: Yeah, because I have a note from last meeting that we had added to that number three on substantial, or up to five acres.

CHAIRMAN STRAIN: Right, that's what I was suggesting.

COMMISSIONER ROMAN: I have that note, yeah.

CHAIRMAN STRAIN: And that's fine, yeah, you can dis-- you have the right obviously to disagree.

So number one, adding the five-acre cap like the rest of the county to number three, does this board agree to that?

COMMISSIONER EBERT: Yes.

COMMISSIONER ROMAN: I agree.

CHAIRMAN STRAIN: Anybody here disagree with that?

(No response.)

CHAIRMAN STRAIN: Okay. But the applicant disagrees.

Number two: In the reference in 3.D for street cross-sections, drop -- oh, I see, drop number 3.D which is that one that had the deviations that staff -- or that the applicant was looking for. Because he didn't have the ability to make deviations prior to this --

COMMISSIONER ROMAN: Right, that's on Page 14, I think.

CHAIRMAN STRAIN: I'm going to go back and make sure it's noted correctly. Yeah, it's 3.D on Page 14.

And we're going to go to public speakers when we finish reading this, so I just want to make sure the public knows where we're going. It might forestall some comments.

Anybody disagree with that?

(No response.)

CHAIRMAN STRAIN: The third one would be Page 15, remove the reference to variations or variances. Anybody disagree with that?

(No response.)

CHAIRMAN STRAIN: Wayne, if you're disagreeing with any of these, holler so when we get input from the public we can know where everybody stands.

Number four: Remove detail 6.A. And I know you disagree with that; is that right, Wayne?

MR. ARNOLD: Correct.

CHAIRMAN STRAIN: Okay, anybody on this board disagree with --

COMMISSIONER ROMAN: Where is that one at, Mr. Chairman? Where is that?

CHAIRMAN STRAIN: I will tell you.

COMMISSIONER ROMAN: What page?

CHAIRMAN STRAIN: Page 16.

COMMISSIONER ROMAN: Okay, I'm with you.

CHAIRMAN STRAIN: And that appears on Page 16 and on Page 23.

COMMISSIONER ROMAN: That's the sidewalks.

COMMISSIONER EBERT: That's the sidewalks.

CHAIRMAN STRAIN: And then the last one, remove the strike-through under the FIAM section under Section L.1.A. So remove the strike-through of A under L.1.A.

So Wayne, of those comments, the only one you're -- the one you're disagreeing with is number one,

which is the five-acre cap, and the removal -- recommendation to remove 6.A as the cross-section; is that right?

MR. ARNOLD: Correct.

CHAIRMAN STRAIN: And 6.A is the issue on the sidewalks.

Okay, we'll first go to public -- well, first of all, staff. Caroline, do you have anything you want to add, since you are the LDC coordinator for the county, in regards to everything you've heard?

MS. CILEK: No, thank you.

CHAIRMAN STRAIN: Okay. So Mike, we'll first go to registered speakers, and after that I'll ask for anybody that does want to speak beyond those that are registered.

Will the first speaker, if Mike calls you, come up to one of the microphones.

MR. BOSI: Chair, the first speaker and only speaker slip that we have is for Deborah Chesna.

MS. CHESNA: Good morning, Commissioners and Mr. Chairman. My name is Debra Chesna with the Healthy Communities, Florida Department of Health.

Thank you for hearing my input. I look forward to your sidewalk workshop.

I'm here today in reference to the proposed amendment to the Land Development Code. To have sidewalks on only one side of the street would be a great giant step backward in community design. Research suggests that the design of cities and neighborhoods can make it difficult for children and adults to be physically active. Did you know that 65 percent of adults in Florida are at an unhealthy weight and one out of three children are obese? Studies estimate that nearly 80 percent of adult Americans do not get the recommended amount of exercise each week, potentially setting themselves up for years of health problems and high medical costs. Growing evidence demonstrates a strong relationship between health and the environment in which we live.

Many health and planning officials believe that traditionally designed neighborhoods, those with destinations plus networks of bike paths and sidewalks can help children and adults get more daily physical activity. This type of design is recommended by the Surgeon General in the Institute of Medicine for curbing the obesity epidemic. But many zoning laws, development regulations and transportation policies make it challenging to create communities that facilitate walking and biking. Our neighbors are shaped by specific policies that guide development and consequently our health.

I believe SRAs were designed with mixed use town centers in mind to encourage walkability and connection to destinations. Land use has to be tied with transportation.

If you're going to build a roadway for cars to travel, I'd ask that you always build for pedestrian and bicycle infrastructure equally for all modes to travel also.

We have a responsibility to create a well-designed environment that gives residents options to reach destinations. As planners we are trained to look at changing conditions and quality of life for the over 20 years or more -- future 20 years or more. We have opportunities to effect change. Street design and transportation planning will set the course for the future. It always has, right?

Thank you very much for your considerations.

CHAIRMAN STRAIN: Thank you. And I know you're one of the people we've asked to attend our workshop coming up, and I hope that staff is communicating with you to set that up. So thank you.

MS. CHESNA: Thank you, I appreciate being part of that.

CHAIRMAN STRAIN: We appreciate your input.

Is there anybody else from the public that would like to speak on this matter?

Nicole?

MS. JOHNSON: Good morning. For the record, Nicole Johnson, here on behalf The Conservancy of Southwest Florida.

And when I was here at your last meeting my comments were focused on the fiscal analysis component, and The Conservancy does agree with the Planning Commission's recommendation. I think it's important to keep that 1.A in there as a placeholder for the opportunity for the county to then create maybe a new standard model that can then be inserted in there. So we would agree with the Planning Commission's language.

And also in your discussion today on the five-acre cap, we also agree with that.

And just as a general overall comment, what makes an SRA is really the sum of all of its parts. And I think we have to be very careful going forward that SRAs aren't turned into simple PUDs. Because they weren't intended to function as a PUD. They're intended to function as a brand new town with a lot of the walkability and internal capture rates designed into that.

And I will say that with the town of Big Cypress, the rural lands west, it was a little concerning that in all the materials that I saw it talked about it being a planned community, not a new town. So just in general I think we really have to be careful that these SRAs function as intended.

But we do support the Planning Commission's recommendations for the economic assessment and the five-acre cap.

CHAIRMAN STRAIN: Great. Thank you, Nicole, appreciate it.

Is there anybody else in the public that would like to speak on this matter?

(No response.)

CHAIRMAN STRAIN: Okay, with that we've reached the end of the public involvement on this one.

I would suggest from the Planning Commission that a recommendation be made for approval subject to the five items of clarification that are -- five items that we stipulated earlier, if that's so inclined. Does anybody wish to make that kind of motion?

COMMISSIONER ROMAN: I'll move.

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: I'll make the motion.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER ROMAN: I move that we recommend approval based upon those five changes that we've made to this amendment.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER CHRZANOWSKI: I'll second.

CHAIRMAN STRAIN: Seconded by Stan.

Is there a 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.

MR. YOVANOVICH: Mr. Strain, I just have a process question --

CHAIRMAN STRAIN: Yes, sir.

MR. YOVANOVICH: -- if that's okay.

Just the form of what will appear in front of the Board of County Commissioners. What I'm assuming will appear is our language -- within the staff report there will be comments as to revisions the Planning Commission suggested, correct?

CHAIRMAN STRAIN: Well, it is your writeup, so staff didn't write it. You did agree with us on three of the five. So I'm assuming those changes will be made. And that leaves two in which since it's your language and not ours, I'm not sure we can demand that you change your language.

And Caroline, you tell me how you see that panning out.

MS. CILEK: Right, there will be two ways that it will be shared. One on the amendment that we will identify the Planning Commission's recommendations regarding specific provisions, and then we will

also identify those in the executive summary. But the text going forward with the applicant's opposed language.

MR. YOVANOVICH: I just wanted to know what text was going forward.

CHAIRMAN STRAIN: Okay. But Caroline, to make sure, you know, these LDC amendments sometimes get very hard to follow. Will you be present at the Board hearing in which these LDC amendments are discussed? And this one in particular.

MS. CILEK: Yes, absolutely.

CHAIRMAN STRAIN: Would you mind, on behalf of the Planning Commission, to verbally point out to the Board the disagreement and the areas that we disagree in?

MS. CILEK: Absolutely.

CHAIRMAN STRAIN: Okay, thank you.

MR. YOVANOVICH: Mr. Strain, are there any other provisions that you'll be considering that affect the Rural Land Stewardship that we need to stick around for, or are we free to leave?

CHAIRMAN STRAIN: Well, I don't -- I mean, you can leave any time you want, Rich. But there are two things that came up. And let me make sure -- the public notice requirements for the SRA are coming up, and we can do those next. And I'm not sure there's really anything there to be concerned about. But we'll have a real short discussion on that one.

And then I was informed by the County Attorney's Office that the previous chart that was provided in our last meeting that delineated the required versus non-required uses in the SRAs where we used to have it underlined and then that one chart, on one page that had underlines evolved into three or four pages of new charts, one of which was over-sized, that they cannot be incorporated in the Muni. Code like they were written. We may want to have to go back and consider just leaving it like it was with the underlines, making sure Muni. Code leaves the underlines in, and that would be a simple fix. But we're going to be discussing that. But that's not going to physically change any of the issues.

The only one that -- and neither is the next one. I mean, we're basically looking at the NIM requirement. We're going to have a couple discussions on what a few of the words there mean, at least from my perspective. But you're welcome to stay just like anybody else is, so --

MR. YOVANOVICH: Yeah, I don't know every amendment that's being processed, so I --

CHAIRMAN STRAIN: There's only four of them today.

MS. CILEK: The one that I would prefer that the applicant stay for would be the companion item which is the public notice requirements.

CHAIRMAN STRAIN: Okay. With that, then since we just finished with that one, let's move directly into the next item up which is 10.03.06. And -- it's changes in 10.03.06. It starts out on top as 4.08.07 under the SRA designation. There are some strike-throughs there. Then it goes into 10.03.06, there's more strike-throughs, and then there's new language at the last page.

Caroline, did you want to have anything to say on this?

MS. CILEK: No. Generally speaking this is a companion item to address the noticed core requirements that are needed for the substantial and insubstantial changes that are being proposed by the applicant's amendment. Previously this amendment only included the requirement for a NIM for the substantial change. And we looked at the other provisions in 10.03.06 to find language that would be similar in nature and proposed this language.

CHAIRMAN STRAIN: Okay. Does anybody have any questions involving -- it's only a couple of pages, four pages. Anybody have any questions involving the changes on these pages?

(No response.)

CHAIRMAN STRAIN: For -- while everybody's looking at it, I had a couple highlighted.

The last page, which is -- in my book it says Page 59, but who knows what page it is on yours. Number 2.A, 2 talks about the following notice of procedures are required. 2.A says SRA designation or SRA substantial change.

Is that "or appropriate" or should it be "and"? Doesn't make a difference.

MS. CILEK: I'm up to your recommendations, whatever you'd like.

CHAIRMAN STRAIN: I don't care. I just want to make sure we're not missing anything by making

it "and". I don't want anybody to have the ability to choose which time to use it, that's all I was worried about.

Do you have any concern, Jeff?

MR. KLATZKOW: On both of them or one or the other?

CHAIRMAN STRAIN: Well, they both have to -- any -- either one of them happens, there's got to be the NIM process, so I guess it would be "and" then.

MR. KLATZKOW: There you go.

CHAIRMAN STRAIN: Let's just change it to "and".

And then 2.A.5, a mail notice shall be sent to each real property owner within the area covered by the proposed ordinance prior to the advertised BCC public hearing.

Two issues with that. I want to understand what the word covered means. But this says the advertised BCC public hearings, so they wouldn't have to be advertised before the Planning Commission hearing?

MS. CILEK: Well, if you look at 2, right, 2.A, right, little 2, mail notice prior to the first advertised public hearing. So that falls under the requirements of 10.03.05 which would be the 1,000 feet. So those people that are within 1,000 feet outside the area would get notified --

CHAIRMAN STRAIN: That's the covered area.

MS. CILEK: -- and then -- right. No, that's the general mail notice.

CHAIRMAN STRAIN: Okay.

MS. CILEK: And then the second time a mail notice happens would be those that are covered. And yes, that would happen prior to the BCC.

CHAIRMAN STRAIN: Okay, I got it. So because there's two mail notices, one would be before the BCC and the other one would be before the first advertised public hearing. And in this case it would be the Planning Commission in both instances because we are the EAC, in case it was the EAC as well as the CCPC.

MS. CILEK: Correct.

CHAIRMAN STRAIN: Okay, that works.

COMMISSIONER EBERT: The 1,000 feet.

CHAIRMAN STRAIN: That's the only -- well, whatever the code requires. What's the distance of notification required by the code; do you know?

MS. CILEK: Mike and I have spoke about this and we looked it up. And they are in the rural -- basically they're not an urban area, so they would fall under the 1,000 feet distance requirement.

CHAIRMAN STRAIN: Okay. So that's the only change that we need on this page is the word "or" changed to "and". I don't think there's anything else.

MR. YOVANOVICH: Can I help you? As much as I --

CHAIRMAN STRAIN: Go right ahead, Rich. A member of the public wishes to speak.

MR. YOVANOVICH: Because I don't want anybody to think that I did this and snuck it past anybody. I'm fairly certain you're not going to adopt any ordinances related to this, so I want to make sure where it says area covered by the proposed ordinance, you probably need to pick a different word.

CHAIRMAN STRAIN: That's a good point. Thank you. Our SRAs are done by resolution.

MS. CILEK: And are you on line 26?

MR. YOVANOVICH: There's two places. It's both on the substantial and the insubstantial portions. Both A and B reference proposed ordinances. Mail notice --

MS. CILEK: Right, but will the SRA designation or substantial change be going to the Hearing Examiner? No. Only the insubstantial does.

CHAIRMAN STRAIN: No, no, no, under --

MR. YOVANOVICH: Where it says the mail notice shall be sent to each real property owner within the area covered by the proposed ordinance. What I'm saying is there is no proposed ordinance as part of the SRA process. And I just wanted to make sure --

CHAIRMAN STRAIN: Yeah, he's right, the SRAs are done by resolution. And then the second one would be either by a resolution or decision.

MS. CILEK: So let's make sure I make the corrections --

CHAIRMAN STRAIN: Line 17 where it says proposed ordinance. You could still leave ordinance, I would say ordinance or resolution, and that covers anything that happens.

MS. CILEK: Sure.

CHAIRMAN STRAIN: And on line 25 you would say covered by proposed ordinance, resolution or decision.

MS. CILEK: So it would actually --

CHAIRMAN STRAIN: No, ordinance or resolution as well, because it does say decision after the words hearing --

MS. CILEK: It does cover the decision by the Hearing Examiner.

MR. YOVANOVICH: Can I express a concern? I don't know what the unintended consequences could be by leaving the word "ordinance" in there to now somehow change the process. Can we just say -- because the LDC says resolution or it doesn't talk about an ordinance, can we delete the word "ordinance"? I don't want to convert this process somehow to a zoning process.

CHAIRMAN STRAIN: I would love to do that.

MR. YOVANOVICH: I know you would, and that's why I want to make sure we don't do that. So let's call this -- the ordinance is not currently called for, so I --

CHAIRMAN STRAIN: I don't disagree with your conclusion on that. I disagreed on how we got there originally, and I still do. But the fact that it was settled, it's settled.

But from a perspective of the County Attorney's Office, would we ever do anything in the SRA -- this is, by the way, for the whole RLSA but for the SRA designation or change that would be considered an ordinance over a resolution, Jeff? I mean, his argument is we don't need them both, that we only need one. What's your thought?

MR. KLATZKOW: You want to do changes to the proposed application?

CHAIRMAN STRAIN: That's fine.

MR. YOVANOVICH: That's good by me.

MS. CILEK: It would be different than the other precisions in all of 10.03.06. They're more specific, just as an FYI.

CHAIRMAN STRAIN: You said all in 3.06?

MS. CILEK: Yes, all of the provisions in 10.03.06 identify the type of --

CHAIRMAN STRAIN: Action?

MS. CILEK: Action. Just as awareness.

CHAIRMAN STRAIN: Well, but in this particular case you're mailing the notice based on the application, not necessarily the outcome of it. So I think that's a good solution. I don't know why it wouldn't hurt on this one. I would just do it in 17 and the part of 25 where the word "ordinance" is there.

Jeff, that works then for you?

MR. KLATZKOW: I think so.

CHAIRMAN STRAIN: And Caroline, if you see any problems with it by the time it goes to the Board, we could always revert it back to resolution, if that's what's necessary.

MR. YOVANOVICH: Which we would also need to change the intro on paragraph M on the previous page, because it talks about ordinance or resolution for a stewardship receiving area and SRA amendments.

MS. CILEK: Correct.

MR. YOVANOVICH: It should just say resolution.

CHAIRMAN STRAIN: You know, I should have told you we had nothing else for you to listen to today.

Okay. Anybody have any issues with any of this?

(No response.)

MR. YOVANOVICH: Can we add that no sidewalks are required?

CHAIRMAN STRAIN: No.

MS. CILEK: Commissioner, it will actually need to read resolution or decision for --

CHAIRMAN STRAIN: Pardon me?

MS. CILEK: It will actually need to read resolution or decision --

MR. YOVANOVICH: Or decision is fine.

CHAIRMAN STRAIN: Okay. The last one, yeah.

Okay, with those changes, anybody else have anything?

(No response.)

CHAIRMAN STRAIN: Are there any other members of the public who wish to speak on this matter?

(No response.)

CHAIRMAN STRAIN: Okay, with that, is there a motion subject to the changes discussed?

COMMISSIONER ROMAN: I'll make a motion to approve, subject to the changes.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Second by Karen.

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. Next item up -- good. Now everybody's here, let's do signs.

COMMISSIONER EBERT: Where is --

CHAIRMAN STRAIN: Who? You want to lead off, Caroline, in the signs?

MS. CILEK: Sure. I'll get there.

The one after the agricultural one.

All right, so we brought this before you at the last hearing. And I think that some of the commissioners wanted time to check with individuals on it. But what we've done is just kind of simplified the change in reason section, and we've highlighted in yellow the specific changes since the last time you saw it. And we clarified some language that was provided by the County Attorney's Office in actual LDC text.

And generally speaking this amendment is simply designed to allow for more visibility of commercial signage, both through changes to the landscaping and a Type D right-of-way buffer that is greater than 20 feet, as well as allowing for some additional flexibility and clarifications within the sign section.

CHAIRMAN STRAIN: Does anybody have any questions or issues?

Diane?

COMMISSIONER EBERT: Yeah, I do. I have a couple of questions here. In looking at the pictures, I see the mature trees and stuff. But to me a lot of this has to do with maintenance. These people are not maintaining their property, these commercial places. If these trees were pruned the way they should be and if the landscaping was pruned the way it should be, we shouldn't be having a lot of the problems that -- I mean, I'm looking at this and I'm going, I understand that, you know, some of these oak trees are whatever are in, you know, getting bound. But to me a lot of this has to do with maintenance. And I thought Jeff Wright was here earlier, I was going to ask him about do they go out, Code Enforcement go out and let these commercial areas know about --

MS. CILEK: I'm glad you brought it up. It is a topic that is directly related to the amendment and that's why we included information on Page 4 that comes out of the LDC. Page 4 identifies the sections that relay that there can be a code violation for maintenance issues.

One of the things that it's important to know, that Code Enforcement is based on a complaint driven process. So that's something that Jeff probably would have relayed.

We do have Mike Sawyer here who can speak about that, if you'd like to hear more from him.

CHAIRMAN STRAIN: Well, I've got a question. If a business owns a sign and some of the landscaping around that sign is blocking out their sign. Why does anybody care if they don't? I mean, what is the point? Why do we want to make someone maintain visibility on their sign if they don't care enough to do it themselves? Who cares? I mean, why is it hurting anybody?

So from that perspective I'm just wondering how the maintenance becomes a code enforcement issue if it's -- who would complain?

MS. CILEK: Well, I think that you have people who perhaps are not maintaining their landscaping and it can affect the surrounding areas as well.

CHAIRMAN STRAIN: Well, that's different, yeah.

MS. CILEK: That would be a code violation type of situation. But true, I mean, it is on the owner to make sure that their signs are visible to some extent.

CHAIRMAN STRAIN: And so I think from this application the maintenance issue may not be as warranted because the owner has the ability to maintain that and give them visibility. I think that's what -- that's a little different than maybe some of the other issues.

COMMISSIONER HOMIAK: What, the business or the property?

CHAIRMAN STRAIN: The property or the people --

COMMISSIONER HOMIAK: What if it's not the same owners?

CHAIRMAN STRAIN: Well, when they sign up for a sign, I would hope they got a contract that says that they'll maintain it at a certain level.

COMMISSIONER ROMAN: See, my questions for staff had to do with the fact that when we look at this amendment and we see that we're having a hedge at 24 inches, my question for staff was do we have a recommended plant list. Because a lot of this is caused by the wrong plant in the wrong place and so they'll plant a sea grape and then try to maintain it at 24 inches. So that's also on the owner and the business.

CHAIRMAN STRAIN: We have one of our best landscape reviewers sitting in the back of the room. And while he's going to be leaving -- and that's another opportunity to tell you all, we're going to lose the presence of another very valuable and very historically significant, because of his ancient age, Mr. Mike Sawyer to another department in the county. He has serviced this board remarkably for many, many years.

And so we're going to miss your talents, Mike, from every section of review that you've ever done. And I hate to see you go. I'm glad you're still going to be in the building so I can still tap you on the shoulder and get some of that reasoned and seasoned input and wisdom that you have. But I sure appreciate all you've done before for this board in the years you've come before us. And thank you.

And with that we need to tap your expertise now on the question at hand.

MR. SAWYER: Mr. Chairman, thank you for that. That's very generous and much appreciated.

For the record, Mike Sawyer, Project Manager. I'm not leaving, I'm just going over to another department.

CHAIRMAN STRAIN: Well, no, you're going over to Amy's side of the table. And that's good for you, I'm glad that you're doing that. And he's not leaving the county, but we will not interact with you very much unless we can do what we did to Nick today, find a reason to get you out of the office and get you over here.

MR. SAWYER: I will be doing that on a regular basis, sir. You will not see the last of me, I can guarantee you that.

To an extent, when it comes to landscaping we have -- we've got a number of things that we look at. We've got our -- the list of plants that we recognize as Florida natives and we have a certain percentage of the landscaping that needs to meet that. That is based on where you're located partly.

And more importantly we tend to go to that list as, if you will, our favored list. Because those are the plant materials that do better here. They're more dependable, they take generally less fertilizer, less moisture. The trees and plant materials that naturally grow here, or tend to.

When it comes to an issue like this, if somebody were to come in and propose to do a sea grape

hedge as part of a D buffer, that is something that we will generally make a comment on when we see it. Because quite honestly, that is known to be a very large shrub and large tree. So we do make that comment.

Now, if the applicant insists on using that, it is a recognized Florida native and it is on our list. So while we can suggest that they do something different than that, and we often do that whenever we see it, there isn't anything in the code that says that they cannot use it. Certainly if somebody -- I hate saying this but a lot of times we can't stop stupid in some cases. We can certainly, you know, encourage them not to do that. And I would say in, you know, 99 percent of the cases, those things will change. When we ask them to change that, when we ask them to consider doing the change, in most of those cases they will. They'll go oop, yeah, we missed that part.

When it comes to maintenance, all required minimum code landscaping is required to be maintained in perpetuity, period. That does not mean that you can't replace it. Certainly if it blows down, if it doesn't succeed, if it dies, you're required to replace it.

I don't know if that really necessarily answers all of your questions or not, but that kind of gives you kind of the general realm within that. We're really looking at the difference between regulation and review of projects as they're coming in. And then the enforcement side, which is again code enforcement.

COMMISSIONER ROMAN: Staff and I had this exchange by email to some degree in advance of this today. And my -- I'm all in favor of native plants, and I think that that's very positive for the community. It's just that when you require something for a site triangle by a sign at 24 inches, what I was asking staff is, is there a list that says these plants do, you know, do great maintained at 24 inches. Because when you have a plant that is naturally growing at a larger size and you try to maintain it, the next thing it does is dies, and then you have the gap in the landscape buffer or the maintenance issue and then now it's a code enforcement issue. So that was the essence of my questions. And you did very well answering them.

But a lot of this is dependent upon the landscape expertise also. And you would think that if you have a major business with your sign, like you were saying, Mr. Chairman, that someone would plan for that eventuality, you know, that the plant is going to grow and maybe pick the right plant for the right place. So I just think 24 inches is a little low to maintain if you don't have the right plant.

CHAIRMAN STRAIN: Thank you. And I saw Tom and then Diane.

MR. EASTMAN: Mr. Chairman, you had raised the point earlier that if the business owner doesn't care about the overgrown vegetation that may be blocking the visibility of their sign, why should we. And as I pondered that question I thought that potentially there could be some traffic impacts as people might slow in the road or suddenly make turns happening upon a sign that becomes visible as they pass it due to vegetation.

And then also there may be some concern over just an esthetic value for the overall community. Because taken to an extreme, if many business owners were to do that, we would kind of have an apocalyptic looking community to some extent.

But generally speaking, I think your point is well taken, everyone is going to do their best to keep their sign visible.

CHAIRMAN STRAIN: Thank you.

Diane?

COMMISSIONER EBERT: I was going to ask you a question, Mike. Pam Lulich is in the transportation, the planning over medians and everything there. Are your lists the same or do you coordinate them? Could she -- you know, because like Charlette was saying, 24 inches, you know, there are plants. And as I'm going down Vanderbilt Drive and the different ones, there's beautiful things there that, you know, stay at a lower level. Is this something that is incorporated within the counties or is there (sic) separate from the county's growth management buffer plans?

MR. SAWYER: Yeah, again, Mike Sawyer.

That actually is a very perfect, great question to ask.

Pam Lulich's department, you know, they're involved with the landscaping obviously that we've got in the right-of-ways. And they've got much different standards. And they've got different lists. They've got different needs as far as frangible materials. In other words, if a material gets hit, that it gives; whereas we don't have that within the sites themselves.

And that's just one of the examples. Pam is exceptionally good at making sure that all of those

landscape medians that get put in are as sustainable as we possibly can make them. And I know she's even working harder on that particular aspect.

Just to be clear, we do have specific standards when it comes to intersections and visibility triangles. And in those areas we do very much limit the types of plants that go in there. For instance, if somebody were to propose to put a sea grape, just to use the same example again, in the visibility triangle, we would reject that project until that changed. So just to be clear. Because we do want to make sure that we're at least maintaining health safety standards, and that's a health safety standard. You need to have visibility at intersections.

That doesn't apply to signs. And signs, while they're in a lot of cases at the intersections, sometimes they're not. And it's kind of those signs that are not at those intersection points that do tend to have problems with trees and shrubs and that sort of thing. And you're right, by a large extent that is directly related to how the landscape is being maintained.

I mean, honestly, the way that the landscape buffers, especially the D, is put together, it's designed so that as the landscape grows up those hedges that we've got for the Type D are maintained at 30 to 36 inches. And all of the trees are limbed up to a five-foot height. That gives you a clear zone basically between 30 inches and 36 inches and five feet where all you've got are the tree trunks. And that should allow adequate visibility for signs and, you know, view sheds into the sites.

It's not always the case, and a lot of it does have to do with maintenance.

COMMISSIONER ROMAN: And the photos that you shared with us, that's definitely the case, that you've just explained where those limbs aren't trimmed and so you can't see the sign.

That speaks to your point, Diane.

COMMISSIONER EBERT: Uh-huh.

MS. CILEK: I just want to know one thing.

CHAIRMAN STRAIN: Yes, ma'am.

MS. CILEK: Which is within the signage visibility triangle, you've given the flexibility within that space to put a hedge, a shrub or ground cover. And the following page identifies a little bit more about both shrubs, hedges and ground cover. So these might be plans that might be not maintained at 24 inches like pruned at that, but not much smaller, but just provide a nice visual appearance for the sign. They could just be ground cover as well.

CHAIRMAN STRAIN: Okay, are there any other questions or comments about this sign LDC amendment?

(No response.)

CHAIRMAN STRAIN: Any members of the public wish to speak on this matter? Since nobody's here, that takes care of that.

So is there a motion from the Planning Commission?

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

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER DOYLE: I'll second.

CHAIRMAN STRAIN: Seconded by Brian.

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.

We have one more item coming up, but I think we will give Cherie' a 10-minute break, and then we will resume at 11:50.

(Recess.)

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

CHAIRMAN STRAIN: Here we go again, Mike. Thank you.

Welcome back from our break. The final item up for today is the -- let me read it, it's 3.05.05, it's an issue involving agricultural clearing.

So with that, Caroline, or however you want to proceed.

MS. CILEK: Sure. We have our environmental group to present. I just want to note, there are actually two more amendments that we do need to go over. We need a vote on the SRA characteristics chart and we had a change to the bond templates and the appendices section as --

CHAIRMAN STRAIN: Oh, I'm sorry, you're right. And I had that characteristics chart, I mentioned that earlier, but we will get into that before we finish up. Okay.

MS. ARAQUE: So I think on your agenda it's listed as LDC Section 10.02.06. And there's actually a few -- there's two different sections that we're amending as part of this. But just to clarify in case any --

CHAIRMAN STRAIN: Well, yeah, the first section is 3.05.05 and the second is 10.02.06.

MS. ARAQUE: This is correct. So both of those sections are being amended. And I'm Summer Araque, Principal Environmental Specialist, Environmental Planning, for the record.

CHAIRMAN STRAIN: And what we'd like to do is move through it page at a time, I guess starting with the changes that are on Page 4.

MS. ARAQUE: Okay, did you --

CHAIRMAN STRAIN: Actually it's Page 34.

MS. ARAQUE: Did you want me to describe the changes at all, or has everybody read the staff report?

CHAIRMAN STRAIN: Well, I mean, however you all want to take it. I guess you can describe it. I've had a couple of conversations with both Steve and Summer over some concerns I have with this particular one. Only because I don't live in the agricultural area and this doesn't apply to where I live, which is the Estates, but because I am from the rural area of the county and I interact a lot with the people in agricultural areas out there, I have concerns over the approach. But we'll get into that at whatever point's convenient.

And I think, Summer, if you want to explain to us first why this is necessary and why it hasn't been necessary for all these decades that we haven't needed it, I'd sure like to hear that.

MS. ARAQUE: Okay. Well, I mean, I'll start off with that, that this section of the code, in my opinion, staff has struggled with for some years and has been problematic. And I as being a new supervisor in the last year have kind of found some holes in the code. The first one being that under the vegetation removal permit section there's not currently a way for us to issue someone a vegetation removal permit for an accessory use related to a single-family building permit in the rural agricultural zoned district. So, for example, if you came in for a guesthouse, there actually really is not currently a way for us to issue you a vegetation removal permit to clear beyond your original one acre because as you see in the code it previously just said non-agricultural, and it did not include the rural agricultural district.

So that's the first change that's a cleanup. I think that staff had been issuing vegetation removal permits, because if you come in for a guesthouse you're not going to get an agricultural clearing permit for that. But there's not anything under the vegetation removal permit section for us to allow you to give you a permit. So I mean, really, it's a hole in the code in regards to that one.

Does anybody have any questions on that one before we move on? Is that clear?

CHAIRMAN STRAIN: I mean, my concern has been all along the particular approach. I think the reason we've been -- this has not been an issue since ag. clearing went into effect in the Seventies is because people have a right to enjoy their property and the uses on their property that are allocated by our zoning code. To have them come in and say that if you're not going to -- say you're not going to do bona fide ag., which means you're not going to qualify under the Right to Farm Act or under the Appraiser's records for agricultural exemption and you're not going to sell it commercially, you bought a 10-acre parcel, you're going

to build your house, and now -- like your guesthouse, for example. If those elements are uses and accessories allowed by right, why do they need a clearing permit? They're not having a commercial operation, they're not operating a commercial farm. They're doing the sustainability things that we should encourage Americans to do. They're operating their own property for their own benefit, whether it's growing a garden, putting in a fruit tree, raising horses or cattle. They're not selling it commercially so they don't really violate their land use rights. Their land use rights give them permission to utilize that for these specific use.

But now we're saying well that's okay, you've got permission to use them, but if you want to clear your property you've got to come back into the system again. And to be honest with you, the system is difficult, especially the way our code is written when it's 4 and 500 pages long and we've got sections that are all strewn about for someone to understand what they have and have not to do.

Now, I know you and Steve do a good job of trying to work with people when they come in. I had hoped -- I would like to have seen this come through in a different approach. Basically if you own ag. land you're not going to use it for commercial purposes, you're not going to have a bona fide farm, but the only thing you're going to do is what's allowed by right for you to do on your property. That if you have certain conditions, you have to come in for a clearing permit; otherwise you're allowed to do what the zoning says you can do.

That's a different approach. We've gone the reverse. We're saying no, you can't do anything without asking us first. I'm suggesting no, we should only have to come in and have government interfere with our lives when they figure there's a trigger there that goes above and beyond our property rights. And that's a different -- and I think the burden of proof for that ought be on government, not on citizens to prove they're innocent first. We should assume they're innocent first and then until there's a trigger that makes them have to come into the system we ought to keep them out of the system, to be honest with you. And that's where I philosophically differ from the way this is approached. It's the exact opposite of that approach.

So I mean, if you want comments on them, that's my comment, Summer.

MS. ARAQUE: Are we still on number one? Because I was just going over number one.

CHAIRMAN STRAIN: I was going with the overall context. You can start anywhere you want. And if you want to go to number one --

MS. ARAQUE: Well, number one is quite different, and it's focusing just on single-family uses that happen to be in a rural agricultural district. I mean, I don't really have friends like you may, but, I mean, I'm dealing with the customers that are coming in and we have some customers coming in that they're really coming -- they just happen to be in the rural agricultural district but they're doing a single-family use on that property. And right now there's no way for us to issue them a permit or for them to actually clear beyond one acre. It's a hole that's in the code. Because that district is not specifically listed that you can clear beyond the one acre for a permitted accessory use.

So that's what number one does. And the reason that number one came about was that's kind of a cleanup item that was discovered as we were working on number two, which was the original.

So I don't know if you want to go one-by-one on these, if we want to -- I'll let you go with that. You know, I see some other folks wanting to talk.

CHAIRMAN STRAIN: I already -- I'll let Charlette go next.

COMMISSIONER ROMAN: Yeah, I have a question, Summer.

Did you catch what the Chairman said? Did the staff consider approaching this from that perspective? I mean --

MS. ARAQUE: From what perspective?

COMMISSIONER ROMAN: From the perspective of what he just explained, rather than them having to come into the county to ask for a clearing permit for an accessory use related to their single-family residence, you know, coming up with an approach where, you know, these -- an accessory use doesn't require them to come to the county for such.

MS. ARAQUE: So that would be -- that kind of opens up a whole big question, because this is related to other zoning districts as well, including the Estates. So the primary customer for this is generally the Estates, but the hole in the code are those folks that have single-family that happen to be in the agricultural zoning district.

CHAIRMAN STRAIN: This says right in the beginning it's for the rural agricultural district A. That's not the Estates. AE is the Estates.

MS. ARAQUE: Right. But we're talking about number one --

CHAIRMAN STRAIN: Let's look at the second line.

MS. ARAQUE: -- 3.05.05, if you look at the actual section of the code --

CHAIRMAN STRAIN: Oh, you're on 10.02.06.

MS. CILEK: She's on 3.05.05.F, just to be --

COMMISSIONER ROMAN: Yeah, I'm looking at there.

MS. CILEK: And if I may, Summer?

MS. ARAQUE: Yes, Page 4.

MS. CILEK: Charlette, we proceeded with this amendment based on the existing practices in looking at vegetation removal as we do throughout the county. So to get to Commissioner Strain's comments, no, we didn't do the reverse, look at what can be exempted first. That's something we need to explore, but we can do that.

CHAIRMAN STRAIN: But see, Summer basically almost made the argument. This is an agricultural district. It's titled agricultural. What does that mean? You have a right to grow crops.

Now again, granted, commercial use is something that needs to be restricted. And the Estates is not part of this discussion because we know we have restricted uses in the Estates. We have limitations there. And that's why it's a subdivision. But in a raw agricultural land, if you have a house out there, you're telling me that if I want to grow a garden out in my back I have to come in and get a clearing permit from Collier County to put a garden in? Tomatoes and whatever I want? That just doesn't make any sense. That's putting an unfair burden on people that we should be encouraging them to do such things, not discouraging.

So I think that is where I saw a different way of approaching this rather than the way it has been approached.

COMMISSIONER CHRZANOWSKI: Could I ask a question?

CHAIRMAN STRAIN: Yes.

COMMISSIONER CHRZANOWSKI: We ran into a lot of trouble with this Right to Farm Act. And there are -- you getting into the trap of you have to farm the land like you think it's a farm like you're growing crops. But to raise cattle, to raise sheep, to raise any kind of farm animals, to raise fish on your property, aquaculture, silviculture, the raising of trees, the growing of sod. There's a whole bunch of different farming practices that people can do under the Right to Farm Act and clear their land, isn't there? I mean, if you said you wanted to do a sod farm -- and this is a little off the wall, but if you said you wanted to do a sod farm on your acre of property, who are we to say you can't clear all your trees and you can't do a sod farm? I mean, where do you -- is there a definition somewhere of everything that is considered agriculture?

MS. ARAQUE: Yes.

CHAIRMAN STRAIN: This is for a different reason, though. This is for not what you said. What you said they already acknowledge they can do. They come in for an agriculture clearing permit under a bona fide operations. This is -- if you just had a house and the property you had it on just happened to be ag., it's kind of like the people I was visiting of a neighborhood not too long ago on Santa Barbara south of Davis to the east of Santa Barbara, the new Santa Barbara extension. There's a whole bunch of ag. property back there where people who have lived back there for decades on ag. land, and it's that kind of application. They're ag., they're rural, and they basically if you want to have a garden, you should be able to have it.

What we're saying here is if you want to have a garden but you've got to take some trees down to do it, you got to come in and get a clearing permit. And I'm not --

MS. ARAQUE: Would you like some statistics on it?

MR. KLATZKOW: If the permit's going to be as of right, okay, why are we asking for the permit? You're going to give it to them anyway. I mean, what you could say is a vegetation removal permit is not necessary for an accessory use as permitted in the underlining zoning district, yada, yada, yada.

CHAIRMAN STRAIN: Yeah, that would --

MR. KLATZKOW: So the question is if you're going to always issue the permit anyway, why put the property owner through that hoop?

CHAIRMAN STRAIN: That's my point --

MR. KLATZKOW: Just make it as of -- it's as of right with no permits necessary.

CHAIRMAN STRAIN: That's kind of where I was coming from, Jeff. Thank you. That's what my concern was.

Steve, you are anxious to say something?

MR. LENBERGER: We're talking about several areas. First Stephen Lenberger, Environmental Planning.

We're talking about the vegetation removal for allowing accessory uses in a zoning district, any zoning district where accessory uses, single-family use is allowed.

We do have a provision that homeowners can clear up to an acre of land without a clearing permit. So that's in the code. So most people will build a home site within an acre of land. We're only talking about the bigger properties.

And when we talk about ag., you know, we're trying to address the ag. -- being able to permit in an ag. use associated with a single-family that won't be commercial.

And, you know, we approach this with a permit process similar to the ag. clearing permit.

The other process we have in place is an ag. notice, which we use for ag. uses under the Right to Farm Act. You know, we could take that approach that we could do a notice for these people to be able to clear their property for whatever, a garden or for horses for their personal use.

The Comprehensive Plan requires that you -- if you do clear under ag. use that you're subject to a 25-year limitation for a change in use if you rezone. And when you have ag. properties, it's generally considered base zoning and eventually it will get rezoned to some other use in time.

So, you know, we still have to address the change in use limitation. And we have done that for the bona fide ag. uses with a notice because they're required to sign acknowledging that they understand there's a 25-year rezone limitation.

So what I'm saying is that one other approach to take to this is we could use a notice for these single-family homeowners to understand that they won't be able to rezone their property for 25 years. But they're just giving a notice to us --

CHAIRMAN STRAIN: It's a bona fide ag., though, Steve. They're not doing -- they're growing a garden in their backyard, so all of a sudden they're restricted forever? That makes no sense.

MR. KLATZKOW: The whole purpose of this requirement is we don't want somebody clearcutting 1,000 acres saying this is for my farm and two years later starting to throw on residential development.

CHAIRMAN STRAIN: Right.

MR. KLATZKOW: That's why we have this, okay? If I own, pick a number, three, four, five acres, okay, I'm not clearcutting my land for development there if I want to put in a garden or if I have horse or whatever.

So if want to limit -- if you're concerned about the clearcutting, which is a significant concern, all right, put an acreage cap on it and say if you own less than, pick a number, five acres, okay, you've got the right -- you know, you don't need a permit to clear for accessory use, and we're done. Because to require a homeowner to come up with wetland mitigation or -- you make it far too expensive for a garden.

MS. ARAQUE: We don't require --

CHAIRMAN STRAIN: Well, but just to get --

MR. KLATZKOW: Just the data.

CHAIRMAN STRAIN: Yeah, just coming into the system. You need to step back and pretend you're an ordinary citizen coming into developmental services. You'll never be able to figure out easily what to do. Through no fault of the people there. It's just a complicated challenging process that unless someone is doing something that warrants a necessity for them to come in, we ought to be doing just the opposite, not having them not come in. Reduce the requirements.

Steve's position is, well, they should come in and be noticed. We need to have a permit for this. No, just the opposite. If they have limitations on what they can clear for their accessory uses and stuff, then we -- they don't need to come in. They should be out of the system. The system is onerous and it's expensive and it was there to protect neighborhoods from development, not necessarily a single-family homeowner in an

agricultural neighborhood. And I think suggesting that we need these things for accessory uses is a real stretch to say you need a permit every single time.

MS. CILEK: Mark, I'm happy to work with staff and explore a limitation, perhaps 20 acres, that's the existing limitation, somewhere around there. Explore that as well as accessory uses and bring the amendment back.

COMMISSIONER ROMAN: Yeah, I was going to suggest that, because it sounds to me like we may not know about the underlying challenges the staff has had. And we might not understand them fully to see all of the ramification of this in addition to the two recommendations that we've already made that the County Attorney has suggested.

And I would like to see it come back after they've had some time to work with it.

CHAIRMAN STRAIN: Steve, did you want to say something else?

MR. LENBERGER: That would be fine to come back. You know, you have to understand, we were put under the final order in '99 and we had to address protection of listed species and wetlands. And there's a lot of small parcels of ag. that are owned by individuals with single-family homes, some without out there in the rural fringe, and we -- the rural fringe requires preservation of habitat, and it's pretty restrictive in certain areas, so we have to address all this stuff. And if we just have clearing without any notice or anything, I guess there's maybe some recourse from the state.

And as far as for the protection of -- which the county was charged with back with the final order of not complying with the Comp. Plan. So anyway, I think we need to just take a look at this and I think Caroline's suggestion is good.

CHAIRMAN STRAIN: Okay. And remember, though, you just talked about the RFMUD. That's an overlay. They have limitations for rights in that overlay, but that doesn't cover all the ag. land in Collier County. And it's all of it that we're speaking of, not the ones with just the overlays. The overlays, if you abide by the property rights you have with that overlay in place, then why are we forcing them into a system? And that's my concern.

MS. ARAQUE: The majority of our customers are in the rural fringe.

CHAIRMAN STRAIN: Okay. Well, then, they have an overlay. As long as they abide by that overlay why are we want-- that's even a more onerous problem for them. Just understanding the RFMUD. That's why it's being rewritten, because it's so difficult to understand.

I like Caroline's suggestion and I think the consensus of this board is that's the direction that we should head.

Stan?

COMMISSIONER CHRZANOWSKI: Yeah, absolutely. I like Jeff's suggestion and Caroline's too.

CHAIRMAN STRAIN: Okay, we'll just -- we'll leave it as-is and you guys come back with a change in the future. We don't need to say no or yes at this point because you're not taking it to the Board, right?

MS. CILEK: Yes, we'll be back to the Planning Commission.

CHAIRMAN STRAIN: Okay, I think that takes us to the end of that discussion then. Thank you all. I don't know -- I don't believe we have anything else. There's no old business or new business listed.

MS. CILEK: We've got two more.

CHAIRMAN STRAIN: Oh, I'm sorry.

MS. CILEK: We're not done yet.

CHAIRMAN STRAIN: I keep forgetting about those two because -- yeah, the chart.

MS. CILEK: Okay. So I'm aware that there's a Muni. Code issue that came up late yesterday.

MR. KLATZKOW: Well no, because I lived through this when Catherine Fahbacher converted all the uses under the zonings into a chart and then Muni. Code told us oh, by the way, we can't do this. So then we had to come back and put it back to the old format.

You've got to put it on -- my understanding, maybe Muni. Code's changed, you've got to put it on an 8 and a half by 11, otherwise you'll never be able to access it through --

MS. CILEK: Unfortunately I wasn't aware of that, but I am now so I'll live and learn and we can address that through just a simple formatting change.

CHAIRMAN STRAIN: You could do that on Monday night, if you'd like.

MS. CILEK: Oh, sure.

CHAIRMAN STRAIN: Because it will take a minute.

What I suggest you do is the simplest solution is just take the old chart, put the underlines underneath it and send it and it's done. Unless -- I mean, I understand your new tables are nice but one of them is 11 by 17 and it's just --

MS. CILEK: That one -- we'll bring back actually two options. We'll bring back the existing one reformatted. I don't know if the underlining is the easiest way to review it. And then we'll also present the charts that we have and we'll just split up the last one. There's a couple of ways to do it.

CHAIRMAN STRAIN: Okay. Let's add that one to finish up Monday night then.

MS. CILEK: Perfect.

COMMISSIONER EBERT: And that one is your chart?

MS. CILEK: It is. It is the three different charts for the SRA.

CHAIRMAN STRAIN: So you'll have to send this out by email the revisions to that or something so we all can get them Monday night.

MS. CILEK: Can I just bring them to the meeting Monday night?

CHAIRMAN STRAIN: Yeah, that works. I'm fine with that. It's just visual more than anything else. Okay.

MS. CILEK: I think we can work through it on Monday.

CHAIRMAN STRAIN: Then the last one is the County Attorney's change to Appendix A. And that's a bunch of forms.

MS. CILEK: Yes.

CHAIRMAN STRAIN: Some cleanup was done by the County Attorney's Office from the last time we saw him.

MS. CILEK: 61. And then it is LDC amendment Appendix A, standard performance security documents.

CHAIRMAN STRAIN: That was couple changes needed to be done by the County Attorney's Office, they've been done.

MS. CILEK: Right, they added those.

CHAIRMAN STRAIN: Anybody have any questions on that whole section?

(No response.)

MS. CILEK: Pretty fun stuff there.

CHAIRMAN STRAIN: Oh, yeah.

COMMISSIONER EBERT: Well, it's bond money, correct?

CHAIRMAN STRAIN: That's part of it, yeah, at some of the forms, yes.

MS. CILEK: Yeah.

CHAIRMAN STRAIN: It's the forms needed to function for the placement of bonds, letters of credit, things like that.

MR. KLATZKOW: It just helps people out, knowing what they need to do. That's all.

COMMISSIONER EBERT: Thank you, Jeff.

MS. CILEK: We organized it so that they could really copy and paste it almost and not have any interference.

CHAIRMAN STRAIN: Well, if there's no questions or comments, is there a motion to approve?

COMMISSIONER ROMAN: I'll move to approve.

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Seconded by Karen.

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.

Now, before I say I think we're done, are we done?

MS. CILEK: Just one note, that we have a meeting on Monday night at 5:05. So it's June 8th. And we will be reviewing the automobile service station amendment which you received in this packet, right? And then also the golf course amendment because it needs a nighttime hearing. And then we will look at the SRA charts.

CHAIRMAN STRAIN: Good. And thank you. I think it was a good presentation; we appreciate all your help today.

MS. CILEK: Absolutely.

CHAIRMAN STRAIN: And we'll see everybody Monday night at 5:05 in this room.

Is there a motion to adjourn?

COMMISSIONER ROMAN: So moved.

CHAIRMAN STRAIN: Charlette.

COMMISSIONER CHRZANOWSKI: Second.

CHAIRMAN STRAIN: Seconded by Stan.

All in favor, signify by saying aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: We're out of here.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 12:15 p.m.

COLLIER COUNTY PLANNING COMMISSION

for Mark Strain
MARK STRAIN, Chairman

These minutes approved by the board on ✓ as presented or as corrected .

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

June, 4, 2015