

July 16, 2015

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
July 16, 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
Andrew Solis

ALSO PRESENT:

Heidi Ashton-Cicko, Assistant County Attorney
Ray Bellows, Zoning Manager

CHAIRMAN STRAIN: Good morning, everyone. Welcome to the Thursday, July 16th 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. And before we do roll call, I want to welcome Andy Solis, our new member from North Naples, sitting right next to Stan, between Diane and Stan. Andy, welcome to the Board.

COMMISSIONER SOLIS: Thank you.

CHAIRMAN STRAIN: Tom Eastman will not be here today. He has an excused absence.

And with that I'll ask the secretary to do the roll call.

COMMISSIONER EBERT: Good thing we waited a second.

Good morning. Mr. Eastman is absent.

Mr. Chrzanowski?

COMMISSIONER CHRZANOWSKI: Present.

COMMISSIONER EBERT: Mr. Solis?

COMMISSIONER SOLIS: Present.

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: And Ms. Roman?

COMMISSIONER ROMAN: Here.

COMMISSIONER EBERT: Thank you.

CHAIRMAN STRAIN: Thank you.

***Addenda to the agenda. There's been a request to continue Item 9.D indefinitely. It's the Dockside PUD, also known as the Henderson Creek Docks. So if anybody is here for that item, there's a request to continue indefinitely. And that --

MR. BELLOWS: We had one registered speaker for that item.

CHAIRMAN STRAIN: Okay, is that person still here?

(No response.)

CHAIRMAN STRAIN: Is anybody still here registered to talk about the Docks PUD Henderson Creek?

(No response.)

CHAIRMAN STRAIN: And that gentleman came up to talk to me, I explained to him it was being continued indefinitely, so that's probably why he's not here.

It is interesting, though, from the last meeting that he attended and the one prior to that, he left his name and phone number with staff to be contacted prior to these meetings. He's yet to be contacted. So whoever is in charge of that, please make sure the gentleman's called from here forward.

And with that, I'll entertain a motion from the Planning Commission to continue Item BD-PL20140002207. It will be continued indefinitely.

COMMISSIONER ROMAN: So moved.

COMMISSIONER HOMIAK: I make that motion.

COMMISSIONER EBERT: I'll second.

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

All those in favor, signify by saying aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.
COMMISSIONER SOLIS: Aye.
COMMISSIONER HOMIAK: Aye.
COMMISSIONER ROMAN: Aye.
CHAIRMAN STRAIN: Anybody opposed?
(No response.)

CHAIRMAN STRAIN: Motion carries, and we're 7-0 today. The first in quite a while for this board.

***That takes us to Planning Commission absences. We have two meetings in August. One will be August 6th and the other August 20th. Does anybody know if they're not going to be available for either one of those today?

(No response.)

CHAIRMAN STRAIN: Okay, at this point we'll still have quorums. We're good.

***Approval of minutes. There was a special set of electronic minutes sent out for the special meeting LDC on June 8th, 2015. Were there any changes or corrections noted to those? Anybody see?

COMMISSIONER HOMIAK: Yeah, just on Page 2 where it said "family" should have been Planning Commission. It said family commission absences, it should be Planning Commission. And that's it.

CHAIRMAN STRAIN: Okay. It's a good catch. Thank you.

COMMISSIONER HOMIAK: Make a motion to approve with that change.

CHAIRMAN STRAIN: There's a motion made by Karen. Seconded by?

COMMISSIONER EBERT: I'll second.

CHAIRMAN STRAIN: 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 SOLIS: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

***That gets us to the BCC report and recaps. Ray, it was their last meeting on July 7th, I believe.

MR. BELLOWS: That's correct. And the Board of County Commissioners heard the PUD rezone for Honda -- Germain Honda. That was approved 5-0, subject to the Planning Commission recommendations.

Then the Board also approved on their summary agenda the PUD amendment for Lely Resort and the PUD amendment for Lane Park. Those were also approved on the summary agenda.

CHAIRMAN STRAIN: Great. Thank you.

***Then the Chairman's Report. The only issue I'd like to bring up today is an update on the sidewalk discussion item we're going to have on August 20th. And I don't know, Ray, who -- and someone on staff I know is working on that between Mike Sawyer and Mike Bosi.

Are we on line with that? Have the contacts been made? Have we got any acknowledgments back?

MR. BELLOWS: Yes, this is being worked on, and I believe Mr. Bosi will provide a little more details.

CHAIRMAN STRAIN: Okay.

MR. BOSI: Good morning, Planning Commissioners, Mike Bosi, Director of Planning and Zoning. I've reached out to a number of different advocate groups for the pedestrian discussion that we plan

on having on the 20th, the Blue Zone individuals that were chosen from the Collier County Health Department, Naples Pathway Coalition.

I also spoke at DSAC, let them know of the upcoming meeting, let the development community know of the opportunity to come and put their perspective in regarding the sidewalk discussion that we have on the 20th. Tentatively addressing a -- an agenda.

And just from the Planning Commission standpoint, the way that I was envisioning it was having an overall staff basically make a presentation in terms of what is required in terms of in the LDC how sidewalks and pedestrian pathways are addressed at the GMP level, and then just open it up for the general discussion. I'm not sure, maybe we can refine that a little bit more based upon some of the Planning Commission's individual preferences.

I didn't want to have to set one group as a priority in front of the other group in terms of, you know, the order of which we'll have the presentations that are being made. I really just envision an open conversation discussion with everyone who wanted to put forward their perspective on it and maybe have some dialogue right now with the Planning Commission to see how they would like to have that agenda further developed or refined as we move forward.

CHAIRMAN STRAIN: My thoughts on it were to keep it informal. I will make an introductory statement as to why and how we got to where we are. I certainly would expect staff to explain the situation from both the GMP and LDC perspective. You have some departments that specialize and deal with these. I expect those individuals as staff members to be next and explain where their departments are and what they're looking for.

And then I want to turn it over to the members of the public who have special interest in this or concerns and would like to at least express their opinions to us so we get an overall picture.

I definitely want it to be kept more informal. I'm seeking discussion, not intimidation, so it would be nice to be able to have an open discussion with everybody.

MR. BOSI: And with that direction, I would most certainly follow with the continuation of that format with the very -- a very loose format, but also, you know, having staff put forward, you know, the information as what's currently required and then just open it up for that discussion, as suggested by the Planning Commission.

CHAIRMAN STRAIN: Does that work for everybody?

COMMISSIONER EBERT: Sure.

CHAIRMAN STRAIN: Stan?

COMMISSIONER CHRZANOWSKI: Not just what's required, but if you could give us a little background as to why certain things are required, you know, widths, why both sides of the road. You know, why.

MR. BOSI: Well, I will most certainly see if I can find the research. I mean, right now our Land Development Code requires it on both sides of the road and I can maybe find out when we incorporated that component into the LDC and see the motivation of the backup that was provided for that and to be able to give maybe more of a context as to the reasons. And I'll take that direction and --

COMMISSIONER CHRZANOWSKI: Yeah. And any what you do, I would prefer to know the why you do it.

MR. BOSI: Okay, okay.

CHAIRMAN STRAIN: And I also found out earlier this week that the Board of County Commissioners originally was -- I was told was going to have a landscape workshop in November, December. I understand now that's evolved into a new streets workshop in which they may be as well talking about sidewalks.

So I think the Planning Commission was going to seek its information for our understanding of the subject, but we all should stay tuned for the November workshop of the Board and see how that workshop addresses the same issue.

MR. BOSI: And that has come into a little bit more focus, we've had some vertical conversation with the administration, some of the individual commissioners, and their desire to be able to maybe summarize the activity that we have on the 20th of August with the Planning Commission discussions and

whatever decisions or whatever that does come out of our meeting on the 20th, to be able to summarize that and put forward. That is a component for some of the factors that may be discussed at that workshop, and I most certainly -- I'll be the person who will be able to convey that or summarize it, if that's the consent of the Planning Commission in terms of, you know, all the aspects that we deal with on the 20th.

CHAIRMAN STRAIN: I think to have the Board adding that or making that part of their agenda as well. They set policy, so the outcome of our research and theirs, whatever policy they establish will sure provide direction as we go forward.

MR. BOSI: Understood.

CHAIRMAN STRAIN: So I'm looking forward to that.

MR. BOSI: Thank you.

CHAIRMAN STRAIN: Thank you, Mike.

Karen?

COMMISSIONER HOMIAK: I think you meant complete streets, not new streets.

CHAIRMAN STRAIN: Yes, I did. I'm sorry, you're right.

***Okay, that takes us to 8, consent agenda items, there are none from the last meeting.

***So that moves us into our first advertised public hearings. There are two of them on the same matter. We will discuss them jointly, but we will vote on them separately.

The first one is for DOA-PL2015000545, it's the Toll Gate Commercial Center Development of Regional Impact. It's at the interchange of I-75 and 951, Collier Boulevard.

And the second companion item is PUDA-PL2015000281. The same, but that's the Toll Gate Commercial Center PUD. Same location.

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

(All speakers were duly sworn.)

CHAIRMAN STRAIN: Disclosures on the part of Planning Commission.

We'll start with Stan.

COMMISSIONER CHRZANOWSKI: None.

CHAIRMAN STRAIN: Andy?

COMMISSIONER SOLIS: Yes, I have a conflict and will not be participating. Sky Angel Holdings, LLC is a client of our firm's and so I won't be participating.

CHAIRMAN STRAIN: Thank you, sir.

Diane?

COMMISSIONER EBERT: I talked with staff and this morning I talked with Mr. Hood.

CHAIRMAN STRAIN: And I had a phone conversation with Fred Hood and I believe that's the only conversation I can recall right now.

Karen?

COMMISSIONER HOMIAK: Nothing.

COMMISSIONER DOYLE: Nothing.

COMMISSIONER ROMAN: No contact.

CHAIRMAN STRAIN: Okay. With that, Fred, one thing I have to remark, you're moving a phase line --

MR. HOOD: Yes.

CHAIRMAN STRAIN: -- that will encompass or change the uses on a few lots to some of the uses that are already allowed on the other side of the phase line, and for that it took 816 pages of submission?

MR. HOOD: It took 816 pages of submission.

CHAIRMAN STRAIN: I was just shocked at the amount of paper that that one generated.

MR. HOOD: Yeah, we took a few trees down.

CHAIRMAN STRAIN: You sure did. It's all yours, sir.

MR. HOOD: Thank you. Mr. Chairman, Commissioners, good morning. For the record, Frederick Hood with Davidson Engineering. I'm here to represent Sky Angel, LLC for a PUD amendment to the Toll Gate Commercial Center PUD.

The Toll Gate Center PUD is situated at the northeast corner of the intersections of Collier and Beck Boulevard, and is approximately 100.23 acres.

Toll Gate Commercial Center is bound on three sides by federal, state and county maintained right-of-ways: I-75 to the north, Beck Boulevard to the south, Collier Boulevard to the west, respectively. Along the eastern boundary a Florida Highway Patrol station situated with ag. zoning. Forest Glen of Naples PUD, a residential community, is situated on the southern side of Beck Boulevard. A developed C-4 and the I-75 Alligator Alley CPUD properties are situated on the western edge of the Collier Boulevard right-of-way across from Toll Gate.

The purpose of this PUD amendment: The applicant is seeking to amend the zoning delineation line that separates parcels A and parcels B and their land uses.

The result of this line adjustment will provide parcel B light industrial land uses on tract 16 through 20 which totally approximate about 8.93 acres.

Per Ordinance 92-10, A -- parcel A lots consist of commercial only land uses that will serve the motoring public using Interstate I-75 as well as providing limited commercial goods and services on area-wide nature for the Naples, Marco Island, Golden Gate and Immokalee service areas (sic).

Parcel B lots consist of commercial and light and industrial land uses that which in addition to the uses permitted on parcel A lots are used for the sale, service and transportation and storage and distribution of goods and services to the traveling public along I-75.

The property within the PUD that is subject of this application is currently undeveloped and has existing access to Tollhouse Drive and Bush Boulevard. The subject property will utilize these existing right-of-ways to provide adequate ingress and egress, and there are no new ingress and egress points or right-of-ways being proposed for this amendment.

The change as proposed is consistent with the Collier County LDC and Growth Management Plan and that the permitted land uses have already been approved and are permitted as principal and accessory uses within their approved Toll Gate Commercial Center PUD.

The proposed amendment will continue to meet or exceed all buffer requirements in the Collier County Land Development Code. Central water and sewer services exist in this area, and the proposed project will not adversely affect the current level of services on those utilities.

The revised conceptual master plan, which is -- you have that, yes -- shows a land use line change. All the other PUD and LDC requirements remain intact with the previously approved PUD.

All required vehicular and pedestrian interconnections shall be adhered to with the development of any future projects on the subject property.

The proposed land use change will result in increased development options for a limited defined acreage, yet will not cause any detrimental level of service impacts to the surrounding areas.

And with that, I'll answer any questions you may have.

CHAIRMAN STRAIN: Okay, anybody from the Planning Commission have any questions on this one?

Stan?

COMMISSIONER CHRZANOWSKI: No, but I was going to make a comment similar to yours, but I measure by inches and not pages.

CHAIRMAN STRAIN: How many inches did it have? I don't have pages, I get electronic.

Anybody have any questions?

(No response.)

CHAIRMAN STRAIN: And Fred, I did, as I usually do, I -- you forced me to read 816 pages. I didn't like that very well.

MR. HOOD: Sorry.

CHAIRMAN STRAIN: But there were plenty of things there that may be questioned, but they aren't relative to the small change you're making here today, so I don't have any questions on this particular action either as a DRI or as a PUD.

So with that, we'll move to staff report.

MS. GUNDLACH: Good morning, commissioners. For the record, Nancy Gundlach, Principal

Planner with Zoning Services.

And staff is recommending approval of the Toll Gate DOA this morning. And just with one clarification. You do have copies of the proposed master plan in your packets, but it exists as Exhibit B and is attached to the DOA resolution, or should be attached. So I just wanted to bring that to your attention.

CHAIRMAN STRAIN: And that's not different than the plan that's already in our packet in other areas.

MS. GUNDLACH: Correct. They're both the same.

CHAIRMAN STRAIN: Okay, anybody have any questions of staff?

(No response.)

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

(No response.)

CHAIRMAN STRAIN: And Fred, you don't need a rebuttal, I don't believe. So with that, we'll close the public hearing and I'll entertain a motion. We'll start with the DRI.

COMMISSIONER EBERT: I make a motion to approve DOA-PL20150000545, Toll Gate Commercial Center.

COMMISSIONER ROMAN: I'll second.

CHAIRMAN STRAIN: Second made by Charlette.

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 with one abstention.

Is there a motion on the PUD?

COMMISSIONER EBERT: I can also make that motion. Just let me find it here.

I make a motion to approve PUDA-PL20150000281.

COMMISSIONER ROMAN: I'll second.

CHAIRMAN STRAIN: Second by Charlette.

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 with one abstention.

Thank you, Fred. That was probably the simplest project you ever brought forward.

MR. HOOD: I tried to make it quick for you.

CHAIRMAN STRAIN: Thank you.

***Okay, our next item up is 9.C. It's PUDA-PL20120001128. It's the Wilson Professional Center Planned Unit Development PUD at the corner of Airport Pulling Road and Bailey Lane.

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: I have no disclosures, but I'm curious why we have dueling court reporters.

CHAIRMAN STRAIN: That has happened before. Sometimes the private applicant wants -- requests their own court reporter. They can get their transcript probably quicker than ours gets approved and processed through the county, so that may be the reason. Or she could be here for another reason. But that's what my assumption is.

COMMISSIONER CHRZANOWSKI: Okay, thank you.

CHAIRMAN STRAIN: Any disclosure, Stan?

COMMISSIONER SOLIS: None.

CHAIRMAN STRAIN: I'm sorry, did you have any -- that was -- okay, Andy has no disclosures.

COMMISSIONER SOLIS: No.

CHAIRMAN STRAIN: Okay. Diane?

COMMISSIONER EBERT: I have spoke with staff several times on this. And I want to first of all thank them, because when this was -- originally came up we were missing some information. And Fred and Mike Bosi did get a list of all our towers, that it did not have that before, so it's very interesting in that list. And I want to thank the people that put that together.

CHAIRMAN STRAIN: Okay. Disclosures on my part, I have talked with the applicant, Lauralee. I'm sorry, I don't remember your last name, Lauralee.

MS. WESTINE: Westine.

CHAIRMAN STRAIN: And your associate in the office, Matt.

MS. WESTINE: Mattaniah Jahn.

CHAIRMAN STRAIN: And I think Richard Yovanovich was at the meeting. I can't remember who else. But I don't believe other than that I've had -- oh, I've had a couple contacts from the residences (sic) that are in our packet by email, and Mr. Estes talked to me during the -- before the start-up this morning about how long he wasn't going to be allowed to discuss his issues with us.

So with that, that's the end of my disclosures.

Karen?

COMMISSIONER HOMIAK: I did talk to Mr. Yovanovich before the last time we didn't have this. And there were emails from the last time and this time that I read.

CHAIRMAN STRAIN: Brian?

COMMISSIONER DOYLE: Just residential emails.

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: Yes, I talked to Mr. Yovanovich the last time this petition was scheduled before that hearing. And I also did a site visit.

CHAIRMAN STRAIN: Okay.

COMMISSIONER CHRZANOWSKI: Mark? I just remembered. How long ago was it, three, four months?

MR. YOVANOVICH: Several months ago.

COMMISSIONER CHRZANOWSKI: Several months ago. Okay. Yeah, I talked to him many, many months ago.

CHAIRMAN STRAIN: Okay, thank you, Stan.

With that, Lauralee, it's all yours.

MS. WESTINE: Good morning. My name is Lauralee Westine, 800 Tarpon Woods Boulevard, Palm Harbor, Florida. And I have been sworn.

I'm here before you representing SBA and AT&T. SBA is the tower company, AT&T is the wireless carrier.

I have with me today Mr. Dan Mullins, who is AT --

CHAIRMAN STRAIN: Lauralee, I know you're probably used to this from your county, but

she -- our court reporter needs you to slow down a little bit. She just gave me that look. So if you could, just kind of take it a little easy for her.

MS. WESTINE: Holler at me. Out of habit, nerves. I'll do my best.

I have Dan Mullins here with me today who is the AT&T radio frequency engineer, and I'll be having him testify kind of more as a package later in the hearing. I have Michael Checchio who is with Sabre Towers, as well as a Florida general contractor, as well as Yan Wang who is a professional engineer with Morrison Hershfield.

As a housekeeping matter and just because I haven't done anything in your county before, do I need to move staff's report and all their backup into the record as part of the record? Is that already there or do I need to actually ask for a motion.

CHAIRMAN STRAIN: My understanding, it's already part of the record. I'll confirm with Heidi.

MS. ASHTON-CICKO: Could you repeat the question, please.

CHAIRMAN STRAIN: The fact that the staff report and all the documents that we've been issued are currently part of the record, do they need to be reentered into the record again?

MS. ASHTON-CICKO: It's up to you. But, you know, as part of your package it's part of the official record.

MS. WESTINE: So as long as it's already part of the official record, then that answers my question.

CHAIRMAN STRAIN: It's my understanding it always has been, but I just wanted -- since you asked the question specifically, I wanted to get your reassurance that it would be, so --

MS. WESTINE: Thanks.

I'm before you here today with staff's professional recommendation of approval for 150-foot monopine tower. We are adding it as a use to the Wilson Professional Center PUD.

We have four deviations within there, as well as we added some dimensional standards for the monopine itself. And as I go through this, I'm going to pop up some -- it may just be easier for me to use this mic.

I'm going to pop up some photographs. This is an actual monopine telecommunication tower that's located in Pinellas County. This was actually shown at our NIM. And this is -- for the record, that is MP-1.

This is MP-2. This is a photograph of that exact same monopine, it's just taken from a different angle.

CHAIRMAN STRAIN: Did you say -- I'm sorry, what location is this in?

MS. WESTINE: Those are both at -- well, that's one tower from two different directions, but it's in Pinellas.

CHAIRMAN STRAIN: Do you know what zoning district it's in in Pinellas?

MS. WESTINE: It's at a veterinary hospital. And I'm embarrassed to tell you, I zoned that so I should know it, but it's at a veterinary hospital.

CHAIRMAN STRAIN: I knew you were from Pinellas so I reviewed some of their communication tower restrictions, and we'll ask about those later. But that's why I was curious what zoning district. Thank you.

MS. WESTINE: This is a third photograph. It's marked for exhibit as MP-3, and that is in Hillsborough County.

The monopine, just so -- although I'm sure you all have read the staff report, I'll kind of hit some highlights. The monopine, we've decided to measure it from the flange, the most exterior location that we can. To the south it's 229.5 feet; to the west it's 32 feet; and any accessory structures to the south would be 190.5 feet; and to the west 10 feet. The tower has been limited to a maximum height of 150 feet.

Your Tower Code does actually allow a one-time extension in order to promote collocation. It is my understanding the way we've written this that the maximum height of this tower will be only 150 feet.

This tower can support up to four users, which is something that your Tower Code doesn't really actually require shared use until you get over about 185 feet. But in this particular instance the tower's been designed for four users. That's on Page A-3 of the site plan that you all had in your backup material.

There are four deviations. The first is from 3.05.07(h)(3). That's simply memorializing that there's no preserve setback when this was originally approved. There wasn't a requirement for that. And that's

simply to -- to memorialize that, that's not really changing anything within.

The second is from 5.05.09(G)(2)(a). This is -- your Tower Code requires that a tower be located 2.5 times the tower height from any residential district. In this particular instance, to the south we have RMF-6, and we are proposing that that be located 229.5 feet instead of the required 375. Your Tower Code does allow us to ask for a variance. In fact it specifically says to use the variance criteria.

And I will, as I go through -- I'm kind of just hitting the highlights, but I do have a presentation on those criteria specifically.

The third is from 4.06.02(C)(1), as well as 4.06.05(B)(2)(c). Those are both landscaping. We are not requesting -- and I'm kind of putting them together. We're not requesting to put in less landscaping, we're simply asking that the buffer width be minimized. And we've added that to the PUD language with a dimension which you'll find as Exhibit B.

The preserve area is -- we're still providing 1.31 acres of preserve so we're not asking for any decrease in the required .51 acres.

Your staff has found that we're consistent with the GMP and consistent with the surrounding area. Your environmental staff has reviewed this application and found that we're consistent with the CCMW.

CHAIRMAN STRAIN: Slow down a little bit.

MS. WESTINE: I'm sorry. I'm going to take a deep breath.

You'll find within the backup material that we provided you, we provided you what our -- what we call our NEPA. It's something that goes up to the FCC. It looks at your -- it's a wildlife study, it's a historical resources study.

On one of the prior hearings Commissioner Strain had realized that there was a scrivener's error that it was applied for at 130 versus the 150. We have since, and I'll flop that up in a minute but we have since reapplied. We've provided that and there is still no impact, whether it was at the 130 or the 150. In fact, let me put that letter up there.

CHAIRMAN STRAIN: Before you take that picture off that's on, is that tower a 150-foot tower as well?

MS. WESTINE: This is a -- this is a hundred -- it's either 150 or 160. And this one in Pinellas County has been increased from 90 feet to I believe 40 feet was added so that would be 130.

CHAIRMAN STRAIN: Thank you.

COMMISSIONER ROMAN: I have a question while we have the photo up as well.

MS. WESTINE: Yes, ma'am.

COMMISSIONER ROMAN: Do you have a number of antennas that are currently on that picture that you're showing us?

MS. WESTINE: This tower -- actually, yes. Well, I can tell you it's full. I don't know the exact number of towers. I know --

COMMISSIONER ROMAN: Roughly.

MS. WESTINE: -- there's multiples.

At least three, because I added the top one. So at least three. There might even be four on this one.

COMMISSIONER ROMAN: Okay, so you --

MS. WESTINE: But it's full and that's why we had to extend the height. And there's only a one-time extension in Pinellas County.

Let me put up some photo simulations that we did, which will -- I'm going to start with -- and I'm going to go back and forth.

What we've done is in order to give you all some perspective as to what this tower will look like once it's up in the air, we fly a balloon to the proposed height and then we actually simulate in what the tower would look like.

What we've done is, you'll look here, there's A, there's B, there's C, there's D. These are the directions. And then E is way up here. These are the directions from which the photographs were taken. So I'm going to flip back and forth.

This is from A, which was taken over here. This is the before photo; this will be the after photo.

Going to B, which is taken from the south, this is the before photo and this is the after photo. You

can see the monopole there -- I'm sorry, monopine there.

PS-4, which is view C. View C is taken from over here. This is prior to the monopine being simulated in. This is after. And I'll point to it. It's up there.

PS-5, which is view D, which is taken from further east .

MR. REISCHL: West.

MS. WESTINE: I'm sorry, west. Thank you.

You'll see before the simulation, and then here's the monopine after the simulation.

The final is view E, which is taken from the north. And you'll see before the simulation and then after the simulation you can see the top of the monopine. And that's PS-6. And I'll provide these to the clerk so that they all make it into the record.

One of the concerns -- we had two NIMs in this case. The first was back on May 9th of 2013. We didn't have -- other than having an owner's representative attend and staff, there were just the three of us present for that May 9th, 2013 meeting. In that case 272 notices were sent for that one.

We then hosted a second NIM on January 16th of this year. In that case we had three attendees other than staff and Mr. Yovanovich and myself. And we did -- we did -- those are the photographs that I showed at the NIM that I showed you today.

One of the questions that came up at the NIM was basically talking about wildlife and talking about birds. And one of the things that your code is very clear on is the preservation of wildlife, which is why I brought up the NEPA. At that point I was able to allow that gentleman to have a copy of our NEPA so that he could look at it and he could review it. And that has determined, as well as your staff has determined, that we will not be impacting any of the wildlife within the area.

I'm going to put up an aerial that's been marked as AR-1. And the point -- as I go through this, I just want to put this all in perspective. I know that I'd heard some of you had done site visits. But the green dot is where we -- is where the tower is proposed to go. You can see we've got Airport Pulling over here, you've got Bailey here, you've got the church to the west, and you've got the neighborhood to the south.

One of the things that I do want to point out is you've got this building here that's screening and buffering the tower from the neighborhood to the south, as well as you've got the dense vegetation, not only on our property but as well as on the church property to the west of us.

With that said, unless you have any questions with regard to this, I'd like to get Mr. Mullins up who's our radio frequency engineer. I do have kind of a specific presentation that I'd like to put forward with him, and I don't want to jump back and forth, it's easier if I just let him testify. But I -- how would you --

CHAIRMAN STRAIN: I just wanted you to know, it's not for lack of questions, but I think the more of your presentation you show to us, maybe that will reduce some of the questions we have. So unless someone objects, why don't we just move forward with your presentation.

MS. WESTINE: Perfect.

If I could ask Mr. Mullin to come up for me, please. I do have for your record what has been marked as RF-1 as an exhibit. That is Mr. Mullin's CV, or resume'.

I'm going to ask him to speak into the standing microphone, and then if I need him to come over here we can share. We'll pull that off.

Could you please state your name for the record?

MR. MULLIN: My name is Daniel Mullin. I'm from -- my address is 1310 Southeast 15th Street in Cape Coral, Florida. I have been sworn.

MS. WESTINE: Who do you work for, sir?

MR. MULLIN: I work for AT&T.

MS. WESTINE: And what is the address of your AT&T office?

MR. MULLIN: It's --

CHAIRMAN STRAIN: Before you take that off, please leave that on; I want to see the lower part of it. Thank you.

MS. WESTINE: Did I --

CHAIRMAN STRAIN: The lower part was cut off. I didn't get a chance to see his education background.

Go ahead, sir, I'm sorry.

MS. WESTINE: Where is your AT&T office?

MR. MULLIN: It's located on Colonial Boulevard in Fort Myers.

MS. WESTINE: How long have you worked in wireless, in telecommunication?

MR. MULLIN: Since 1989. About 26 years.

MS. WESTINE: How long have you been with AT&T?

MR. MULLIN: I've been with my present job with AT&T for 23 years. That includes -- they backdated my AT&T time back to when I was with Wireless One of Southwest Florida.

MS. WESTINE: And what roles have you played within AT&T?

MR. MULLIN: I was a cell site technician, then an RF engineer, traffic engineer, optimization engineer.

MS. WESTINE: And what is your current role, sir?

MR. MULLIN: Currently I'm an optimization engineer.

MS. WESTINE: And what is your educational background?

MR. MULLIN: I have an associate's degree in computer science and I have taken courses from George Washington University.

MS. WESTINE: Does AT&T or do any of the other manufacturers, for example the products that you use, do they provide additional training?

MR. MULLIN: Absolutely, I'm trained -- every year I have different training courses that I have to go through. AT&T has their own training courses. I've been trained by Ericsson, by Nokia, Motorola and others various vendors.

MS. WESTINE: At this time, sir, and I don't know if I need to be as formal, but I would tender Mr. Mullin as an expert in radio frequency engineering.

CHAIRMAN STRAIN: I have some questions.

First of all, you said you have an associates arts degree?

MR. MULLIN: Yes.

CHAIRMAN STRAIN: That's generally a two-year degree. But under digital computer electronics you acknowledge a one-year degree.

MR. MULLIN: That is a technical degree. That is in addition to the associate's degree.

CHAIRMAN STRAIN: Okay. And you said you were an optimizational engineer. Can you explain what that is?

MR. MULLIN: Optimizational engineer is we make changes to the system to help it work better to make sure it performs at its optimum best.

CHAIRMAN STRAIN: By working better, what do you mean by that?

MR. MULLIN: Fewer dropped calls, higher speeds for your downloads.

CHAIRMAN STRAIN: What impacts those kind of features?

MR. MULLIN: The antenna types, the tower heights.

CHAIRMAN STRAIN: The distance between towers?

MR. MULLIN: Distance between towers, yes.

CHAIRMAN STRAIN: Okay. So that directly relates to the positioning of this particular tower.

MR. MULLIN: Yes, it does.

CHAIRMAN STRAIN: Thank you. I have no objection to you being entered --

COMMISSIONER CHRZANOWSKI: Mark.

CHAIRMAN STRAIN: -- as an expert. Does anybody else?

Go ahead.

COMMISSIONER CHRZANOWSKI: I'm just curious. You said you were a traffic engineering.

MR. MULLIN: Cellular traffic, as far as wireless traffic.

COMMISSIONER CHRZANOWSKI: That's what I figured.

We get a lot of traffic engineers in this town.

MR. MULLIN: Yeah, I wouldn't qualify for that type of traffic engineer, that's true.

CHAIRMAN STRAIN: Any objections from the Planning Commission?

(No response.)

CHAIRMAN STRAIN: Okay, he'll be tendered as an expert. Thank you.

MS. WESTINE: Thank you. Let's kind of start.

How does AT&T decide that they need a new site in an area?

MR. MULLIN: That goes by the performance of the sites in the area, as well as we have third-party drive tests.

MS. WESTINE: Can you explain real quick what is a third-party drive test?

CHAIRMAN STRAIN: Lauralee, we don't normally have a dual party working to a presentation. Usually the applicant provides the presentation. And you asking the questions is what we're supposed to do. Does he have a manner in which he can present a prepared presentation that he intended to speak on, say with a list of topics, or do you -- or this is the only way you normally do it? You're used to it this way? I'm not trying to --

MS. WESTINE: I -- candidly I'll be very honest with you, candidly this is what I thought would get to the heart of the matter.

CHAIRMAN STRAIN: It's a little different procedure than what we're used to. I'm not saying it's wrong, I'm just trying to figure out if -- if anybody else has any concerns?

COMMISSIONER CHRZANOWSKI: No, I like it.

CHAIRMAN STRAIN: Okay, go ahead, Lauralee, that's fine with me.

I wanted to -- there are other land use attorneys in this room. I don't want to give them bad ideas. If -- so --

MR. YOVANOVICH: It's a great idea.

MS. WESTINE: So we were talking about third-party drive tests, so let's go back to that.

Would you explain to the board what a third-party drive test is?

MR. MULLIN: For instance, JD Powers has awards for different things. And we have different vendors, like we have a GWS and a RootMetrics. They come in, they're not part of AT&T, they do an independent drive test. They test all the different carriers. They test AT&T, Verizon, T-Mobile, whoever we have in the market. They drive throughout the area, in this case Naples, and then they report -- they publish their reports.

Now, we -- so we don't actually hire the company to do it but we take their reports and we go through them and we try to find out where we have poor coverage areas and we try to optimize the best we can. And sometimes going through optimization there's a need for a new tower.

MS. WESTINE: I don't want to talk about locating sites. Can a new tower site be simply located anywhere?

MR. MULLIN: No, there's already strict guidelines from AT&T. And they're engineering guidelines. And it depends on the distance between the sites in a certain area. So if we had sites packed close together, the search ring is a very narrowly defined area. If we're out in a rural area, we can move it a little bit here or there. But when you're in an area that has quite a few towers already, it's pretty confined, maybe as small as an eighth of a mile for an area like this.

MS. WESTINE: Would you consider -- I was just about to say, would you consider this area a confined area where there are surrounding towers?

MR. MULLIN: Yes, we have towers northeast, northwest, to the south and to the southwest.

COMMISSIONER ROMAN: I have a question, if you don't mind.

Could you please define search ring?

MR. MULLIN: What a search ring is, is we take the area that we're looking at putting a tower in, and then we try to find the center of that area, and from that center we then put a radius, let's say an eighth of a mile, from the center of that area. And that is our search ring. So it would be like an eighth of a mile radius from the center of the area we're trying to cover.

COMMISSIONER ROMAN: And what happens in that search ring?

MR. MULLIN: And then we give it to a vendor because we don't build our own towers anymore, and we ask the vendor to go out and do the search to find locations, to find towers that are already in the area that we could go on, and to report back to us their recommendations of where they would build the tower for

us.

COMMISSIONER ROMAN: So that search ring doesn't have anything to do with transmission?

MR. MULLIN: It has to do with transmission as far as you don't want the search ring off center because then you're going to be transmitting in an area that you don't want to be -- you don't want your primary coverage in an area you already have good coverage.

MS. WESTINE: I think I may be able to clarify that. I think what you're asking is, is the search ring showing what is propagating from the site. And in fact the search ring is just the area in which -- and I'm going to call it a search area, not -- even though those of us old school we still call them search rings. But it's really more of a search area, and it's basically saying this is the limited area in which you can look for a site so that these sites can talk to each other. And it will fill the gap or fill the hole.

And what I don't want to leave you with is that the tower's popped in the middle and then an eighth of a mile out is the only coverage. And I may have misunderstood your question, but --

COMMISSIONER ROMAN: No, that clarified his responses.

MS. WESTINE: Okay.

COMMISSIONER ROMAN: So your search ring has an eighth of a mile distance -- flexibility, maybe that's a better word.

MR. MULLIN: In this case, yes.

COMMISSIONER ROMAN: Okay, thank you.

CHAIRMAN STRAIN: And Lauralee --

MS. WESTINE: Yes, sir.

CHAIRMAN STRAIN: -- you are introducing a lot of information that is not in our packet. Unlike the first application today, we had more information than we need. On yours you're providing information that's not -- at least I have not heard some of this within that packet. I think it's best if we -- if the Planning Commission asks some of our questions as we go along, because by the time you finish we're going to be well past where we may have needed to ask a question.

So with that in mind, I need to talk to you about drive optimization need. How do you determine where and how you need to drive to understand your optimizing criteria?

MR. MULLIN: Well, the drive is -- an independent company does the driving, so they determine what roads they drive on. So if it be GWS, be RootMetrics or it be another driver, they drive the major roads in the area.

CHAIRMAN STRAIN: How do they pick the spot, though, where they believe there is a need?

MR. MULLIN: They don't pick the spot. We take that and we look at the drive data they give us. It shows us where there's good coverage, where there's poor coverage, and we look at the area specifically where there's poor coverage to try to optimize our network to better cover the area where there is poor coverage.

CHAIRMAN STRAIN: Okay. In optimizing and determining your optimization of your network, do you look at the existing towers and how they could be modified rather than just decide to put a new tower in somewhere?

MR. MULLIN: It's always cheaper to modify an existing tower, and that's always our first place we go.

CHAIRMAN STRAIN: So in your selection of this site that we're talking about today, before you selected the site, you looked at the tower site surrounding it, which there are plenty, and you came to the determination you couldn't raise those towers, you couldn't add more magnitude to those towers so they'd function better?

MR. MULLIN: As soon as you start raising towers you start pushing the coverage beyond the next tower, and that starts causing interference. And by -- just by raising a tower you could cause a problem at another site and just past the other site. So we also look at, the drive tests not only gives us the how good it is, you know, whether a signal's strong or weak, it also -- the drive test also gives us information on how much interference that area has. So if you just raise a tower, you're going to be causing interference in other areas which actually degrade the system.

CHAIRMAN STRAIN: Now, by interference to other areas, are you talking about your particular

vendor, which in this case is AT&T, or other vendors like Sprint, Verizon and the others that are in the marketplace?

MR. MULLIN: Well, I'm going to strictly talk about AT&T.

CHAIRMAN STRAIN: So AT&T's towers being too close together could actually hamper AT&T's abilities?

MR. MULLIN: If we're too tall. Okay, so what we do is if we raise the tower, that pushes the coverage out further. The coverage goes out beyond the next tower and causes interference past the next tower, so we can't just raise the tower to fill a hole. Because then we cause an interference problem in another area within Naples.

MS. WESTINE: Can I clarify one thing, though. But you of -- one of his questions was that you have maximized the surrounding sites.

MR. MULLIN: We have.

MS. WESTINE: Okay. You were just addressing the height issue. I wanted to make sure --

CHAIRMAN STRAIN: And I was trying to understand that if you find the necessity for this tower in the location you've chosen how you then assess the other towers as being deficient enough that this tower would be needed at the height it's at and the location it's at.

MR. MULLIN: We do have some --

MS. WESTINE: I have maps -- I have propagation studies that will be able to help explain that. If there aren't any other questions, I --

MR. MULLIN: Propagation and capacity.

CHAIRMAN STRAIN: Charlette's got a question.

COMMISSIONER ROMAN: Yeah, I have a question reference this drive test. When the companies who conduct the drive test report back to you, are their results day-parted?

MR. MULLIN: Are they?

COMMISSIONER ROMAN: Day-parted. Meaning is the time of the day --

MR. MULLIN: They're time stamped, yes.

COMMISSIONER ROMAN: They're time stamped. So your analysis is not only coverage, but coverage at certain points of the day?

MR. MULLIN: Yes. Coverage, interference and capacity.

COMMISSIONER ROMAN: And so you have some of in that to show us today?

MR. MULLIN: We don't -- we have some of that, yes. We don't have the actual drive tests.

COMMISSIONER ROMAN: Okay, thank you.

COMMISSIONER CHRZANOWSKI: The companies that do the drive tests, did I understand that they're not related to AT&T?

MR. MULLIN: That's correct.

COMMISSIONER CHRZANOWSKI: Why do they do the drive tests? Who hires them?

MR. MULLIN: Well, AT&T does pay money, but so do all the other companies. So it's not like we hired them or they're part of us. We pay part of the money, but we don't pay the full amount. And it's to compare between the different vendors, between us and Verizon or T Mobile.

COMMISSIONER CHRZANOWSKI: So they just found an itch and they're filling it.

MR. MULLIN: Yes.

COMMISSIONER ROMAN: But are they hired by the cellular companies?

MS. WESTINE: No. The concept is, for example, JD Powers. JD Powers will say number one in customer service. And so what they do is they actually go out and they hire their own companies, they actually have the antennas from all the carriers in a car, and they actually will drive an area and they'll find out who drops where, who has good coverage, who has bad coverage. And then they actually publish that coverage. Obviously it is to AT&T or to T Mobile or to any of the other carrier's benefit to cooperate, provided they believe they have good coverage in an area.

And I don't say that to be silly, but this is something that they've done so that there can be comparators within the market. An example I would give is what's the magazine, Consumer Reports. If you think about it, it's similar to the way Consumer Reports does their, you know, best TV's, best sofas, things

like that. That's essentially what these third parties do so that they can then produce a study that they can then sell advertising in and things like that.

COMMISSIONER ROMAN: Thank you.

COMMISSIONER EBERT: I have a question.

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: Yes. Can you please tell me what is the normal height of your towers?

MR. MULLIN: If we go out into the rural area, we can be up at 240, 300 feet. Let's say -- our site on Rock Road is about 240 feet. Within the general confines of Naples, we're probably more around 135 feet. We have the street -- the cell site on Shirley Street that's at 180 feet. We have the one at the intersection of Pine Ridge and I-75, we're at 135 feet there. We have one over on Iberia Bank on Goodlette and Golden Gate, we're at 135 there. We have one on Commercial, between Golden Gate and Radio Road, and we're 135 feet there. So typically within Naples we're 135, 150 feet. And like I said, Shirley is one of the exceptions. It's a much older site and we're at 180 feet there.

COMMISSIONER EBERT: Okay. When did the monopole come into being? This is something new, this new pole where it collapses on itself?

MR. MULLIN: I would have to ask a tower engineer for that.

MS. WESTINE: I have a gentleman here from --

CHAIRMAN STRAIN: We ought to stay right to his subject while he's up there.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: So let's just stay with what he's an expert in and then we'll move to the others as they're brought up, okay?

Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: I have one. You said JD Powers makes a routine patrol to determine coverage. Does this work --

MR. MULLIN: It's like JD Power.

CHAIRMAN STRAIN: Well, whatever.

MR. MULLIN: I don't know if JD Power does it --

CHAIRMAN STRAIN: Understand. But is it like -- let me give you an example. Comcast. If someone were to assess Comcast -- let's forget about their customer relations, that's bad enough, but their coverage and how well things are received by their cable. During the daytime and late at night it never seems to be a problem, but at the peak hour it's horrible. Now, is that the situation that this company that drives around is checking at the peak hour or are they checking off hours? Or does it matter?

MR. MULLIN: They drive all day long. They typically start at 8:00 in the morning and finish at about 6:00 to 8:00 at night.

CHAIRMAN STRAIN: Okay. So you don't have any idea when their concerns were noted in the demand for this particular tower?

MR. MULLIN: I could look at the data and find that out. But --

CHAIRMAN STRAIN: Because we don't build -- for example, in our transportation system, we don't build for the twelfth month, we build for the top 10 months -- or the lower 10 months. The top two peak months we don't build for the Easter Sunday for the churches, we build for a typical. And I'm just wondering if your system takes that into consideration. Are you looking for the worst case scenario at the worst time of the worst day of the worst week?

MR. MULLIN: We don't use strictly drive tests. That's only part of it and that's actually a lesser part. We use our metrics that we collect 24 hours a day. And we typically build for the busy hours, 2:00 through 5:00 for the month. So we don't build for the busiest hour of the month, we build for hours 2:00 through 5:00 is typically where we take our metrics.

CHAIRMAN STRAIN: Okay, thank you.

MS. WESTINE: Any other questions? Can I jump into our plots?

Dan, I'm going to have you -- well, can you look up there to --

MR. MULLIN: Yes.

MS. WESTINE: I'm showing you what's been marked as RF-5. It's dated February 17th, 2015. It's titled Airport Pulling coverage plots. Are you familiar with this document?

MR. MULLIN: Yes, I am.

MS. WESTINE: And what is it?

MR. MULLIN: It's a document that shows this particular --

COMMISSIONER ROMAN: Excuse me, could we zoom in, please?

MS. WESTINE: Let me do this: I'm showing you now what is RF-6. It is intended coverage area with population density. It has a rectangle in the middle of it. And then it shows the Airport Pulling site, our proposed site in the middle. Would you explain to this board what this shows?

MR. MULLIN: This shows the area that we have problems and that we want the new cell site to cover this area.

MS. WESTINE: Now, I want to be clear. That rectangle, does that rectangle show a search area?

MR. MULLIN: No, it does not.

MS. WESTINE: Does that rectangle show a coverage area?

MR. MULLIN: It shows a coverage area, not a search area.

MS. WESTINE: Okay.

CHAIRMAN STRAIN: Question from that document. What do the brown triangles represent?

MR. MULLIN: The triangles represent femtocells.

CHAIRMAN STRAIN: What kind of cells? You knew that was going to be another question.

MS. WESTINE: I need you to spell it for the court reporters, please.

MR. MULLIN: F-E-M-T-O-C-E-L-L-S.

It's a femtocell. It is a product we sell to customers who have poor indoor coverage. They want something to help their indoor coverage, so we sell them a femtocell so that when they get into their house they can still use their cellular phone. Because they were unable or very unsatisfied with the coverage we give them within their property.

CHAIRMAN STRAIN: But you just said within their house.

MR. MULLIN: In their house.

CHAIRMAN STRAIN: Does that mean the coverage is lacking because they're inside their house versus it's fine if they stand out in their backyard?

MR. MULLIN: It may be fine in the backyard, but that's -- this map doesn't tell us that. The femtocell locations don't tell us that either.

CHAIRMAN STRAIN: Is the lack of coverage due then to the tower or to the construction of the home?

MR. MULLIN: Within the home most of the time it's with the construction of the home, or the distance to a tower.

CHAIRMAN STRAIN: So the femco (sic) boosters, as you may want to call them, aren't really something because of lack of cell tower coverage, they're based on a construction technique that possibly homes have like radiant barriers or other things that may interfere with radio waves. Is that --

MR. MULLIN: Yeah, we can't tell on any individual case whether there's -- from this whether they got the femtocell because of indoor coverage only or outdoor coverage. That gets back to we look at our metrics and we look at our drive testing.

CHAIRMAN STRAIN: Because that depreciates the value that this may offer for at least consideration.

The location that you show with that circle or it's almost an oval with an arrow towards the bottom where it says Airport Pulling next to it, what is that supposed to represent? The site?

MS. WESTINE: This is the tower location. Airport Pulling, that's the proposed SBA tower locations.

CHAIRMAN STRAIN: Well, it's on the wrong side of Airport Road, that's why I was wondering. You're on the west side of Airport Road.

MS. WESTINE: It's just a general ballpark.

Can I clarify something?

MR. MULLIN: That would be where our search ring would have most likely been centered, around that spot.

CHAIRMAN STRAIN: So would it had made a difference if your search rings were centered to the west on the opposite side of the road? Because you're in Grey Oaks right in that location.

MR. MULLIN: Right. And that's why we can't build there. So that's why we have somebody go out and look for -- and, you know, take the search ring from that area. An eighth of a mile goes over to the other side of the road.

CHAIRMAN STRAIN: Okay.

COMMISSIONER ROMAN: So the optimum location, if you could have the tower placed anywhere you wanted it, is over in Grey Oaks?

MR. MULLIN: That would be the number one spot. But that's -- we're not even going to try to go there.

COMMISSIONER ROMAN: I have a question about this square, if you --

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER ROMAN: What is the coverage of the square itself that's depicted on this chart? How many miles is that, square miles?

MR. MULLIN: I do not know.

MS. WESTINE: I actually do, ma'am. Its width is 2.4 to 2.5, and then its height is one and a half north-south. So it's one and a half miles north-south. It's about 2.4, or 2.5 east-west.

COMMISSIONER ROMAN: On one of your exhibits you had the adjacent towers indicated on one of our exhibits. Where are they in relationship to this square?

MS. WESTINE: If I can get to the next page, you'll actually see we've actually done propagation studies that show where they are.

COMMISSIONER ROMAN: Okay. And we'll have to slide that down.

MS. WESTINE: Okay, let me do this. I am now showing you RF-7. RF-7 says existing scenario coverage at about 46 percent population.

Would you explain to the board what this is.

MR. MULLIN: Okay, so what that's saying is within the rectangle we provide coverage to -- indoor coverage of 46 percent to a good or a fair coverage level. Which means we're -- we have poor or no coverage for 54 percent of the indoor coverage.

MS. WESTINE: Let me ask you real quick to go through this. I'm sorry. There's signal levels down here on the far left corner.

MR. MULLIN: Yes.

MS. WESTINE: The top one says neg. 75. Can you explain what neg. 75 is?

MR. MULLIN: Neg. 75 --

COMMISSIONER SOLIS: Could I ask a question? Is this exhibit in the materials in our book?

MS. WESTINE: No.

CHAIRMAN STRAIN: Well, most of what you've shown us is not within our packet. This is all new information.

MS. WESTINE: It is. Candidly because it needs to be explained by a -- I mean, I can put these in your package and it's as other boards have called them, they're blob maps. So unless they come with the engineer explaining them, they don't usually help.

COMMISSIONER ROMAN: Because I had asked staff for this type of information and staff told me it wasn't available, so --

CHAIRMAN STRAIN: And I think I have too. We're used to seeing information that we can try and attempt to decipher ourselves and then through that we ask questions of the applicant. So it would have been nice to have this in our packet.

Go ahead, Andy, I didn't mean to interrupt.

COMMISSIONER SOLIS: Well, no, I think it just makes it difficult to having seen this for the first time there's a lot of information on this and we're trying to understand it on the fly, it just makes it a little more difficult to understand.

CHAIRMAN STRAIN: Which brings the question, you've got different colorations there and you've got signal levels associated with those colors on the bottom. Why is one color any better than the other and how does that degrade or improve the signal reception?

MR. MULLIN: Okay, the colors represent a certain signal strength. So if we're at a neg. 75 signal strength we have good indoor coverage. And that would be the red. If we're at a neg. 85, which is 10 db worse, we're at a fair coverage level for indoor. And then if we go even further into the greens and blues, we're getting to where it's poor or no indoor coverage.

CHAIRMAN STRAIN: Okay. So on the bottom in your scale, the higher the number on the right-hand side, the worse coverage it represents; is that what you're saying?

MR. MULLIN: Well, they're negative numbers, so the higher number is neg. 75.

CHAIRMAN STRAIN: Well, yeah, stronger, okay.

MS. WESTINE: Can you describe what this -- what does the 46 percent mean at the very stop of the --

MR. MULLIN: The 46 percent --

MS. WESTINE: Show it like that.

MR. MULLIN: -- is -- represents the indoor coverage percentage, the percentage where we have good indoor coverage. So throughout the rectangle we have good indoor coverage or fair in 46 percent of this area.

MS. WESTINE: Okay. I'm going to show you now what's been marked as RF-8. And this says SBA candidate serving 93 percent population.

Can you tell the board what this document is or what it reflects.

MR. MULLIN: It reflects our predicted coverage of the new cell site.

MS. WESTINE: I'm going to point to, it says Airport Pulling, and that is the proposed Wilson Professional Center location, yes?

MR. MULLIN: It's probably still the -- in Grey Oaks, isn't it?

CHAIRMAN STRAIN: Yes, it's on the wrong side of the road but I understand where you're trying to go.

MR. MULLIN: Yes, it's within the very narrow search ring so we still can use this as a good example of what we're going to get.

So we're going to improve from 46 percent of good or fair indoor coverage to 93 percent of good to fair indoor coverage.

MS. WESTINE: I want to talk, do we keep using the word optimal? Help this board understand what optimal is. Is optimal perfect?

MR. MULLIN: No optimal is not perfect. Optimal gives us good or fair coverage.

MS. WESTINE: So you're not seeking to, as I like to say, hit a home run, you're seeking more of a double?

MR. MULLIN: Okay, we can go with that.

MS. WESTINE: And I think that goes to Commissioner Strain, your point earlier is are you building this or are you doing something for your absolute peak points at the absolute pinnacle, or are you doing something for a more reasonable level, and that's why I pointed that out.

CHAIRMAN STRAIN: Well, and I wanted to ask you, did the number of users on your system at any one time depreciate your signal strength, your ability?

MR. MULLIN: Yes, it does. On our UMTS system, the more people we have on any individual cell, it actually shrinks the coverage of that cell.

CHAIRMAN STRAIN: Okay. Then the -- why don't you put the other map back on.

MR. MULLIN: And these are representing LTE, which is our new technology which does not shrink. The coverage doesn't shrink with more users.

CHAIRMAN STRAIN: Well, no, I understand a reference to LTE 3 and LTE 4. Is that what you're talking about, 4 is the new standard, 3 is what some of them are switching over to?

MR. MULLIN: LTE, the fourth generation is what we're looking to build. We will have a collocated third generation site there too. We will have both technologies, fourth generation and third

generation.

CHAIRMAN STRAIN: Okay. So this represents a coloration performance standard based on LTE 4 with unlimited numbers of subscribers.

MR. MULLIN: I wouldn't say unlimited, because --

CHAIRMAN STRAIN: You said it wasn't affected by it.

MR. MULLIN: It's not -- the coverage area is not affected by the number of subscribers. Okay, what happens is as we get more subscribers on a fourth generation site, the speed which you're buffering your video you're looking at, we have to -- your speed decreases in fourth generation, okay, gets down to very low speeds.

Third generation cells shrink with more users, fourth generation speed is what is affected most, and the ability to access the system.

CHAIRMAN STRAIN: So in the third generation you have more ability to be -- have blackouts, black areas where you don't have service because of the quantity. But in fourth generation you won't get the blackouts, you'll just get slower performance.

MR. MULLIN: Slower performance, and somebody anywhere within the system could not be able to make a call. You could be right under the site.

CHAIRMAN STRAIN: In a fourth generation?

MR. MULLIN: A fourth generation. And he might not be able to attach or make any call at all.

CHAIRMAN STRAIN: So that's like a blackout or black -- or dead spot, right?

MR. MULLIN: Yeah, but it's not based on a location. The third --

CHAIRMAN STRAIN: Based on use.

MR. MULLIN: It's based on usage, yes. So as we fill up, we just -- we can't accommodate the new user.

CHAIRMAN STRAIN: And this highlighted area, this colored area on this map, it was based on what tower height?

MR. MULLIN: 145 feet for the antenna.

MS. WESTINE: And I want to clarify that. The centerline of the antenna, the antenna centerline is at 145, which means the top of the antenna is at 150.

CHAIRMAN STRAIN: Can you show me a map that shows 75 feet?

MR. MULLIN: This was --

CHAIRMAN STRAIN: Since that's what you're asking to increase from is 75 to 150, I'd like to see how the performance changes between 75 and 150. So do you have one of these maps done at 75?

MS. WESTINE: We did not do one at 75. We did take a look at this last night, although I don't have a map for it. We did take a look at it at 92 feet. And the reason we used 92 feet is that would be the height of the tower that we could meet the residential separation to.

Can you tell them what you found at 92 feet on site?

MR. MULLIN: At 92 feet our population percentage that we're going to cover, good indoor performance, drops from the 93 percent we have here down to around 80; 78 to 82 percent, somewhere in that area.

MS. WESTINE: Let me follow up on that. Does that in turn mean that additional sites will be needed to fill your engineering needs in this area?

MR. MULLIN: Yes, we'd probably have to request a site to the north and we'd probably have to request a site to the east to try and meet our goals of giving fair coverage to 90 percent of the homes.

CHAIRMAN STRAIN: And do you have a survey showing us what other sites there would be available where you could have asked to put a tower in that vicinity within the distance you would need if you didn't get this tower at 150 feet?

MR. MULLIN: There is one tower in the area that I am aware of.

MS. WESTINE: Let me answer. The answer is generally -- the answer is no, we don't have -- we didn't go out to do site-acc to show that. So just so that that's -- but candidly, your code actually directs us to build one tower that can be shared user versus trying to build shorter multiple towers throughout.

But to answer your question, no.

CHAIRMAN STRAIN: Well, our code says that if you want to put a tower in this location with the zoning that that particular site has, you could do so by right up to 75 feet. You're doubling that height. So I'm just wondering, how do we -- where else could you have put a tower or if you had multiple 75-foot towers it would have been more acceptable than a larger tower.

MS. WESTINE: One of the things we did take a look at, and I will go to the next slide, is we did look at the Sprint tower, because there's a Sprint tower at Poinciana Elementary School that is 75 feet that is located .58, .6 miles to the south. I'm going to ask Dan, directing your attention to RF-9, you'll see there's a red blob that says Sprint Candidate. Sorry, I couldn't read my own type. Sprint Candidate. Did you have an opportunity to look at collocating on this site?

MR. MULLIN: We looked at it and it was very unfavorable. It only increased our percentage population from what, 63 percent, I believe. I can't read it from here.

MS. WESTINE: 68.

MR. MULLIN: 68 percent?

MS. WESTINE: Uh-hum. That's what it -- it says the Sprint Candidate would only serve 68 percent.

MR. MULLIN: So we would still need additional towers.

MS. WESTINE: Okay. And again, you would need an additional tower, as you just testified, to the north and then you said also to the east?

MR. MULLIN: Yes, to the east.

CHAIRMAN STRAIN: And Fred, just for --

MR. MULLIN: And there is finances involved.

CHAIRMAN STRAIN: There is what involved?

MR. MULLIN: Financial considerations involved of building one tower as opposed to building three towers.

CHAIRMAN STRAIN: Yeah, it's not a particular zoning issue, but I understand. I imagine there would be.

Fred, confirmation on where in the -- normally on this site would a tower be allowed and if so, what would be the allowed height by right? Is there a situation like that?

MR. REISCHL: It's a commercial -- Fred Reischl with Zoning Division.

It's a commercial PUD so it would be allowed maximum 75 feet.

CHAIRMAN STRAIN: Okay, thank you.

MS. WESTINE: Can I jump to the next slide or do you have any other questions?

CHAIRMAN STRAIN: Oh, I've got lots of questions. This is interesting, by the way. So I think you'll find we'll have a lot of questions as we go through this. It may take a lot longer than I expected.

Andy?

COMMISSIONER SOLIS: Can I just have you repeat the answer to the question that Mr. Strain posed that was did you look at other heights. And I think you said you looked at what the coverage would be at 92 feet?

MS. WESTINE: Right. In this particular case we have to be 2.5 times the tower height from the residential to the south, which is 91.8 feet when you do the math. So we would meet that 2.5 standard, the 2.5 times tower height standard at 92 feet.

One of the reasons that I asked him to look at that, frankly as I was driving down here last night, was because in case this question came up as to why can't you and what's the difference, and to be able to very clearly say, you know, at one -- at centerline of 145 you can cover this area with one tower, but with a centerline at -- for a 92-foot tower you'd go five feet down. But for the shorter tower you would need in essence three towers to cover the same area. And I wanted him --

COMMISSIONER SOLIS: At 92 feet, not 75 feet.

MS. WESTINE: Right. The Sprint tower is actually further south. Here's another map. And I'm going to -- it's RF-10. The Sprint tower is actually further south and shorter. The Sprint tower is only 75 feet, which means that AT&T couldn't have 75 feet, they'd have to go well below that.

So at, say, 65 feet, which is probably available, you get much less coverage at 65 feet at the Sprint tower, and then you're again opening up a gap up here to the north where you need a tower to correct this.

MR. MULLIN: And we're also going to need multiple levels on a tower. We have multiple technologies, so we have a third generation and fourth generation, so we would have -- we would take a, you know, 10 foot below our proposed -- let's say we were doing 145, we're also going to have antennas at 135 for the other technology, and we're still going to need to -- and we're still going to want to have the ability for collocation.

COMMISSIONER SOLIS: Okay. But again, let me just clarify my question. Going back to the prior exhibits, at the 92 feet, what was the coverage?

MS. WESTINE: We don't have a map for the 92 feet. I'll let him testify to it.

COMMISSIONER SOLIS: Right, that's what I was asking.

MR. MULLIN: It was approximately 80 percent of the indoor pops getting fair to good coverage.

COMMISSIONER SOLIS: And what was the percentage that you're shooting for?

MR. MULLIN: We're shooting for -- 90 would be good. This tower that we're asking for is at 93 percent. Our customers want to have their indoor coverage.

COMMISSIONER SOLIS: So the difference is between the 92 and -- I'm just trying to make sure I'm following you. The difference between a 92-foot tower and a 150-foot tower is somewhere between 82 percent and 90 percent.

MR. MULLIN: Between 80 percent and 93 percent.

MS. WESTINE: And so I can clarify, that's fair indoor coverage. That's not knocking it out of the park coverage, that's fair indoor coverage. I keep bringing that back to --

CHAIRMAN STRAIN: Is that a fair assumption? Because you just testified earlier that the brown triangles and the -- for the PHO, whatever that device is, that booster that you've had to utilize for those people, was never determined to be as a need for the signal strength or a need because of the construction of the home. So how do you know to get the indoor coverage that the construction of the home still isn't going to be a problem for you?

MS. WESTINE: Can I answer that? Whether it's the construction of the home or whether it's the tower, in this particular -- whether it's the construction of the home or whether it's the lack of coverage from an actual tower with a set of antennas on it to some extent doesn't make a difference, because at the end of the day the customer still wants coverage within their home.

That said, I'm not talking about homes that are built with iron, you know, iron sides where they're trying to prevent things from covering in. But AT&T should be able to cover a standardly built home. Whether it be a basic brick home, they should be able to cover it within -- and I do want to go back though to this femtocell sale -- and I'm going back to RF-6.

CHAIRMAN STRAIN: Let me correct something you said. There is a need for this information, because it's what you're using to partially justify the need to double the tower height. So we do need to get to the bottom of that.

MS. WESTINE: And I'm going to try, I hope. As an engineer with 20 something years with AT&T, when you look at RF-6, which is the map that has the femtocells on it, what message does that tell you? Are your customers being served?

MR. MULLIN: No, we have poor coverage in the area because we have so many customers that require femtocells.

Now, the construction of the home, you know, a typical block home here is going to decrease our signal. And that's why we try to engineer for a neg. 75 or neg. 85 indoors rather as opposed to our neg. 95 which is what we have a lot of this area now. And a lot of that is because of the blocked construction of the home, okay.

So we get a closer tower, we get a stronger signal, it's going to get into that house better than what we have in the area now.

CHAIRMAN STRAIN: What kind of features in construction of homes negatively affect signal strength?

MR. MULLIN: Block homes, rebar used in there to strengthen them. A lot of things we do down here in Florida because of our hurricane needs.

CHAIRMAN STRAIN: Does metal --

MR. MULLIN: Absolutely.

CHAIRMAN STRAIN: -- reflect the signal?

MR. MULLIN: Metal blocks and reflects the signal, yes.

CHAIRMAN STRAIN: Because a lot of the new homes especially, but even in the retrofitting homes that we're using radiant barriers a lot. We're using solar panelized (sic) windows. We're using -- all the block homes have rebar, they have tie beams, so --

MR. MULLIN: Exactly.

COMMISSIONER ROMAN: I have questions.

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: In light of what you had shared with us before that the optimal location for this tower would be on the other side of Airport Pulling, possibly in Grey Oaks, have you looked at siting the tower in other locations on the Wilson PUD?

MR. MULLIN: That would be the tower people who did the site acquisition. They were the ones that did the search for the tower. You know, we just gave them the general specifications of where we want it and they came back. They should have done a thorough job. I'm going to let them answer that question.

COMMISSIONER ROMAN: I'll save that question then. Because I was understanding from the documents I read that that was the only location on the Wilson PUD that a tower could be cited. And I questioned that.

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Okay.

COMMISSIONER DOYLE: May I ask a question?

CHAIRMAN STRAIN: Go ahead, Brian.

COMMISSIONER DOYLE: On this map, if we were -- 75 is the allowable height. If you needed to place others monopines, which I've seen in Pennsylvania over 20 years ago and they're not a horrible eyesore, this one an extra 75 feet, even with those pictures still kind of stands out of place. I wouldn't mind one in my yard because of my coverage with AT&T. Are these towers -- the height of them, they would seem to attract, as the pines do in my area, eagle nests. Are you guys wildlife friendly with that? I mean, according to maintenance and all --

MR. MULLIN: Absolutely. We have -- if we go out to a tower and we have to do a repair on the top of the tower and there's a bird there, we stop and back off and we get independent -- Trileaf comes in and does a bird study and tells us we can't work there. Then we wait until after nesting season. So right now we're between nesting seasons, so right now is when we're getting a lot of our tower work done on our bird sites.

COMMISSIONER DOYLE: Good. So with esthetics and safety in mind, if we were just to say no, only on 75 feet, where else on this map would you need to put and where else would we be considering 75-foot monopines that you would need?

MR. MULLIN: Well, first we'd probably -- like I said, there's financial considerations. And we would really have to get the bean counters to look at it and they would probably come back and they wouldn't give me a cell site.

MS. WESTINE: With that said, after we get past the bean counters, can you generally give them on the map, if you can help point generally where the deficiencies would be?

MR. MULLIN: Generally we'd need one up there at Pine Ridge and Airport Pulling. Right now we have, especially during December we get killed with our drop calls and our access issues because of all the shopping that goes on in that big commercial area up there. So that would be one area.

And then the second area would be out closer to the east, somewhere close to the interstate. I'm not very familiar with that area out there.

COMMISSIONER DOYLE: So you would say two more?

MR. MULLIN: At least. I mean, I'd have to actually get the propagation and everything, but I would say it would require three sites instead of one.

COMMISSIONER CHRZANOWSKI: Question. What does the prefix femto mean?

MR. MULLIN: Femto is a Greek, very small -- I'm not sure what exactly --

COMMISSIONER CHRZANOWSKI: Like a trillionth or something?

MR. MULLIN: Something very, very small, yes.

COMMISSIONER CHRZANOWSKI: Okay. Just curious.

CHAIRMAN STRAIN: Do you have anything to indicate the -- any similar problems occurring for Verizon, Sprint or any other carriers? I mean, I'm just wondering why they don't seem to have the issue that you are concerned about. Or if they do, do you have anything that shows they have that issue? Because I've had two or three different other carriers I've -- unless you get out in the Estates or east of 951, I've never found a problem, and I'm just curious as why yours is unique, if it is.

MS. WESTINE: I can tell you that from a business perspective from a -- carriers generally do not enter into any kind of a lease agreement until they see a tower in the area. They don't buy, as I call it, a pig in a poke. So there are other carriers interested, there are other site acqui-- he was talking about how sites go to other acquisition agents. There are other site acquisition agents that are following this site from other carriers. I --

CHAIRMAN STRAIN: But that isn't my question. My question is you're trying to show that there's a need.

MS. WESTINE: Right.

CHAIRMAN STRAIN: Do the others have a need? Because, I mean, everybody has a cell phone. Mine happens to be Verizon, I did have AT&T at one time, so nothing against AT&T, but I don't remember -- I mean, I don't have dropped areas even with my Verizon almost anywhere. So why can they get coverage that you may not be able to get or apparently you're telling us you can't get?

MR. MULLIN: I really can't compare us to another carrier. I don't have that expertise to do that. So I could speculate and I'd rather not speculate.

CHAIRMAN STRAIN: I'm just wondering why they're not coming in with the same need. We rarely have had this -- in fact, I can't remember in the 14 years I've been on this commission we've had a similar request, so I'm just curious why nobody else has come up with a need, so --

MR. MULLIN: Sprint's in the area, so we know they had a need.

MS. WESTINE: I can only tell you that I do have acquisition agents who are following the site who have emailed me who are wanting to know when and if we get approval kind of a thing.

One of the things that I will point out, and I put on my lawyer hat very rarely when I come to hearings, but one of the things that you can't make your decision based on is that you can't make your decision based on well, just because T Mobile has coverage in the area or Verizon has coverage in the area we won't give AT&T the opportunity to serve their customers.

CHAIRMAN STRAIN: I wasn't insinuating that was the reason.

MS. WESTINE: Okay.

CHAIRMAN STRAIN: What I was trying to find out is if they've done something that gives them coverage where they don't need to do what you're asking to do, why haven't you done that?

MS. WESTINE: I understand.

CHAIRMAN STRAIN: So that's the reason. Because again, it goes back to demonstrating need. They haven't demonstrated the need to be here, and I'm wondering why versus your firm. It has nothing to do with preference over one firm or the other, it's a comparison.

MR. MULLIN: A lot of it has to do with the -- I can say that the amount of band width that each carrier has is different. Okay, so the FCC, we buy frequencies from them, so we have so many frequencies. And just because we buy from them doesn't mean they have anymore available. They have auctions. They had an auction last year. So we buy the frequencies when we can. We buy the band width. And each carrier is going to have a different band width in a different market. The more band width you have, the less amount of sites you would need, okay.

So it's a juggling act there, do you pay a billion for 10 megahertz or do you -- or a billion for, you know, another 10 megahertz, or do you get by with the five megahertz you're on.

CHAIRMAN STRAIN: Andy?

COMMISSIONER SOLIS: One other question. With regard to the map that's up there now, and I want to make sure that I understand what you use this map for. This -- you're looking at these femtocells as

an indication of where you need to put another tower.

MR. MULLIN: It's one indication.

COMMISSIONER SOLIS: One indication, okay. That's one of the indicators.

So if you were to locate the 150-foot tower where you're requesting it to be located, how would this picture change?

MR. MULLIN: Well, the customers bought their femtocells, so that would be up to them whether they would turn them off and use the new system or if they would continue using their femtocell. So we as a company can't tell them what to do with the equipment that we sold them. So they may keep them there, they may turn them off and use the new tower.

COMMISSIONER SOLIS: And the difference between their service using a femtocell and their service if you located the 150-foot tower would be what? What's the difference for them as a consumer using their cell phone?

MR. MULLIN: If you use the outside tower, we offer a broader spectrum. We offer a wider band width, like I was just talking about. So by using the tower you're using our 10 megahertz of 700 -- 10 megahertz at 700 megahertz. We have another 10 megahertz at 1,900 megahertz. And I'm saying that because we have 10 megahertz of band width and the spectrum, so we've got spectrums this wide so we've got a little chunk here at 700 megahertz, which I believe is old UHF frequency range. We've got some in the 800 megahertz range.

We've got another little 10 megahertz slice, which used to be in public safety, but that's actually the original A and B -- A block that was given out in -- for this area, probably 1988, '89, '90 that we got from the SCC to build.

And then we purchased 1,900 (sic) megahertz, so we have another little slice -- at 19 megahertz we have 10 megahertz of spectrum. And we just bought some more spectrum at 23 megahertz. So we have a little bit and it's spread all over the place.

MS. WESTINE: Can I jump in and try to clarify?

COMMISSIONER SOLIS: Okay, but I guess my question is, what's the difference in the service to the consumer living in this area if they're using a femtocell as opposed to what you're proposing to put in? What's the difference in --

MR. MULLIN: The femtocell uses the 10 megahertz of 1,900 spectrum. So they can get 10 megahertz. And if they're doing downloads, if they're watching a video off of YouTube, they can watch it and it's probably not that bad.

But if they go out to our outside system where we have 30 or 40 megahertz spread over a wider area, they can use -- they can get faster download speeds.

COMMISSIONER SOLIS: So they will have better service with the tower if they're not using the femtocell.

MR. MULLIN: Yes. If they turn their femtocell off they should get better service from the tower, yes.

COMMISSIONER SOLIS: That was my question.

CHAIRMAN STRAIN: And I have two follow-up questions to that.

You talked about increasing band width as a relief to bad service or poor service. So if you didn't buy -- if you didn't build this tower you would simply have to increase the band width on some other towers in the area; is that a conclusion?

MR. MULLIN: No, because right now we're using all the band width we have.

CHAIRMAN STRAIN: No, you could buy more.

MR. MULLIN: In theory. You have to find it.

CHAIRMAN STRAIN: Okay.

MR. MULLIN: The FCC doesn't auction it off every year. They had an auction last year and we got some of it then, and we paid \$18 billion for a national license.

CHAIRMAN STRAIN: Okay.

MR. MULLIN: But they don't -- the FCC doesn't have -- doesn't auction it off every year.

And then once we get this new frequency range, this 23 megahertz, which has never been used in

cellular before; nobody's phone that has one right now can even use that new stuff, okay. So we have to get with the people who make the phones and have them make phones including this new band width up at 23 megahertz, and then that stuff would start getting out to the public slowly.

So that new spectrum that we bought isn't even -- can't be deployed because nobody has a phone that can use that new spectrum yet.

CHAIRMAN STRAIN: Okay. And you said something else, that the people who buy these femtocells, because they purchased them, they'll probably just leave them in their house or they could leave them in their house; there would be no negative for doing that, they just do it.

Then how do we know those brown triangles aren't left over from improvements you already made to the system?

MR. MULLIN: Because we haven't done much to this system in this area in years.

MS. WESTINE: Let me ask you a question: How long have you been looking for a site in this area?

MR. MULLIN: We've been looking for a site in this area since I was with Cellular One of Southwest Florida since the late Nineties.

CHAIRMAN STRAIN: Okay. And with that we're going to take a 15-minute break so the court reporters can rest their very tired fingers by now. And we'll come back at 10:45.

(Recess.)

CHAIRMAN STRAIN: Okay, everybody, welcome back from break. We'll resume where we left off. We were into a very interesting topic on femtocells. Did I say that right?

COMMISSIONER CHRZANOWSKI: Femto.

CHAIRMAN STRAIN: Femtocells.

Go ahead, Lauralee.

MS. WESTINE: Are we back?

CHAIRMAN STRAIN: Yes, ma'am.

MS. WESTINE: Lauralee Westine, back from break. I have been sworn.

I have with me Dan Mullin. M-U-L-L-I-N, for the court reporters.

I'm going to move to an exhibit that I've put up on the screen, if I can pull it back a little bit.

Am I making it better? Yay, okay. It's RF -- it's marked for exhibit as RF-11. And I'm going to ask Dan, what is this? What does this document reflect?

MR. MULLIN: I'm Dan Mullin, I have been sworn.

This document reflects the surrounding sites and the amount of used capacity that these surrounding sites are undergoing at this time. We can see the green levels are below and --

MS. WESTINE: The green is 0 to 70?

MR. MULLIN: The green is 0 to 70 percent. The yellows is 80 to -- is 70 to 80 percent. And the red is where our capacity is above 80 percent used already.

So we've got these five sites that surround this area. The upper left hand is on Shirley Street north of Pine Ridge. The one to the northeast is right behind Burger King or Waffle House there off Pine Ridge near 75.

Then you've got the one to the lower left, to the southwest is the IberiaBank. And then we've got two sites below that: One is our commercial cell site which is on Commercial and our Briarwood cell site which is right off of Airport.

MS. WESTINE: Let me ask you a question, I'm going to be specific. There are -- each of these has three triangles or three directions in which the antennas are pointing. What does the red mean?

MR. MULLIN: The red means that we're very capacity challenged there. We're already using over 80 percent of our capacity.

MS. WESTINE: Okay. So -- and I'm going to point these out. So on FCL04543, which is up on the top left corner, I see that there is one red triangle and that is pointing in the direction of the area in which we're proposing the new site; is that correct?

MR. MULLIN: That's somewhat correct. If you can see, the triangle at that site is divided into two sections. So we're using two different frequencies there. We're using our 700 and our 1,900 frequency there on our LTE spectrum.

MS. WESTINE: And so but for both they are within what we're calling red, which is the 80 percent to --

MR. MULLIN: Yeah, both of the frequencies are at max capacity right now.

MS. WESTINE: And then I'm going to go down to this one on the far left-hand side, 4537, and there are actually two red triangles in that. Is that one also at maximum capacity?

MR. MULLIN: Yes, it is.

MS. WESTINE: And moving to 4508, the two -- one of the triangles pointing north also is red. Does that reflect maximum capacity?

MR. MULLIN: That's correct.

MS. WESTINE: And then I'm going to -- I think that's 4540. I see half red, half yellow. Help me understand what that means.

CHAIRMAN STRAIN: You know, if he's your expert, can he just tell us what those mean rather than you kind of coaching him along?

MS. WESTINE: He can.

CHAIRMAN STRAIN: Okay. Why don't we just start and explain to us what the triangles mean, and if there's any substance to the angle in which those triangles are towards the property or against the property.

MR. MULLIN: Okay, let's start up at the northeast. That's Shirley Street, north of Pine Ridge. That you can see there's -- it looks like three triangles, but each one's subdivided. And they represent an antenna; I'll simplify it as an antenna. That's where our antennas point. So the green sector facing north is -- has capacity to spare. But the red antennas, and there's two of them, there's two different frequency ranges, are pointing towards the area in question.

So this was June, this wasn't even looking at something from December when actually it gets worse. So --

CHAIRMAN STRAIN: When you say antennas, are these -- I'm used to -- I heard the term parabolic. Are they that kind of antenna? Or what kind of antenna are they?

MR. MILLER: It's not a parabolic, it's usually a panel antenna underneath the panel. Like there may be one and they'll call it a ray dome that covers it, whether it's a parabolic or a panel type of antenna like we have here.

A parabolic really focuses the signal to a very fine point as much as possible; whereas a ray dome sort of tries to instead of, you know, pointing out at a five degree angle where you've got this real narrow slice, the panel antennas we can get it out so they go like at a 65-degree beam width we call it.

So from -- it's pointing at 120 degrees. So let's just say 35 degrees to the clockwise and another 35 degrees counterclockwise is where the primary coverage area is for that antenna.

CHAIRMAN STRAIN: So when we see these arrays of antennas at different levels on the tower, they're purposely positioned so that they more or less broadcast in a direction. They're not all directional, they're just very focused.

MR. MULLIN: Yeah, it's directional, but it's not very fine directional.

CHAIRMAN STRAIN: Okay. So on let's say the tower site on the upper left-hand corner where you have two green and one red, are you getting any feedback to the south from the green going north?

MR. MULLIN: No, you can't use a -- the LTE technology -- or actually the antennas themselves point it in that specific direction at that angle that you see there. It's like a pie shape.

CHAIRMAN STRAIN: Right.

MR. MULLIN: That's the direction that the antenna faces. That green one to the top cannot help you to the south.

COMMISSIONER ROMAN: I have a question. Could you add another antenna to that tower?

MR. MULLIN: That is a possibility, but we would have to come up with a new frequency range to -- I mean, you can put up all the antennas you want, but that isn't going to give you more band width, okay.

So we've only got the two slices of band width for our LTE technology right now. That's why that triangle is divided into sections there.

COMMISSIONER ROMAN: Could you reorient the antenna?

MR. MULLIN: And take coverage away from another direction?

COMMISSIONER ROMAN: Well, it looks like you've got excess capacity from what you're showing.

MR. MULLIN: It's excess capacity because there's not a lot of customers up there. And it's up to 70 percent, so that may be utilized at 60 percent. So if we pointed that south, first of all, we're using the same frequency, so we would just interfere with ourself, okay. Our antenna would interfere with the sector that's already pointing in that direction. So you would take away coverage from the north and you would degrade the signal to the south, add interference to it and make it unusable by changing that azimuth.

COMMISSIONER ROMAN: Well, that's if the engineering wasn't done to a high degree to optimize it.

MR. MULLIN: You can only optimize it so much. We would need more frequencies. We would have to go to the FCC and try and buy more. And right now there's none available.

We tried to do that when we tried to purchase T Mobile. I don't know if you remember hearing that the FCC turned down AT&T buying T Mobile. Well, we wanted their frequencies is what we wanted the most. We wanted their customers, yeah, but we wanted their frequencies so we could do something like that. We could have four antennas pointing in that direction. But we can't, we can only have two. If we put anymore on there we don't have the frequency to add to it. There's just -- we just don't have it. It's just a limited little slices of band width that we have.

COMMISSIONER ROMAN: And so when you add another tower -- are these all towers, by the way, on this graphic?

MR. MULLIN: Most of them are. I believe four out of the five are. The ones on the IberiaBank, it's named Parkway because it was put there when it was the Parkway Bank.

COMMISSIONER ROMAN: How about the ones in Grey Oaks?

MR. MULLIN: There's -- those red arrows are just pointing the direction that the tower's covering, okay, so there's not actually a tower in Grey Oaks.

COMMISSIONER ROMAN: Because I'm confused by this. Because the ones that you were speaking about are towers but then some aren't towers, so --

MR. MULLIN: It's a building top. It can still be considered a tower. But I'm an engineer and I get real picky. It's a building top.

MS. WESTINE: We would just refer to it generally as a site, whether the antennas are supported by a tower or whether the antennas are supported by a building.

COMMISSIONER ROMAN: Okay. So there's an -- this is an antenna chart.

MS. WESTINE: Yes, ma'am.

MR. MULLIN: Yes, this is where our --

MS. WESTINE: Yes, ma'am.

MR. MULLIN: -- antennas are.

COMMISSIONER ROMAN: That was unclear. Thank you.

COMMISSIONER CHRZANOWSKI: Does power have anything to do with this? Is it just a matter like Tim Allen says, more power?

MR. MULLIN: More power would be nice. But there is limitations. The FCC limits the amount of power that we can put out on different spectrums, okay.

COMMISSIONER CHRZANOWSKI: Okay. The government. It's okay, we understand.

MR. MULLIN: So these towers, we've got them optimized for the power level that works. Okay, if you put more power on them, it will work better here, but then further down you're causing interference. So it's a balancing act.

COMMISSIONER CHRZANOWSKI: Okay.

COMMISSIONER ROMAN: If this petition was approved for the current proposed tower that you're asking for, would you do away with any of the building antennas that are already in existence?

MR. MULLIN: No, we would not do away with any of that. That would keep our capacity in the area. We might lower the power to allow the new cell site to take over the area better.

COMMISSIONER ROMAN: Thank you.

CHAIRMAN STRAIN: Okay, Lauralee?

MS. WESTINE: Let me get my ducks back in a row here.

I have kind of just three summing up questions for Dan. Is that okay for me to ask him that?

CHAIRMAN STRAIN: Yes, ma'am.

MS. WESTINE: Okay, we have talked a lot about -- well, we've talked a lot about everything. But one of the things that we have to justify is the height. So I believe your testimony in the past has been that the minimum height necessary in order to fill this need with one tower versus three is your centerline of 145, which is a tower top of 150; is that an accurate statement?

MR. MULLIN: That's accurate, yes.

MS. WESTINE: Okay, we had --

CHAIRMAN STRAIN: You know those three questions, if you could make them more questions than leading, I would appreciate it.

MS. WESTINE: Will do.

We talked about that the FCC regulates certain things. Does AT&T operate well within the reg-- well within the federal regulations?

MR. MULLIN: Absolutely. We follow all federal, state, local laws, regulations. We have a lot at stake here. Like I said, we just spent \$18 billion on some new spectrum. If we violate rules, the FCC can take our spectrum away, and that's the worst thing that could happen to us. So we strictly follow their rules to the letter.

And we actually, a lot of times we don't stretch it to what they might allow us. We want to be within the laws, we don't want to be at that boundary.

MS. WESTINE: With that said, one of the -- let me have this. I'm putting on the screen an exhibit not -- I call it 9-1-1, which is a letter from the Sheriff Kevin Rambosk, showing that within Collier County 79.3 percent of 9-1-1 calls are coming from wireless phones. As this area stands now, we talk about capacity and we talked about we saw the antennas and those reds.

Is there always -- help me understand whether or not -- can a 9-1-1 call at this point go through no matter what, no matter when, no matter how?

MR. MULLIN: No.

MS. WESTINE: Can you explain to them why.

MR. MULLIN: Well, first of all, if we don't have the coverage, if our antenna cannot see the request coming in because we have limited coverage in the area, then that call can't be completed because we don't even know it's being tried to be completed. So that's the first thing. If you don't have coverage, your 9-1-1 calls could fail and nobody's going to know about it.

MS. WESTINE: Okay. I'm looking through my notes to see if I have anything else. But I don't think I have anything for Dan.

Does anyone else have any questions for him before I sum up?

CHAIRMAN STRAIN: I don't think so at this point. You have other professionals that will be coming up; is that correct?

MS. WESTINE: No, unless you all had questions for them.

CHAIRMAN STRAIN: I have questions on a lot of documents that were submitted, including structural points involving the tower and stuff like that. I'm not sure if Dan's the right person to ask.

MS. WESTINE: He's not.

COMMISSIONER ROMAN: And I was told that he wasn't the right person to answer my questions. I need the tower guy, so --

MS. WESTINE: The Sabre representative is here and I can also try to answer your question.

CHAIRMAN STRAIN: Okay. I think we're good with Dan. Thank you for your time.

MS. WESTINE: One of the questions -- and I'll try to answer the Sabre question. One of the questions was is this talking about break point technology and when did monopoles come in. I believe, ma'am, that was your question.

Monopoles -- I've been in this industry since 1999 and monopoles have been around since then. We went towards monopoles away from, say, guyed towers or the big lattice towers when we started putting

towers in the more residential or the more city urban areas versus the rural areas.

And the break -- the engineering off it, and I'm not an engineer, so I may need to have somebody come up and actually give you a little more information, but the engineering ability has always been there. But as we have built these closer to more populated areas, what you've seen is engineers design these towers the same way they design the light poles up and down 75. As you recall, during storms those light poles bend over? I call them bendy straws, but they bend over like the bendy straws. That top part doesn't actually break off. It's still there, it's still hinged, but it does, it's built with kind of a collapsed point or a weaker point in there so your base of your tower is stronger and then you've got that piece up top. That is the -- as this industry has progressed, you've seen that be built into more towers. Where in the past you didn't see it, where in the past it was just the tower was built to what the Building Code specs were and you were done. As we've gotten closer to residential areas, you've seen for example a lot of telecommunication codes actually have in there a certain setback percentage or the fall zone of the tower.

I hope -- I don't know if I answered that. I tried.

Commissioner Roman, what was your question? My apologies. I wrote lots of them, but --

COMMISSIONER ROMAN: My question had to do with the staff report and the documents that we were provided. There was indication that this -- the siting of the tower, that location was the only location that was suitable on that site. And I question that.

MS. WESTINE: The answer to that is that is the only location that the property owners would allow my client to site the tower.

COMMISSIONER ROMAN: And that's different than a technical siting.

MS. WESTINE: I'm not disagreeing with you, but that's the candid answer is that's where we were allowed to site it.

COMMISSIONER ROMAN: Thank you.

CHAIRMAN STRAIN: My question is of Sabre.

MS. WESTINE: Sabre is the tower manufacturer. SBA is --

CHAIRMAN STRAIN: Let's start with them. Yeah, I have -- the Sabre representative is Robert Beacom. Is he here?

MS. WESTINE: No, Mike Checchio is here.

CHAIRMAN STRAIN: And who is Mike Checchio? Some lights just went on.

MS. WESTINE: Mike Checchio is -- he's a general contractor who is also one of the directors over at Sabre.

CHAIRMAN STRAIN: Can he speak for Mr. Beacom's letter that was written to Collier County on April 9th, 2015 --

MS. WESTINE: He is --

CHAIRMAN STRAIN: -- provided to Collier County. It says: Dear Mauricio Aguido (phonetic) --

MS. WESTINE: I'm going to have -- I'll do this: I have a PE who can speak generally to these types of things. I'll ask him to step up. As well as I'll ask Mike to step up. And we'll see between the two of them --

CHAIRMAN STRAIN: We'll start there. You know what letter I'm talking about?

MS. WESTINE: I do. I have it right here.

CHAIRMAN STRAIN: Okay, because you'll need to put that on the overhead when you get --

MS. WESTINE: I will.

If I could ask both you gentlemen -- if I could ask Yan and Mike to come up and let me -- if you don't mind, sir, can I ask them to put their credentials on the record prior to answering questions?

CHAIRMAN STRAIN: Absolutely.

MS. WESTINE: Can I ask you to state your name, your address, whether you've been sworn and your experience, your educational background.

CHAIRMAN STRAIN: You'll need to use the mic there, Lauralee, for yourself too. Anything --

MR. WANG: Good morning.

CHAIRMAN STRAIN: -- you're saying needs to be on record as well.

MR. WANG: My name is Yan Wang. I'm a Florida registered PE, and I have my education in

structural. I got a master degree in structural engineering and my master degree in civil engineering. And I have 14 years in the telecom industry. I work for Morrison Hershfield right now as a senior structural engineer.

CHAIRMAN STRAIN: Thank you.

MR. CHECCHIO: Hi, I'm Mike Checchio. I live at 1236 Royal Oak Drive, Winter Springs, Florida. I am the licensed general contractor for Sabre and also the director of international sales for Sabre for 30 years now.

I can speak a little bit on behalf of the structural report that you're referring to, but we could probably answer most of the questions on that.

CHAIRMAN STRAIN: Okay. Now, my question starts out as what was the purpose of this letter? What was the intention that it was submitted for? To certify the break points, to certify the towers, to provide general information? What was your intention?

MS. WESTINE: I can answer that.

One of the things that in many of the jurisdictions that they wish to see is that in the event of a catastrophic failure that the tower itself will fall -- well, not fall, but the tower will fail or have a failure point on the property, on the parent track versus on a neighboring property. So the point of this was to show the 32 feet is the minimum setback that we have to the property to the west.

CHAIRMAN STRAIN: Okay. And it was signed and sealed by Mr. Beacom, who's an engineer. So is that considered his certification as to the statements made in this letter?

MS. WESTINE: Yes, sir. I don't know -- yes.

CHAIRMAN STRAIN: Okay. Well, then let's start with the first paragraph, second line. A basic wind speed of 126 miles per hour with no ice. Structure Class II exposure category C.

If I'm not mistaken, he's going for an exception of the Florida Building Code 1609.1, I believe, exception four or five, which refers to another document called TIAA-222. Is any one of you at the podium familiar with that document? A standard?

MR. WANG: Yes. This is the main design code for telecommunication towers. And this based on current codes, based on the 2009 IBC. And the code refers to two different kind of wind loads. The 126 is based on the, they call it a fastest wind load. And the current 2010 Florida Building Code is based on the ultimate three-second gust wind. So they are different definitions for the wind. But they are convertible between each other. So the 163 on the Florida Building Code map converted to the fastest wind load is going to be 126.

CHAIRMAN STRAIN: And I --

MR. WANG: But the TIA code is the telecommunication tower design code.

CHAIRMAN STRAIN: I understand.

Which of the -- why did you choose exposure category C, and what is the difference between the design criteria for exposure category C versus exposure category B.

MR. WANG: The category C is based on the location of the tower, based on the obstructions surrounding the tower. There's a strict definition of exposures in the International Building Code.

CHAIRMAN STRAIN: Do you know the difference -- here's the problem.

MR. WANG: For example, in the surrounding suburban area, all the low -- the high buildings around the tower, that usually is a B. If open grass area, open areas, that's called a C.

CHAIRMAN STRAIN: Okay. Well, you said exactly what I'm trying to indicate. This was using exposure C, but I think it should have been exposure B. And I'm wondering if there's any differences in the criteria between those two exposures that would impact the way this letter was written.

MR. WANG: The C is more severe than exposure B.

CHAIRMAN STRAIN: Because of flat, open terrain?

MR. WANG: Yes. And the wind load can be higher than a B zone.

CHAIRMAN STRAIN: When you design to gust, what category hurricane are you designing to?

MR. WANG: Well, the hurricane has a different wind definition than this.

CHAIRMAN STRAIN: Okay, your wind loads --

MR. WANG: A hurricane is sustained wind. This is three second gust wind.

CHAIRMAN STRAIN: But a -- if you get into a hurricane wind category at the location you're at, we're looking at a -- I pulled the wind tables from our public site. Category 3 to 4 is 176 miles per hour. Category 2 is 163. And you've designed it at 126 with a 25 percent safety factor. So 125 percent of 126 is 157.5.

So your design, your wind load category for this was -- for gust was 157.5? Because I thought I read somewhere it was 163.

MR. WANG: Well, you can't really -- the 163 is based on the category of this structure. We consider it's not critical, not essential. Like if that's the communication center or it's for wind during a hurricane season, this is for a communication facility, then is Category 3 or 4.

But this is Category 2, considered just a regular structure. So the wind load is 163 based on the Florida Building Code.

CHAIRMAN STRAIN: Okay.

MR. WANG: But if you say a category goes up three or four, that has to stay in place during the hurricane strikes, has to be the community center. Because not all towers are classified as a critical structure, okay. But this is not -- if it's critical structure, 304, that wind load speed going to go up.

CHAIRMAN STRAIN: Okay. So because this is a noncritical structure, it's made to collapse at a Category 2 wind gust speed, is that --

MR. WINTERS: No, it's just the code required wind load is different.

CHAIRMAN STRAIN: Okay.

MR. WANG: It doesn't mean this tower collapse. There is --

CHAIRMAN STRAIN: At what speed --

MR. WANG: -- standard different.

CHAIRMAN STRAIN: At what wind speed would it collapse? Would the sections unhinge?

MR. WANG: We don't define this when this collapse. Because this tower usually when the design according to this code wind, it doesn't collapse. Is not supposed to collapse.

CHAIRMAN STRAIN: Okay. In the second paragraph the second sentence of this letter says -- but first of all it talks in the first paragraph about the design of the overall minimum safety factor. Then it says: Therefore it is highly unlikely that the monopole will fail structurally in a wind event where the design wind speed is exceeded within the range of the built-in safety factors.

Why would the words "highly unlikely" be the phraseology they used instead of either it is designed or isn't designed? I mean, that is not -- that's a very ambiguous statement. And it doesn't really give us anything, it just says it's highly unlikely. So if something happens, it could be, well, it was highly unlikely, but it happened.

I'm not feeling comfortable with that in regards to your fall radius that this letter I think was intended to assure us of.

MR. WANG: Well, I try to -- I didn't prepare the letter myself, but I try to understand his intent to state this way is if this tower is designed according to the code required wind load, in this case is 163 miles per hour, this tower should not fail.

CHAIRMAN STRAIN: Should not fail.

MR. WANG: Should not fail. Even though you are slightly higher than the speed according to this statement here, they have this capacity designed 25 percent over. So which means even though the wind speed is higher than 165 miles per hour, this tower should not fail within that capacity, over capacity he consider when he designed the tower.

CHAIRMAN STRAIN: Then the third paragraph, second sentence says: Assuming that the wind pressure profile is similar to that used. I mean, again, another qualifying statement to his certification of the collapsing area.

Then the following sentence says: This is likely to result. I mean, there's no definitiveness to this. It seems ambiguous. And maybe that was intentional. But if someone's going to certify something to meet a collapsing need, it would be very definitive. This seems less than definitive. And that was a concern when I was reading it.

MR. WANG: I think the -- my understanding of the overall, the letter is written in the format that he

based on this tower behave under all the code required wind load, the code required wind profile. Everything -- if everything goes along with the code requirement, this tower should not fail, should not collapse, that in the matter that the out-way (phonetic) states here.

But I think that there are many factors involved in the reality that sometimes the wind doesn't really perform what he ask him to do, and also the tower may not be properly maintained. And maybe the material has deficiency. There's so many unknowns that is other than what the code requirement. The code cannot cover every single scenarios. When the design tower -- when the tower was designed, it was assume material, construction, everything in perfect condition. But it's not necessarily in reality.

So his letter is kind of, my understand, try to cover the whole thing, but it's also avoid of liability, because those unknowns.

But if this tower designed to code strictly, it shouldn't fail. So that's the bottom line.

CHAIRMAN STRAIN: And the last line, maybe you could explain what he's trying to tell us there: In the unlikely event of total separation, this would result in the portion above collapsing within a radius of 32 feet.

So if it has total separation, how does it collapse within the radius of 32 feet?

MR. WANG: I don't think -- first of all, the total saturation (sic) is really extremely rare case, because the tower is made of steel. Still is a flexible material. It got softened, it got buckled. It really doesn't separate very often. Unless this material has deficiencies like the break, like a concrete. Usually it don't separate. Like they bend probably and they fall between close like the body, like the bendy -- the steel. But usually it don't separate.

But assuming they're separated and based on this tower was designed on this engineer, the first part that's going to fail is the close to the upper portion of the tower. And the tower fails where is the weakest point along the shaft, where have the most severe combined stress. When it reach 100 percent, whichever point reach the 100 percent, that point going to fail which is called the weakest point. The front of -- this tower was designed that the weakest point is the upper portion. If it does fail if it does separate, which is very rare, it's going to be the upper portion going to fail and separate from the tower, from the main tower, and the portion that it can separate can be less than 32 feet. It going to fall.

CHAIRMAN STRAIN: So if you have the tower starts to break at whatever predetermined break time there is, and I guess the first break point on the top would be less than 32 feet.

MS. WESTINE: Within the 32 feet, yes.

CHAIRMAN STRAIN: Okay. So it starts to break and it falls. It's not going to fall in a direction that 140 or 163 mile an hour gust of wind is pushing it, it's going to fall straight down within that 32-foot circumference of a circle.

MR. WANG: -- going to bend first --

THE COURT REPORTER: Excuse me, may I have your answer again?

MR. WANG: I'm sorry.

CHAIRMAN STRAIN: My question was, if this were to separate and it does fall, it's separated, it's in 163 mile an hour worst case scenario gust of wind. That wind's not going to influence it's falling straight down and hitting a pattern that's within the radius of the break point of 32 feet, it's all going to fall right there. Is that what you're saying?

MR. WANG: I think it's -- based on my experience, the tower usually fell, it's a controlled manner. It's not all over the place, it's a controlled manner, yes.

CHAIRMAN STRAIN: And based on your experience, how many towers have you physically inspected --

MR. WANG: I have --

CHAIRMAN STRAIN: -- that have had --

MR. WANG: -- ever fail in my --

THE COURT REPORTER: Hold on, one at a time, please.

CHAIRMAN STRAIN: On your experience, how many towers have you visited that have fallen within after a high sustained wind or a high wind gusting of 163 miles an hour, how many of them have fallen within the radius points that you're now indicating this one will?

MR. WANG: First of all, the tower fail is very rare. And I haven't seen a tower myself. But I haven't seen those reports and photos the failed towers. The guyed tower, self-support towers or the monopoles, I haven't seen those reports.

CHAIRMAN STRAIN: You have not seen them?

MR. WANG: Not by my own eyes.

CHAIRMAN STRAIN: Okay, so you don't have any experience in regards to the fall radius of a tower physically after it has fallen?

MR. WANG: I haven't seen myself.

MS. WESTINE: And I think your question was have you seen towers that have fallen, and he's saying he hasn't seen any that have falling.

CHAIRMAN STRAIN: No, he just testified that based on his experience in them falling, and I wanted to understand what that experience was. That's all I was trying to find out.

MR. WANG: Well, I haven't seen a tower that failed.

CHAIRMAN STRAIN: Okay.

MS. WESTINE: I would also ask Mr. Checchio to address that matter as well. State your name?

MR. CHECCHIO: Mike Checchio, and I have been sworn.

I can answer your question. When we're referring to the towers, let's be clear on what we're speaking about. We have a guyed tower, which is supported by guyed wires, which is a continuous shaft. Then you have a lattice tower, which is a self-supporting tower, which is generally three to four legs. Then you have a monopole, which we're referring to now.

The guyed towers generally fall down in the area is because of the degree that's picked up during a hurricane; they clip the lines.

CHAIRMAN STRAIN: And I'm only interested in the one we're talking --

MR. CHECCHIO: The monopole.

CHAIRMAN STRAIN: -- about today. Yeah.

MR. CHECCHIO: Perfect.

Okay, what happens with the monopole, I'll just give you a fact, we're talking about fallen over structures. I did some research, and over the past 10 years we average about 750 monopoles a year that we manufacture. Out of these 10 years, we've never had one fail. And these towers have been designed in hurricane zones such as Dominican Republic, Puerto Rico and here in Florida. So no failures at all over the past 10 years.

CHAIRMAN STRAIN: What do you mean by failure?

MR. CHECCHIO: Collapse. Separation is not an issue. On the guyed towers, the towers may be clipped, the towers still may fall apart, but there is no separation in a monopole. They're a slip fit design so they don't break and like protrude, jettison out into the air. They will bend over. Although we don't know that for sure because we've never seen one fail.

CHAIRMAN STRAIN: Okay, so now we don't have any evidence as how they fail. We have --

MR. CHECCHIO: We do have evidence in that we do wind testing. But we've never had one fail in the field.

CHAIRMAN STRAIN: But in real life situation you have not had a tower fail.

MR. CHECCHIO: That is correct. A monopole.

CHAIRMAN STRAIN: And the reason that's relevant is because it has to -- we were understanding that you've -- there's sometimes evidence to show that it's going to fall within the radius that it's supposed to. And basically that evidence was part of that certification letter which seems a little ambiguous in the way it's written.

Part of the knowledge that you two gentleman have but then you've just testified there has been no tower failure, so we don't really know if they're going to work exactly like you've envisioned them to because none have failed.

MR. CHECCHIO: We have done wind tunnel testing to where we have seen failure, and they have never separated.

CHAIRMAN STRAIN: Have they collapsed within their 32 feet in all the --

MR. CHECCHIO: Exactly.

CHAIRMAN STRAIN: -- wind tunnel testing?

MR. CHECCHIO: Yes, sir.

COMMISSIONER CHRZANOWSKI: Can I ask a question?

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER CHRZANOWSKI: The failure mode from the comments I'm hearing is that the top 32 feet of the pole collapses like a hinge and falls down against the pole? And then does it ever fall down to the ground and then fall, over or does it just stay against the pole?

MR. CHECCHIO: It collapses kind of like a camber, like a banana would, a banana shape. But we've never seen separation.

MS. WESTINE: Stays against the pole.

COMMISSIONER CHRZANOWSKI: Oh, so it just stays at an angle. Stays against the pole.

MS. WESTINE: Stays against the pole. If you think of a bendy straw.

COMMISSIONER CHRZANOWSKI: Right.

MS. WESTINE: It bends down.

COMMISSIONER CHRZANOWSKI: Okay. So that's the kind of failure you're talking about you see in the wind tunnel.

MR. CHECCHIO: Exactly.

COMMISSIONER CHRZANOWSKI: Nothing falls to the ground?

MR. CHECCHIO: Nothing falls to the ground, and there's no separation.

COMMISSIONER CHRZANOWSKI: Well, why do you have the 32 foot? The 32-foot radius as though -- it makes me think that there's a piece that comes down and falls over 32 foot, but -- okay. No, I understand what you're saying.

MR. CHECCHIO: Okay.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: I have a couple more questions about the SBA plan sets. Is that the right people up there to address those?

MS. WESTINE: We'll try, how about that?

CHAIRMAN STRAIN: Just some discrepancies. The compound that's listed on the site plan under A-1.1.

MS. WESTINE: Wait a minute, let me get there. I'm sorry, sir.

A-1.1.

CHAIRMAN STRAIN: Page 7, I believe, of the 11 pages that were submitted.

MS. WESTINE: Okay.

CHAIRMAN STRAIN: If you look on the left-hand side of the page with the arrow pointing to the compound you all are proposing, it says proposed SBA fenced compound. That's going to be a CMU, not fenced, right?

MS. WESTINE: Yes, sir, it's going to be a wall.

CHAIRMAN STRAIN: Okay. Just to let you know, and it's nothing that is necessarily that concerning, but your overall site data table.

MS. WESTINE: On which?

CHAIRMAN STRAIN: That's on the right-hand side of that same page.

MS. WESTINE: I see it.

CHAIRMAN STRAIN: Your impervious calculations there do not correspond with the impervious calculations on Page 1. Just a note so you can take a look at that when needed.

MS. WESTINE: Got it, thank you.

CHAIRMAN STRAIN: You show a -- I guess a best -- say the best thing is an elevation on page A-3.

MS. WESTINE: Yes, sir.

CHAIRMAN STRAIN: Page 9.

Where is your climbing mechanism for that pole? How do you get in and maintain the pole, how do you deal with it with the antennas?

MS. WESTINE: I'll let Mr. Checchio respond.

MR. CHECCHIO: There are step bolts that are built in.

CHAIRMAN STRAIN: On the outside around --

MR. CHECCHIO: On the outside, yes, sir.

CHAIRMAN STRAIN: So you work them around the tree limbs?

MR. CHECCHIO: Yes, sir.

CHAIRMAN STRAIN: Huh.

MR. CHECCHIO: The tree limbs are worked around the step bolts.

CHAIRMAN STRAIN: Interesting. So someone climbing up somehow has a clear path to get through those tree limbs.

MR. CHECCHIO: Per code you have to, that is correct.

CHAIRMAN STRAIN: Yeah, that's why I was wondering. There's a new --

MR. CHECCHIO: There's a safety calming -- I'm sorry.

CHAIRMAN STRAIN: No, I just didn't see, I couldn't figure out how you -- I didn't know if it was inside or how it was set up, so --

MR. CHECCHIO: No, they're outside step bolts that are spaced per code, and there's also a safety climbing device attached to it. So when the person climbs it they have a harness on and it attaches to it and they climb up.

CHAIRMAN STRAIN: Okay. Then the following page, just a note, you have a fence notes in there. I know you're going to use fences for gating, but I just want to make sure that this is going to be a wall as the typical wall section shows, and you weren't looking at that as an option to put a fence in.

MS. WESTINE: No, we were not.

CHAIRMAN STRAIN: Okay. I'm looking at your other documents that hit any questions I have. If anybody else on the Planning Commission has any questions, feel free to jump in.

Some of them were already answered by your presentation.

Andy?

COMMISSIONER SOLIS: I've got some questions about -- not necessarily about the technical issues and the engineering, but more about the hardship on the property owner. I mean, you're asking for a variance, and so I'd like to get into that, but only if we're done with the technical issues.

CHAIRMAN STRAIN: Actually, I was just going to get into the staff report and the PUD and all that, which is right along the line you're heading to. So let's start with your question then. That's great.

COMMISSIONER SOLIS: Well, the question is --

MS. WESTINE: May I let these gentleman sit down then?

CHAIRMAN STRAIN: Yeah, I won't need them anymore. I think we're done with that kind of questioning at this point.

MS. WESTINE: All right. Thank you.

COMMISSIONER SOLIS: Well, my question is, is that the applicant is speaking a variance. The Land Development Code, as I understand it, allows for a 75-foot pole or tower at this point. And so -- and the staff report says that such property could be developed within the parameters of the existing land uses. However, the petitioner believes that the addition of a communication tower to the currently permitted uses will support the surrounding community with expanded phone and data service.

I mean, that's -- that's an issue relating to the surrounding community and their phone service. I'm trying to understand what's the hardship to this property owner for what they're seeking, and why they should be entitled to it. Because as I understand it, there needs to be some hardship involved.

MS. WESTINE: Sorry, let me -- all right, is that for staff or is that for me?

CHAIRMAN STRAIN: Well, the staff ought to answer it officially and then you can jump in.

COMMISSIONER SOLIS: Yeah, maybe -- I'm sorry.

CHAIRMAN STRAIN: No, I think staff can since they are the -- Ray's the official interpreter of the

code, so between the two of the staff members respond and we'll go from there.

MR. REISCHL: Fred Reischl, Zoning Division.

This is a PUD amendment, not a variance. However we did analyze it using the variance criteria. And the criterion you're referring to is C, literal interpretation of the provisions of the LDC work unnecessary and undue hardship on the applicant or create practical difficulties on the applicant.

We looked at it from the practical difficulties standpoint and how the -- our code which was written in the 1980's reflects current technology. We tried to mediate between those two standards: The new technology which allowed monopoles and the hardship or practical difficulties which the code asks you to address.

COMMISSIONER SOLIS: Okay. And so am I correct in assuming that the way the Land Development Code was written where it required a two and a half times the height of the tower to residential properties, that that -- that was a safety issue?

MR. REISCHL: Yes.

COMMISSIONER SOLIS: Because of the collapse, obviously that's a safety issue.

Is there -- was there any other concerns -- when it was limited to 75 feet, what was the thought process on that? Was it tied to the setback, the safety issue, or was that just a dimensional standard that the County Commission decided was appropriate?

MR. REISCHL: Yeah, that was the mid-Eighties. I wasn't at the county at the time. But a PUD zoning district would allow a communication tower max 75 feet. So it is in the code. I don't know the genesis of it.

MS. WESTINE: Can I try to help?

COMMISSIONER SOLIS: Sure.

MS. WESTINE: One of the things, and I've been doing this, I've been in this industry since 1999 and I work all over the State of Florida, a little bit up in Georgia.

One of the things that we found when codes got written in the 1980's, when towers first came in in the Eighties, there were no codes. So what you had was somewhat cowboy-ism, everybody came up and tried to put up their own towers.

What happened then, the reaction was, generally speaking, is jurisdictions came out and they wrote these codes that essentially prohibited towers. We can fight over, you know, how they did it, but the reality is everybody panicked and everybody said we don't want towers. And they came up with separation distances such as this which really have no basis in any kind of safety or any kind of engineering, but they just kind of came up with distances that they felt well, that's going to be far enough, that will keep them out.

That's what in all candor I think happened here.

One of the things your Board of County Commissioners do, and I -- part of my presentation is to look at what they actually talk about, the intent within the Tower Code, unfortunately this is a very much of a hybrid application. This is a, you know, I've got a PUD. If I were a euclidean zoning, I would be a conditional use and I'd have gone -- well, I'd have gone before Commissioner Strain probably as the Hearing Examiner.

So I think the only -- my instinct is, and I wasn't around in the Eighties when this got written, but my instinct is, is that they left it in there, they gave everyone the opportunity to ask for variances. So for example, to take into consideration that someone is doing a camouflage tower instead of a traditional tower, they'd take into account that this tower's been designed with additional security or safety factors, to take into account what's around it.

In this particular instance, I've got very dense vegetation to my south, I've got dense vegetation on the church property to the west. I am bound and determined to mess those two directions up.

But I think what they did is when they -- as they rewrote the code, I think the Board of County Commissioners saw that they did need to take into account some other factors as things have developed. But my gut reaction is to tell you that this was written way back when and it was just you threw out a number and you hoped for the best.

And I don't think I answered, but I tried.

COMMISSIONER EBERT: I have a question for you. You have it at 150 feet.

MS. WESTINE: Yes, ma'am.

COMMISSIONER EBERT: And you're saying that you can share this tower.

MS. WESTINE: Yes, ma'am.

COMMISSIONER EBERT: Okay. Are -- at a lower height could you still share or would you -- would you still get the same coverage for AT&T, let's put it that way, without sharing?

MS. WESTINE: I'm going to restate your question, because I want to make sure I understand it.

The answer is, is AT&T's minimum height to meet their engineering need in this case is 145 centerline, which is the top of a tower of 150. So if you reduce the height of the tower any to AT&T you shrink what they're able to cover and you potentially open up the need for those two other towers that Dan had talked about earlier.

The sharing part is separate. And you hit on a very good point. Right now we have the opportunity for three other carriers to come in and collocate on this tower. One of the problems you find as you reduce height in towers, just like AT&T can't go 65 feet on the Sprint tower at the school and meet their needs, you will find unfortunately that maybe other carriers when they come in, they may not then be able to use those lower heights.

So if you were to shrink this tower down to, say, 125, you've not only impacted AT&T, but you've now impacted three other carriers who you may move them down that pole far enough where it's not worth them collocating on that tower. They then would then propose their own tower somewhere else.

So there's a balance there. And that's actually something -- one of the reasons your code has -- granted, your code requires it after 185 feet, but your code, or most codes nowadays try to get you to balance. They do want folks to collocate. They do want one larger tower that impacts an area and they don't want three or four others.

CHAIRMAN STRAIN: What height is AT&T going to utilize for their antennas on this tower?

MS. WESTINE: They're the anchor tenant; they're at the top height.

CHAIRMAN STRAIN: They'll be at the top.

MS. WESTINE: Yes.

CHAIRMAN STRAIN: Anybody else have any questions they want to pursue at this point?

(No response.)

CHAIRMAN STRAIN: I have a few about the PUD document.

MS. WESTINE: Yes, sir.

CHAIRMAN STRAIN: Let's start on page -- well, 5.6. We won't go by pages, because my electronic pages are probably different than yours.

MS. WESTINE: All right. I'm winging it, so I got --

CHAIRMAN STRAIN: 5.6 is water management.

MS. WESTINE: Yes, sir.

CHAIRMAN STRAIN: It's in the PUD. It's all crossed out.

MS. WESTINE: Yes, sir.

CHAIRMAN STRAIN: Why?

MS. WESTINE: I'm going to look at staff, because I think their rationale is is that it's already addressed elsewhere in the LDC, but --

CHAIRMAN STRAIN: Okay, then Fred? And the reason I'm asking, and as I came to you yesterday and said we ought to touch on some of this before today, so I apologize we never got time.

We didn't update the rest of this document. We seem to pick and choose what paragraphs we're updating. Why? I mean, either we do it all or we don't do any of it. And I'm just wondering, this is a limited use application for this project. Why are we messing with the rest of the PUD?

MR. REISCHL: Fred Reischl, Zoning Division.

I didn't do those two reviews, but those were reviews that came in to say strike those.

CHAIRMAN STRAIN: Who did that; do you know?

MR. REISCHL: It's both -- well, both the stormwater and environmental were removed.

CHAIRMAN STRAIN: Okay, who's here representing them today?

MR. REISCHL: Summer Araque and I don't see anybody from stormwater.

CHAIRMAN STRAIN: The environmental is struck as well. And again, this is an addition of a use with some deviations for that use and changes to the PUD. And I'm wondering why we're getting into all these other things that could theoretically affect other parties who are not necessarily involved with this tower. Why are we even doing it? I'm just puzzled. So maybe Summer, if you don't mind addressing that issue.

MR. REISCHL: And my answer -- and I got a call on that from someone who saw it on the sign. And the same or stricter standards are now incorporated into the LDC.

CHAIRMAN STRAIN: Right. But we never know and we're just learning that every time we change a word or more in any document it seems to have ramifications we didn't expect. And so if it's -- I'm always like leave well enough alone. And if we can, if we want to open this whole thing up to changes, great, then we'll start all over, because there's a lot of things that could be changed to bring it more in line with what we're doing today.

Summer?

MS. ARAQUE: Hi. Summer Araque, Principal Environmental Specialist, Environmental Planning. And I think -- I cannot speak of course for the stormwater management section, but for the environmental portion the pole is going in the existing preserve area, so the preserve sections were revised to reflect changes in the preserve calculation. So that's why this portion of the PUD was --

CHAIRMAN STRAIN: Could you go to --

MS. ARAQUE: -- addressed.

CHAIRMAN STRAIN: -- 5.7 in the PUD. It's now -- it was attempted -- there's an attempt to change it to 5.6. It says: Environmental considerations, A through D.

MS. ARAQUE: Yes.

CHAIRMAN STRAIN: They're being struck.

MS. ARAQUE: Yes.

CHAIRMAN STRAIN: So these only apply to that small preservation area where this tower's going to go?

MS. ARAQUE: So these were removed because they are not needed in the document anymore. If there were not -- let me back up a minute.

If there were no -- if this pole was not affecting what's considered the preserve, then I most likely probably wouldn't have them even make any changes to the document. But because we had to make changes to this section, we had them clean up the whole section. So if you want something different than that, you know, let me know.

CHAIRMAN STRAIN: I don't want to have some unintended consequences come up to this Planning Commission as a result of an action that we understand is limited to a pole. And when I see language struck that, for example B, the use of native species and landscaping plans shall be in accordance with Section 2441 of the Collier County Land Development Code.

Now we know that section's been revised into 04-41. But why strike it if it's harmless and not doing any damage? What's the -- and the only reason again, it's because of what the unintended consequences may be. I'm finding out that things we changed in the early 2000's have -- small changes have great impacts. And I like to make sure we don't inadvertently do any of those.

MS. ARAQUE: If you want to keep it in, that's fine. I was just going with the more of the direction of if it's already in the Land Development Code that we remove it out of the document. So, but I --

CHAIRMAN STRAIN: And I would love to see us do that. But then we should do it though across the whole program, not just pick and choose. So if everybody's going to do that and everybody's on the same page, I'm fine with that. But not all departments looked at it that way. We have utility sections in here that are not currently dated. We have little pieces and references throughout the document that we have -- well, look at under traffic improvements. I mean, I'm sure that those traffic improvements have all been met and completed, it's a built out PUD.

COMMISSIONER CHRZANOWSKI: Could I ask a question?

CHAIRMAN STRAIN: Yeah.

COMMISSIONER CHRZANOWSKI: Is this a built-out PUD, 100 percent built out?

MR. REISCHL: I believe there's still a parcel at the northeast quadrant.

CHAIRMAN STRAIN: Is it built out in CTS? Do you know if it's known as built out in there? I can tell you in --

MR. REISCHL: I didn't check that.

COMMISSIONER CHRZANOWSKI: Are they closing out PUDs that are built out still?

COMMISSIONER EBERT: I would think so.

COMMISSIONER CHRZANOWSKI: There was a push to close out built-out PUDs for a while.

MR. REISCHL: Yes. And it's up to a certain percentage. I am not sure if this PUD meets that percentage or not.

COMMISSIONER CHRZANOWSKI: Okay.

MS. ARAQUE: Well, I definitely understand your concern, so -- because we were looking at one section that was being changed because the preserves are being affected, so we had them revise this section. Mostly what is now A and was E is where the changes were made. So if you feel like certain things need to stay in, and I understand your concern because the whole document wasn't comprehensively looked at with other sections, let us know and we'll do what you think needs to be --

CHAIRMAN STRAIN: Well, my suggestion is unless it relates directly to the pole location, that we not make any of these changes.

MS. ARAQUE: Okay.

CHAIRMAN STRAIN: So -- and I see a common element behind you with a strange look on his face. I'm sure Mr. Yovanovich has got something to contribute.

I believe you represent the current owners of the overall PUD?

MR. YOVANOVICH: I do.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: Let me kind of give you a brief history of how we even got into the preserve issue in the first place.

I believe this is the master plan that's attached to the current PUD. When the -- when Lauralee was going through the process of amending the PUD to add the tower as an allowed use, she attached a document that was basically a site plan for the property which identified -- if you know the northeast corner of this piece of property, I think I've got it correct, at the corner of Bailey, Bailey Lane and Airport Road, there's some remaining vegetation.

The site plan that was originally submitted showed that remaining vegetation, because it wasn't being touched, as part of this process. Staff wanted to put and call that preserve, which triggers a whole bunch of new regulations for this document. If you look at the old master plan you see a landscaping area around the perimeter.

When staff added the designation preserve to that, which it never was labeled preserve originally, I on behalf of the property owner said wait a minute, now if you call that a preserve I can't impact the northeast corner and, guess what, the existing buildings are now nonconforming because of the 25-foot setback requirement from preserve for principal structures and a 10-foot setback requirement for accessory structures.

So I said wait, stop. I don't want to call any of this preserve. I just want to call it landscape area. Because that's already addressed in the PUD, as you can see from even the strike-through and underlined, it talks about landscape area.

Well, staff started down the road of well, back then that would have been technically your preserve requirement under the Comprehensive Plan.

So we agreed to go back and call the perimeter stuff now preserve; it mimics essentially what was in the original master plan. And we added the deviation --

CHAIRMAN STRAIN: For no setbacks.

MR. YOVANOVICH: -- for no setbacks, because they wanted to call that a preserve instead of a landscape buffer, as originally depicted on the master plan way back when.

So that's kind of how we got to where we are with some of that. And at the same time saying well, since those are all dated provisions, we may as well remove those because we've been trying to not replicate what's in the LDC. So that's how we got there.

CHAIRMAN STRAIN: Comprehensively that's the best way to approach these PUDs --

MR. YOVANOVICH: So since we were in that section anyway, that's why they -- I believe they took care of that. The water management I don't know, I wasn't involved in that.

CHAIRMAN STRAIN: I made a commitment, not for myself but to help assist someone else that -- I told them we'd be out of here by 11:45 for a one-hour lunch break and we have two minutes to get there.

So what I'll do is during the lunch period, if Summer can spend a few minutes with me I want to talk a little bit more off record about where she came from on these and we'll see if it fits together. I may have some more questions on it when I return.

Rich?

MS. WESTINE: We were able to get an extension on my room check-out, which is really what this was. We were able to get an extension to this afternoon so we --

CHAIRMAN STRAIN: Okay, thank you.

COMMISSIONER CHRZANOWSKI: Is this PUD built out?

CHAIRMAN STRAIN: Well, that's what I'm trying to find out. I was going to find out during lunch.

MR. YOVANOVICH: The answer to that question is you can make modifications on the site and that's why we -- I don't think it's technically built out.

COMMISSIONER CHRZANOWSKI: That's a no. Okay, thank you.

MR. REISCHL: And Ray just checked CTS and it doesn't appear to be built out.

CHAIRMAN STRAIN: Okay. There's some water management provisions that were struck out. Is there anybody here from water management?

(No response.)

CHAIRMAN STRAIN: Okay, because those are pertaining to some off-site requirements concerning the Poinciana Village/Gordon River outfall. I'm not sure -- if they've been completed, that's fine. They probably have been. But I still don't see why we need to take them out. They're a good record to know how things were done and how the responsibilities were attained. So at least from that perspective I can't see taking the water management concerns out.

The environmental considerations, I don't like the idea of nitpicking a PUD and taking some out and leaving others in, but I'll be glad to go along with what the rest of this panel thinks. There's plenty of references throughout this document that fall under the same category of needing clean-up that have not been done, so I think it's a mistake to pick and choose.

Lauralee, on your variance issues.

MS. WESTINE: Yes, sir.

CHAIRMAN STRAIN: Under the last -- second -- yeah, last page, I'm sorry, very last page, top of the page.

MS. WESTINE: Last page of the staff report or last page --

CHAIRMAN STRAIN: Last page of the PUD. Well, it's attached to the end of the PUD. It's your variance -- it's titled Variance Criteria.

MS. WESTINE: And is it within the staff report? Page 11 of 13?

CHAIRMAN STRAIN: When it was electronically sent to me it followed the PUD.

MS. WESTINE: All right, let me search. Bear with me.

CHAIRMAN STRAIN: It's the same questions that Andrew talked about on your variance, okay?

MS. WESTINE: I think I have it. It's what I proposed. Yes, I gotcha. I'm sorry, I didn't know whether you were talking about the way staff addressed them or the way I addressed them.

CHAIRMAN STRAIN: No, I guess it's the way you addressed them. They'd be your criteria.

The last paragraph.

MS. WESTINE: Yes, sir.

CHAIRMAN STRAIN: The second sentence.

MS. WESTINE: Where am I? Yes.

CHAIRMAN STRAIN: It says: The unmanned monopine which does not use water, sewer, roads

or school, is a far less intrusive use than an allowable industrial use in the area.

This is an office park, office zoning, there's only allowed office buildings. Do you know how that argument fits what we're here to discuss?

MS. WESTINE: Well, I should, since I wrote it.

I think the point I'm trying to make was that the -- a lot of times towers are considered industrial or they're considered very commercially type uses, and the point I was trying to make was that we don't have the impact for example that maybe a 7-Eleven would have or a McDonald's, we don't have the traffic impacts, we don't have the school impacts. That's really where I was going with it. And I think I probably misused a descriptive adjective.

CHAIRMAN STRAIN: Okay. The next sentence: Furthermore, the approval of the monopine allows for the adequate provisions of facilities so as to maintain a smooth progression of growth.

I'm not sure how a monopine tower influences a smooth progression of growth, whether you put that tower at 75 feet or 150, growth isn't going to change because of it. I mean, your client base may be influenced by it but I don't understand that statement.

The only reason, since this is a variance and you are asking for it based under various criteria in being consistent with the GMP, I just think those last two sentences don't seem to coincide with the use that we're talking about so I just wanted to make that note to you. I don't know what you can do about it, but --

I'm going to check a couple other documents I have to see --

MS. WESTINE: I have more of a presentation, just --

CHAIRMAN STRAIN: Oh, do you? Please, yeah.

COMMISSIONER EBERT: Can you -- thank you.

CHAIRMAN STRAIN: I didn't know you had more of a presentation. I'm sorry.

MS. WESTINE: I did. Well, I wanted to get Dan heard so that we had that information on the record, and then I wanted to kind of keep going through.

And I'm going to jump around because a lot of these things that I have in my notes have already been addressed.

Staff has already addressed within their staff report 10.020.13(B)(5), 10.03(5)(I), and then the criteria in 5.05.09(G)(2). And they've actually done -- they've gone through and they've actually addressed a majority of those.

What I do want to is I want to kind of hit the highlights. We aren't asking to -- I'm sorry, we are asking to amend the existing PUD but we are not creating a new zoning district, which is one of the considerations that you all have to look at. And the PUD boundaries themselves are not being modified. The boundaries remain the same. What we're doing is impacting within the boundaries.

We have proposed a camouflage style pole versus a traditional pole. We could -- there's nothing within your code that requires in certain districts certain types of camouflage. So what we've tried to do is to take a vegetative area and then blend something in as much as we can.

With that said, I understand that there's a difference between 150 feet and then a 65-foot pine tree. But with that said, we still made an effort to disguise it so that it meets a camouflage requirement so that the external antennas are then covered by those branches, that the pole itself is painted brown.

One of the things that your staff has found is that the monopine would not alter any existing land use patterns. We will not impact the itself existing use of the offices. If anything, frankly, we'll give them better coverage there.

We -- the proposed development will not cause our existing site to be out of compliance. We still comply with the 30 percent open space and we also comply with the preserve requirement that was discussed earlier.

We don't impact traf-- going to my statement, we don't impact traffic, we don't impact sewer, waters, schools, or the -- and there's currently a water management plan on the site. Generally speaking, these sites generally one trip per month per carrier is kind of what we like to say. So in this particular instance you might have four techs out there a month looking at the site and making sure everything's okay.

With that said, I've had techs kind of look at me and roll their eyes and say, look, if it's not popping up on the computer screen, it's probably --

THE COURT REPORTER: Please slow down.

MS. WESTINE: I'm running. I'm sorry.

One more time. As a general rule, though, this generates one trip per month per carrier. And in this particular instance we've proposed a tower that can support four carriers.

Mr. Mullin's -- I'm going to let Mr. Mullin's testimony stand on its own because it was I think explored very, very well.

One of the things that I put on the screen for you all was the 9-1-1 statistics. Collier County has the highest number of wireless 9-1-1 calls in any jurisdiction that I work in. The previous high was Hillsborough County which was 74 percent, and you guys are at 79.3 percent. I think that does say something as to whose -- does say something as to this county's use of wireless.

One of the criteria is how the conditions change that would allow this modification of the PUD. And one of the -- again, we're a hybrid application. We're actually asking for a PUD amendment so we have to apply the PUD amendment criteria. But then in the Tower Code, which we really haven't applied under, but under the tower code if I want a variance for my residential separation, I have to look at the variance --

THE COURT REPORTER: Again, slow down.

MS. WESTINE: -- criteria. Sorry.

One of the criteria is how has times changed. And I would suggest to you that we are now a wireless community. We are all nowadays dependent on our phones and on our wireless tools. I think those 9-1-1 statistics do talk -- do speak volumes, frankly.

Additionally you have a lot of folks nowadays who simply are getting rid of their landlines and they're trying to save expenses, and they're using only wireless services.

I talked earlier about the visibility and about the tree being visible and that's certainly not something that I can hide from. I don't pretend to. I think what this board is being asked to do is balance the visibility of the base because -- I mean, the visibility of the top, because certainly the base isn't going to be visible. Where it's located -- and I don't have the aerial. It's in here somewhere. I'm going to use this one.

I'm putting up there what's marked as PS-1. But if you can look to see where the star is located, that's generally the vicinity of where we're placing the tower.

The base of the tower is not really going to be the issue. The base of the tower is the wall and where the equipment is housed. That's not what's going to be visible to people. So what we are asking you to do is balance the visibility of the top of the tower versus what benefits this tower brings to this community. And I again point back to those 9-1-1 calls.

And I would ask you to recall Dan's testimony that at this point with our lack of capacity in the area no one's guaranteed to get a 9-1-1 call off. When those antennas are full -- and I realize that I'm way oversimplifying what Dan said, but when those antennas are full, they're simply full. Another call can't come up and join that antenna.

So that is something that you all are being asked to balance. And I would suggest to you that the benefits that this tower brings to this community does outweigh any potential visibility impact.

And I'm trying to skip through things that we've already addressed so that I don't -- do you have a question?

COMMISSIONER EBERT: Yes, I do have a question.

MS. WESTINE: Yes, ma'am.

COMMISSIONER EBERT: In the information that was given to us as to the map with all our cell towers, I did notice that, and they're both AT&T, one is at 300 South Collier Boulevard and one is at 520 South Collier Boulevard, and they're both just AT&T. Why two blocks apart do you have that?

MS. WESTINE: If you let me --

CHAIRMAN STRAIN: You need to get closer to the mic if you could, Lauralee.

MS. WESTINE: I'm sorry. If you let me get to my tower maps and let me get to that. We did actually find on your tower map that we saw within the staff report that you've got two sites that are listed as being in Naples when actually they're in Marco Island. So they're about 15 or 16 miles off. But let me find -- and I'm going to ask Dan to come up and take a look at that. I can't find my map.

CHAIRMAN STRAIN: I've got an overhead. I've got a projection of that map that might be easier

to put on the -- well, it's a little bit better now.

MS. WESTINE: Let me find it. It's within the staff report, I recall.

If you can give me the numbers, ma'am, of the towers?

CHAIRMAN STRAIN: She might be able to point them out. This is a blow-up of the map showing the different colors. The AT&T cell towers or antennas are supposed to be the ones in blue.

MS. WESTINE: I don't have a copy of that map. The only thing I have is they're numbered.

COMMISSIONER EBERT: Yes, 22 and 24.

MS. WESTINE: 22 and 24. So it's 300 South Collier and then 520 South Collier. Does any of that -- so let me look at where they are on the map. 22 and 24?

COMMISSIONER ROMAN: 24 on this map is on Marco.

MS. WESTINE: Those are substantially down there.

MR. REISCHL: They're on Marco on my map, Diane.

MS. WESTINE: Are those probably rooftops?

CHAIRMAN STRAIN: What was the point.

MR. MULLIN: We had rooftops down on Marco Island. I can't attest to the --

CHAIRMAN STRAIN: What's the relevance to this one?

COMMISSIONER EBERT: Well, because it's AT&T, I was just looking at the closeness of them, and I'm saying well, if they're AT&T why do you have them right next to each other?

MR. MULLIN: Most of the times if we have something that close -- I'm Dan Mullin, I have been sworn in.

If we have something that's that close, it's typically for capacity as our one site is so overloaded that we can put another site very close to it. So that typically would be a reason for us to have sites close to each other.

COMMISSIONER EBERT: Okay, thank you.

COMMISSIONER ROMAN: But those could be just simply antennas; is that correct?

MS. WESTINE: Yes, ma'am.

CHAIRMAN STRAIN: Rooftops antennas.

COMMISSIONER ROMAN: Right. And that goes back to my previous question about additional antennas on some of the existing towers that are in this area that we're talking about here.

CHAIRMAN STRAIN: Well, I think that was part of the beginning of our discussion today when we asked for other real estate sites that could possibly accommodate either an expansion or additional tower. Because if you had other sites you could put lower towers in and still be within the allowed height and not get to a double the tower size. That was one of the questions I had asked earlier, and I think that leads to the same thing, a rooftop antenna would function the same way.

MS. WESTINE: Let me have Dan address that.

Dan, when AT&T is looking for a new site, are rooftop possibilities something that you look at in addition to co-locations?

MR. MULLIN: Absolutely, yes, we do look at that. But we typically allow our vendor to find those opportunities for us.

CHAIRMAN STRAIN: Dan, you'll need to get a little closer to the mic, sir.

MR. MULLIN: We would typically let our vendor who goes out and does the searching bring us back the candidates, and they didn't bring us anything back here that is tall enough for a rooftop.

CHAIRMAN STRAIN: And they're not here today, are they? The vendor that did the research for the sites.

MS. WESTINE: No, no.

CHAIRMAN STRAIN: Okay, we're at a break point for lunch and I can see we're going to be going into additional -- any finishing up of your presentation, Lauralee, when we get back. We'll have staff presentation at that time. And then we'll have -- entertain public speakers. And after that if there's any rebuttal needed you're more than welcome to have a rebuttal period.

MS. WESTINE: Okay, thank you.

CHAIRMAN STRAIN: Okay, so we'll take a break right now and come back at -- what's the matter,

Charlette?

COMMISSIONER ROMAN: I was going to say a short lunch maybe?

CHAIRMAN STRAIN: Not for me. We're going to be here quite a while this afternoon. I mean, it's not a good -- I don't think it's a good idea today. It would be if we had a short wrap-up, but I don't think it's going to be that short. So we'll just -- on that chance let's go for an hour and we'll come back at 1:00.

(Luncheon Recess.)

CHAIRMAN STRAIN: Okay, everybody, welcome back from the break. When we left off we were discussing some of the other questions involving the PUD.

Lauralee, did you have anything you wanted to add to your presentation before we go to staff report?

MS. WESTINE: Just briefly. I kind of want to wrap up.

Looking at the intent perspective, looking at the purpose and intent part of your code which is 5.05.09, one of the things that it talks about is minimizing visual impacts which we propose to camouflage the tower to comply with that.

It talks about avoiding damaging any other properties. This is actually within your Tower Code, this isn't within your PUD code. Goes back to my this is a hybrid application.

We've proposed a 32-foot fall zone, which we've had testimony to.

It talks about shared use, which we've proposed a four user tower where candidly at 150 feet we don't have to but that's just the wise thing to do.

It talks about lessening the impact on the migratory birds. Specifically we've provided a NEPA at this stage of the game to do that.

And it talks about any concerns of Mosquito Control, and we have within your package a no objection letter from Mosquito Control. They've taken a look at this as well.

I talked about the height and the other co-locations, we've talked about that.

I think candidly I'm here for any questions you may have. I think throughout the presentation I've kind of hit on just about everything that's left to be said. So I may after rebuttal try and take a moment to kind of put it all back in gear, but I think I'm okay for now.

CHAIRMAN STRAIN: Okay, does anybody have any questions of the applicant before we move to the staff report?

(No response.)

CHAIRMAN STRAIN: Okay. Fred, let's move into the staff report.

MR. REISCHL: Thank you. Mr. Chairman, Commissioners, Fred Reischl, Zoning Division.

We analyzed this application and we believe that it meets the criteria, both the PUD criteria, the rezone criteria and the variance criteria.

It does create a visual impact. We believe that that had -- will be somewhat ameliorated by the camouflage characteristics of the monopine.

There were three letters of objection in your packet, including one from Poinciana Civic. Also at the NIM I got -- there were two folks there who were in favor, along with the one person who was opposed. And I did get a phone call from someone who was in favor.

I'd be happy to answer any questions.

CHAIRMAN STRAIN: Okay, does anybody have any questions of staff?

(No response.)

CHAIRMAN STRAIN: Fred, let's turn to your PUD findings.

And number four in your staff report, the question was -- or the finding was: The internal and external compatibility of proposed uses, which conditions may include restrictions on location of improvements, restrictions on design and buffering and screening requirements.

Your response was: The only proposed change is the addition of a communications tower. Staff believes that the approval of this amendment will continue to be compatible with the surrounding area, subject to existing development standards and project deviations.

The current standard for that area is 75 feet. This doubles that. And if this doubles that, and staff believes that's compatible then with the surrounding area, when would it not be? I mean, my concern from day one with this application was the consistency issue that's going to be argued going forward.

Have you -- do you know anywhere that we've allowed a similar activity to occur doubling of a height of a standard like this in Collier County?

MR. REISCHL: No. Honestly the conditional uses and PUD amendments for tower height are very rare. I remember doing one back in the late Nineties at Seagate Baptist at Whippoorwill and Pine Ridge. And that's the last one I remember doing. I mean, it's a rare commodity. Most of these meet the height for the district.

MR. BELLOWS: And if they don't, they go through the other process, a Conditional Use, if it's straight zoning.

CHAIRMAN STRAIN: Right. Have you -- do you know of any that are situated in a commercial use that was restricted to 75 feet, as this one is, that had a request and approval to double its height?

MR. REISCHL: I do not. I'm not saying there isn't, I just don't know of any.

CHAIRMAN STRAIN: And my concern stems from -- and that question stems from the ability for that to be used as a consistency argument for all the light commercial in Collier County. Basically we're looking at a C-1 district. It's a -- there's only a couple of uses allowed here: Professional office building, I believe, and maybe a medical facility. So it's either C-1 or maybe C-2 at the most.

That would really literally I think bring a lot of people to think that this particular use then could be expanded to the height we're allowing here in other localities throughout the county. And that's my concern. And I didn't know how staff -- if staff looked at that as an issue or anything else. That's why I'm asking in relationship to your findings.

MR. BELLOWS: For the record, Ray Bellows.

When staff reviews an amendment to a PUD, no matter what the change is, we look at the current square footages that are allowed if it's commercial, current number of dwelling units, and we look at what the change is. There might be PUD amendments that had doubling a number of residential units in there.

We don't necessarily have a cap on the number of units other than being consistent with the density rating system.

There's a process for communication towers to go higher than what is the standard height. That's either through a Conditional Use or through a PUD amendment where it's a public hearing and the impacts are vetted and possible additional mitigation provided. So in that regard it's almost like building heights.

CHAIRMAN STRAIN: Well, and I understand that. But see, staff found this to be basically approved -- basically okay pursuant to their submittal. And my concern is that if it was okay here and they were -- they were somewhere else where someone else came in with a similar artificial tree at 150 feet or double, how would we say no to that? We're almost changing our standards to this become almost typical. Because I think it could be argued that way. And that's what I'm concerned about.

MR. BELLOWS: Well, I understand what you're saying, but each amendment is taken on its own impacts to the surrounding uses. So a different PUD in a different area has different issues. Such as a building height that's proposed within a PUD, it may be appropriate at one location to have 100 foot tall building and inappropriate in another to have anything over 50. So it's certainly always looked at on a case-by-case basis based on location and the surrounding uses, whether staff would support a tower of this height or a building of this height.

MR. REISCHL: And particularly with this site, because of the pine canopy there, it seemed appropriate. Granted, it's higher than the natural pine canopy, but it wasn't something that stood out like putting this in the middle of a field.

CHAIRMAN STRAIN: Have you checked other jurisdictions to see how they have treated these?

MR. REISCHL: I have not, no.

CHAIRMAN STRAIN: Well, maybe the applicant has and we can find out when they come back up.

Most of my questions were trying to understand the consistency issue. So that's all I've got at this point from staff.

Anybody else?

COMMISSIONER SOLIS: I've got just a couple now that I think about it.

First, I just want to make sure that I understand the 75-foot height that we've been talking about that

is something that would be allowed there. My understanding is that that 75-foot height is based upon the setback and that safety issue that we were discussing, or is that just a flat 75-foot limit on cell towers under the LDC?

MR. REISCHL: Yeah, that's in the --

MS. WESTINE: Hold on, no.

CHAIRMAN STRAIN: Well, no, the question's being asked of staff. You'll have your turn in rebuttal, Lauralee.

MR. REISCHL: It's in the communication tower section and it allows 75 feet. You have to meet setbacks. That's another deviation that they're asking for is the deviation from the setbacks.

COMMISSIONER SOLIS: Okay.

The other question I had was we've seen the simulations of what it's going to look like. I mean, have you determined, for example, from each of these views, you know, how much of it would be seen at 150 feet as opposed to 75 feet? If you can even determine that? I'm just trying to get an idea of how much is going to be sticking out, so to speak.

MR. REISCHL: Well, and Lauralee said this on the record, but she also in our review she told us this, that they use a balloon up to that height so that the photo shopper, whatever they are, knows how high to draw the monopine.

COMMISSIONER SOLIS: All right. But I guess my question is, you know, given the tree lines, I mean, about how much of it's going to be visible? Is it half of it, is it 10 feet, 20 feet? Just to know.

COMMISSIONER CHRZANOWSKI: How tall are the trees in the PUD?

MR. BELLOWS: Staff had these same issues and concerns, and that's where this line of sight drawing comes in --

COMMISSIONER SOLIS: Right.

MR. BELLOWS: -- that was presented earlier today.

MR. REISCHL: And Mr. Chrzanowski's question about how --

COMMISSIONER CHRZANOWSKI: How tall are the trees in the PUD? The trees that are out there, what are they, 75 foot?

MR. REISCHL: I didn't measure them, but most pine trees, judging from my biological knowledge, are 80 to 90 feet.

CHAIRMAN STRAIN: Your biological knowledge, huh? Fred, I'll tell you what, you're venturing into territory that --

MR. REISCHL: College days.

COMMISSIONER SOLIS: That's all I have. Thank you.

CHAIRMAN STRAIN: Does anybody else have anything of staff?

COMMISSIONER DOYLE: I support staff's conclusion on this and appreciate the efforts put in by Lauralee and hers.

The monopine, I mean, it's needed service as we grow and change. The monopine to me is a better landmark than a lot of other stuff that I see -- get to see. It's almost artwork, you know, in a way. And if it was it would probably be allowed. I like that it is wildlife friendly. Not to be too ambiguous, but seemingly safe as far as we've gotten into this. And the other thing left would be some type of road trip to go see one of these to see if I liked it or not.

But I've seen them along the Pennsylvania Turnpike numerously, and I haven't had to live next to them, though I stated if one was in my yard perhaps I'd be okay with it just for better service. Because I live with my phone nowadays and for me better service is good.

So that's about it. I mean, I support the staff's recommendations.

CHAIRMAN STRAIN: Okay, we need to go to public speakers if we're done with the staff. So with that, Ray or Fred, are there any registered public speakers?

MR. REISCHL: We have -- all the applicant's team are registered, so I don't think we need to call them. And Brad Estes.

CHAIRMAN STRAIN: Okay, Brad?

MR. ESTES: I wrote good morning, but now it's good afternoon.

I'm going to read this, because I think it's important to have my comments specific in the record. And I will attempt to be -- read slowly.

My name is Brad Estes. I'm here today regarding Wilson Professional Center Communications Tower application. I will speak on behalf of the Poinciana Civic Association of Naples, Inc. of which I'm an officer. I also appear individually as an impacted property owner in Poinciana Village. Our family trust owns three properties in Poinciana Village, two within a short distance of the Wilson Professional Center.

We have about 1,300 residents in Poinciana Village, and about -- and we have 450 residential units, not including the condominium apartments there.

Thank you, Commission, Chairman Strain, for the 10 minutes. I'll try not to use all of it.

The association board of directors and I personally are opposed to the pending application for the communications tower. Our president has submitted a letter. Our opposition is based on aesthetics, the loss of a vista or view to the north that I and our residents have enjoyed for in my case 40 years, in the case of some residents, 45 years. Our first C.O. was in 1970.

The proposed 150-foot communications tower at Wilson Professional Center will render the planned unit development aesthetically incompatible with surrounding land use. The proposal is also inconsistent with the expressed values of Collier County citizens where the loss of aesthetics due to development has been of utmost concern for at least 30 years. Community values have been incorporated into public policy and practice over time. Examples would be landscaping requirements for commercial developments, signage, privacy walls, lighting, issues of that sort.

My testimony today will place in the record the formalized development community values and efforts to influence Collier County's government preparedness for emergency substantial growth in the mid 1980's. The community concern focused on avoiding the regulatory missteps of Florida southeast coast. A substantial no growth movement had emerged in Collier County that was in the late Seventies and early Eighties. Recognizing growth was inevitable, community leaders, concerned individuals, civic associates including the president's council and local governments joined together to develop strategies to manage growth with a focus on preservation of the unique character and natural beauty of Collier County in the small town atmosphere. The two most notable efforts were the American Institute of Architect's R/UDAT study by visiting community planning professionals in 1986. The other was FOCUS, a community visioning project in 1995. Collier County supported and participated in both the efforts.

I was personally involved in both of those efforts as well.

Collier County government responded by implementing many of the recommendations from the community process as mentioned above including, including sensitivity to the compatibility of commercial development with residential use, the point of my comments. Commercial zoning categories which assure compatibility of commercial development with residential use were adopted. That's the C-1 zone that we're talking about.

Collier County government currently includes among its 10-year strategic plan objectives the preservation and enhancement of neighborhood character by ensuring the land uses that are compatible with area character. Assures the land uses that are compatible with area character.

Most recently, and very importantly, the Collier County Commission opposed a moratorium on gas stations in order to research and rewrite regulations and response to a new trend of mega gas stations to assure their compatibility with adjacent residential use. The Commission approved a draft of the changes on July 7th, which you all reviewed as well. And these changes include structural aesthetic requirements.

Moving forward to the application being considered today, the Poinciana Civic Association opposed the original commercial planned unit development in 1987. However, we became one of the first benefactors of Collier County Commission's decision to ensure compatibility of commercial development with residential use.

The Wilson Professional Center is now the optimal commercial neighbor as a result, and has been since it was developed.

We view this 1987 decision as a perpetual commitment of compatibility to our neighborhood by agreement of both parties, Collier County government, and the current and any substantial owners of the Wilson Professional Center.

Considering the 30-year history of concern for preserving our natural beauty which belongs to all of us, the pending decision regarding the communications tower has serious implications. Approval of the Wilson Professional Center tower application would create uncertainty about, if not set aside, the importance of aesthetic compatibility for commercial development and residential use.

Realizing that government officials cannot base their decisions solely on inconsistency with community values, our opposition to this application is also based on four issues: The application is inconsistent with the Board of County Commissioners' intent for the planned unit development.

Both ordinances 87-92, which was the original ordinance, and 92-23 which was the amended ordinance, contains 11 conditions which assure that the approved site development will be compatible with and complementary to the surrounding land uses. And that's what the ordinance actually says, compatible with and complementary to -- compatible with the complementary to the surrounding land uses. That's a maximum height of 35 feet. The uniformed sign -- common uniform signage; the common architectural theme; a prohibition of exterior metal clad buildings; underground utilities; pad-mounted electrical transformers located and screened as to prevent viewing from any public street or adjacent property; outside storage screened from adjacent properties; and a conceptual plan which includes a landscape buffer.

As you are aware, probably better than I, Section 1.08.02 of the Collier County Land Development Code defines compatibility as a condition in which land uses or conditions can exist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.

Number two: The 150-foot tower is out of character in the proposed location. Proposed tower is out of character because of the tower's proposed height of 150 feet which would be significant and in obvious contrast to the natural setting where our estimation of the trees in that area, the pine trees in that area are 50 and 60 feet. I didn't measure them, so that's just our estimation.

Therefore, the tower would be aesthetically incompatible. The maximum permitted building height is 35 feet, presumably to be compatible with the natural setting. The proposed tower, even though planned to be camouflaged as a pine tree, would extend approximately 100 to 125 feet above any on-site or adjacent existing structures or vegetation.

The tower also would have up to four viewable exterior antennas from 170 to 140 -- excuse me, 107 to 140 feet. It would be a tower containing 33 feet of antennas near the top. And there's also a consideration -- there is an assumption, excuse me, there's an assumption that the existing vegetation would exist as a mitigation factor to the tower. That's as long as those trees exist. And if you've visited Homestead after Hurricane Andrew, you'll know that there are -- there were no pine trees with any vegetation. In fact, some of those pine trees are dead and remain there to this day. And there's also the situation involving fire. So we have no assurance that that mitigating factor of an existing pine forest will exist.

Three: The application is inconsistent with Collier County's policy of only allowing the most compatible commercial uses near residential areas. As we discussed, this site would be C-1 zoning, based on the description of C-1 zoning in the Land Development Code.

And this is a question that I have, my assumption originally was that we would only allow by permit up to 75 feet. But that would also be inconsistent with the height limitation on the buildings of 35 feet. So I don't know which supersedes one another. But that would be a question that I would, you know, still have.

Criteria for the variance have not been satisfied.

We disagree that there are any special conditions, circumstances, preexisting conditions or undue hardships that suggest the applicant or property owner should be granted a variance. Communication towers have been around for decades. I mean, literally decades. And so if the developer Wilson -- the Wilson-Miller-Barton-Sullivan-Peak, the owner, wanted to have a communications tower on that site or at least allow for the development, they could have asked for that. They could have asked for that whenever they amended the PUD ordinance in 1992. They did not.

So we think that they have agreed to the PUD as it is, certainly within the requirements that it be complementary and compatible with the surrounding land uses.

Now, if they wanted to make other changes, I'm not sure we would oppose them, but changes that affect our residential neighborhood we certainly would.

In conclusion, the staff refers to the January 14th, 2015 United States Supreme Court decision T-Mobile South versus City of Roswell, Georgia. That decision related to local government not communicating reasons in writing for a denial of a cell phone tower. However, that case did not challenge the traditional authority of local governments regarding decisions related to the placement, construction and modification of personal wireless service facilities. In fact, the court affirmed local authority, only noting the restrictions in the 1996 Telecommunications Act.

Of particular interest in that case to our concerns about tower aesthetics are Justice Alito's concurring comments in the City of Roswell case. Justice Alito wrote that a succinct statement that a permit has been denied because a tower could be aesthetically incompatible with the surrounding area would suffice. Now, he's one justice, but that's one justice's opinion about aesthetics.

That's my formal presentation. We are required to submit substantial evidence in a written reviewable form in any written format reviewable by a court, and I want to ask that I be able to do that today.

CHAIRMAN STRAIN: Do you have it with you?

MR. ESTES: Yes, I do.

CHAIRMAN STRAIN: Can you show me?

MR. ESTES: Yes.

CHAIRMAN STRAIN: Do you have copies for everybody, or not? I think my prior discussion with you -- you have to use the mic too, Brad.

MR. ESTES: I'm sorry.

I have three copies. No, I do not have copies for everyone.

CHAIRMAN STRAIN: Unless there's an objection from the panel, we can admit it for the record, but with the acknowledgment we haven't had time to review it.

MR. ESTES: I understand, I understand.

CHAIRMAN STRAIN: Anybody have concerns?

(No response.)

CHAIRMAN STRAIN: Okay, leave a copy with the court reporter. And we will not have access to it to review it in time for this meeting.

MR. ESTES: The attachments are -- the submittal from almost all cases just simply has copies of the various codes and regulations of Collier County.

COMMISSIONER CHRZANOWSKI: Are we going to see it after the fact? Are they going to scan it?

CHAIRMAN STRAIN: Do you have that in a format that can be -- well, do you have a copy you can leave -- another copy you can leave with us?

MR. ESTES: Sure. Of course, yes.

CHAIRMAN STRAIN: What I'd like you to do is leave it with one of the staff members and they can electronically PDF that to us.

MR. ESTES: Sure. Absolutely, okay.

CHAIRMAN STRAIN: And also PDF it to the applicant as well.

MR. ESTES: Okay, I will do. I have a copy for the applicant today.

The other thing, in listening to the -- and thank you for the excellent questions, because I learned a lot too. The thing that impressed me is that -- how could I say this diplomatically? If AT&T doesn't have the bandwidth to address the customers in this area, then they -- have they oversold? Do they have more subscribers than they can handle? Because what they're -- what I understand them as saying is their tower on -- and frankly, you can see two towers from -- or two cell phone sites from Poinciana Village, one on IberiaBank and the other on Shirley Street. Then have they sold in excess of what they can handle based on their tower capacity?

And like -- and I think it was a good question, should they not be first out looking for additional capacity versus additional towers?

One of the concerns, as I mentioned, is that this is going to be a tower within about a little less than two miles of another tower. And probably less -- and this area is probably only about a mile. And what's the future of neighborhoods regarding cellular towers if we're going to be wanting one every mile or two?

So thank you for your time. And I'll be glad to answer any questions that you may have.

CHAIRMAN STRAIN: I'm going to answer one of yours. You asked about the height. You're right about the height on the project being restricted to I think it was 35 feet. Yes, 35 feet. But if this were to be approved under 4.2(1)(3), they're adding it as a principal use with a limitation of 150 feet for that principal use for just one tower.

MR. ESTES: Right.

CHAIRMAN STRAIN: So that's how it's being modified. That's how it works.

MR. ESTES: My concern was that it was -- because it's a commercial PUD it has a -- what is a right to do 75 feet without amending the PUD.

CHAIRMAN STRAIN: Well, they do, not because -- yeah, because it's a commercial PUD and towers are allowed in the commercial -- and industrial at 75 feet by right. So that was the basis under which I believe staff acknowledged. It could be 75 feet high by right.

MR. ESTES: Okay, thank you.

MR. BELLOWS: The use --

CHAIRMAN STRAIN: What about the use?

MR. REISCHL: But the use is not included in the PUD. You'd still need a PUD amendment to include the use.

MR. ESTES: Okay. All right, thank you very much. Appreciate your listening.

CHAIRMAN STRAIN: Thank you, sir, appreciate it. And please provide those packages to everybody, if you could.

Okay, are there any other speakers that wish to speak on this item?

(No response.)

CHAIRMAN STRAIN: Okay, with that, I'd like to get a couple more things understood with staff, and that is the strike-throughs that are here that are not relevant to the tower. And from water management perspective, during break I asked a couple of staff members if there was any reason why -- is anything hurt by leaving that language in. And the answer is no. I understand we always strive to reduce language that is redundant or not necessary. The problem is I don't think we ought to do it on a pick and choose basis throughout the PUD. Either we clean the whole PUD up or we leave that language because there's no telling what they might have led to from the past. So I'd like to leave 5.6 in as it was.

And under the environmental conditions, the same way, there's several of them there. Strike-through. I talked to Summer during break, she really didn't have an issue with leaving them in. They don't do anything either for or against the issue, so rather than taking a chance that might trigger something unexpected like Mr. Yovanovich is going to tell us right now, I would just like to leave them in. But Rich?

MR. YOVANOVICH: I just want to make sure I understand what you're saying. I don't care if the language stays in; it wasn't my idea to take it out in the first place. But the new language that's being added to those sections I think is important. One, it accurately reflects the actual SDP; and two, the reference to the preserve area, that's really what peaked my interest in the very beginning about creating hardships with that. So as long as new language is coming in I'm okay with leaving the old language in as well.

CHAIRMAN STRAIN: And I don't disagree with you. It was the old language being removed I was concerned about.

Back at the -- we already went through this preserve issue with the Greider House in Olde Cypress years ago. That's been settled. So I would have to agree that preserve situation needs to be cleaned up. That cleans it up. So your added language is not a problem as far as I'm concerned.

MR. YOVANOVICH: I just wanted to make sure we were on the same page. Thank you.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: That gets us past the PUD. I had a couple notes.

Lauralee, could I ask you a few remaining questions? And I was reading the minutes from the neighborhood information meeting. During those minutes I believe it was indicated that the antennas would be hidden by the branches?

MS. WESTINE: Yes.

CHAIRMAN STRAIN: Okay. There'd be -- no part of the antennas will expand outside the branches?

MS. WESTINE: No, the branches will be wider than the antennas.

CHAIRMAN STRAIN: No more than four antennas will be on the tower?

MS. WESTINE: Let me say this: That is what we are showing. I do not believe that in my experience that you want to limit that. And I say that because I have a situation right now where the Sheriff's Office wants to add a dish to a tower and I actually have it in order in Hillsborough County that there shall only be four antenna arrays, and I had to go back in and delay the Sheriff's Office from putting an antenna up by about four months because I had agreed to that. I've since learned.

So the answer is, is we show a tower that only supports four antenna arrays. With that said, these towers ever overdesigned. I would hate to be back in front of you if somebody wants to put in an emergency management dish or something like that on there. But yes, we show four. If you want to limit us to four ante-- and the only thing I would ask is that it say arrays. Because it's not four antenna levels, it's not four antennas.

CHAIRMAN STRAIN: I understand that.

MS. WESTINE: Okay. As long as -- I'm fine, but I do throw in the caveat of just spending quality time in Hillsborough County fixing something.

CHAIRMAN STRAIN: You said the tower, if it were to be approved, would be painted brown and green or something to that effect?

MS. WESTINE: The tower itself would be painted brown and the branches are of a green material. They are not painted, but they are the green material.

CHAIRMAN STRAIN: Said to be of medium density branches. Is there a way to describe that?

MS. WESTINE: There is. Medium density is 2.25 branches per foot.

CHAIRMAN STRAIN: So that is a descriptive term used somewhere. What document is it that it's used in?

MS. WESTINE: It's not used in any of the documents, it's just how you order a tower. Let me grab the rest of my notes.

COMMISSIONER CHRZANOWSKI: There's a picture back there in a catalog I saw. Can you pop that up?

MS. WESTINE: I can.

COMMISSIONER CHRZANOWSKI: And is that what it's going to look like?

MS. WESTINE: What you've seen, I just talked to Mr. Checchio and I'm putting it up, that's full density.

COMMISSIONER CHRZANOWSKI: And you're not going full density?

MS. WESTINE: I'll be candid with you, I don't know the difference between full density and 2.25. When I called and got the 2.25 as the standard, I don't -- I'm looking back to -- if I can ask Mr. Checchio real quick.

COMMISSIONER CHRZANOWSKI: Oh, take your time.

MR. CHECCHIO: Should I had come up?

MS. WESTINE: Yeah, come on up.

COMMISSIONER CHRZANOWSKI: I'm in no hurry to go home.

MS. WESTINE: I'll organize my stuff while you're there.

MR. CHECCHIO: There are 259 pine branches on this tree. 259. The way they cull out the density on these trees is this picture right here is full density. And the reason why is because the trees around it are low. They're probably only about 30 feet tall. So in your case here you have trees around it so you don't have to put the branches down below the existing level, okay, there's not a reason for that.

COMMISSIONER CHRZANOWSKI: Right. Why bother.

MR. CHECCHIO: Pardon?

COMMISSIONER CHRZANOWSKI: Why bother.

MR. CHECCHIO: Why bother. The cost really is what it's all about.

COMMISSIONER CHRZANOWSKI: So you start up above the trees that are there and --

MR. CHECCHIO: Right below it so it blends in.

COMMISSIONER CHRZANOWSKI: Okay.

MR. CHECCHIO: So like I said, there's 259 branches on this tree. That's a lot of branches.

CHAIRMAN STRAIN: So the density, which means the -- let's say the opacity of the tree branches is the same. You're referring to a starting point in one of the branches --

MR. CHECCHIO: It is.

CHAIRMAN STRAIN: -- is that a fair statement?

MR. CHECCHIO: You're correct.

CHAIRMAN STRAIN: Okay. And if I'm not mistaken, your documentation says you're going to start these branches 30 feet above the ground.

MS. WESTINE: True. That's what our plans show, yes.

CHAIRMAN STRAIN: That's what I thought, okay.

So you have 120 feet of branches.

MS. WESTINE: That's what our plans show, yes, sir.

CHAIRMAN STRAIN: So really, the medium density branch, your intention is you start branches at 30 feet above ground.

MR. CHECCHIO: Well, it depends on the area. You know, I don't know why this is called a medium density. This is probably -- what I'm looking at here, you are correct, it does start at the 30-foot elevation. So this would be considered in my view a full density tree. Yeah, it's going to pretty much look just like that.

CHAIRMAN STRAIN: Okay, that clears it up a little bit. Thank you. That's what I was trying to get to.

MS. WESTINE: Thank you.

CHAIRMAN STRAIN: Are there any other questions of anybody before we go into the applicant's rebuttal?

Diane?

COMMISSIONER EBERT: Yes, I do have a question. I believe Mr. Solis asked earlier, but you -- there was a -- 150 feet and 92 feet was mentioned.

MS. WESTINE: Yes, ma'am.

COMMISSIONER EBERT: What is the difference as far as how far out it goes? Between the 92 -- if you put up a 92 foot? Because you just mentioned this 150-foot is over designed. Now, if you went the --

MS. WESTINE: Structurally, you are correct. Structurally. Structurally. Not from a radio frequency engineering, but from a structural perspective. Sorry.

COMMISSIONER EBERT: What about the 92 foot? Would that satisfy your needs?

MS. WESTINE: What the testimony was earlier was that when we ran it, the 92 feet only covered 80 percent of the targeted population. At 150 feet the testimony was that it covered 93 percent of the targeted population.

The other thing that I had brought up earlier was to take into account at the 92-foot level that you weren't going to get the other collocaters. So right now we've proposed a total of four. At 92 feet --

COMMISSIONER EBERT: It would just be AT&T.

MS. WESTINE: If they even chose to build it at 92. And I appreciate that finances aren't your alls issue. Bless Stan's heart for caring about them. But that's something that, you know, obviously every company has to take into account, finances.

But did I answer your question? I went off on a tangent.

COMMISSIONER EBERT: Well, I was just wanting to know the percentage, because there is a 58 point difference. And what you're really saying at this point at 150 you can add for. If it were to go down to 92, it would only house AT&T.

MS. WESTINE: Most likely, yes, ma'am.

COMMISSIONER EBERT: Interesting. Thank you.

CHAIRMAN STRAIN: The other question I had asked of staff and maybe I should have asked of

you is, what other jurisdictions allow these towers at this height for this configuration in this kind of zoning? I mean, do you have any experience with those?

MS. WESTINE: I do.

CHAIRMAN STRAIN: Okay.

MS. WESTINE: Let me say I started -- I came from being a prosecutor in 1999, I started working in this industry doing these tower --

CHAIRMAN STRAIN: Talk a little slower. I can tell you're moving too fast already.

MS. WESTINE: Sorry, my brain is -- I've been doing this since 1999. I worked literally from Key West all the way up to South Georgia. And generally speaking, and you were asking about height. As a general rule, the heights that I'm applying for are between 125 feet and 199 feet as monopoles or as flag poles or as things like that.

The difference that I have seen since I've been doing this is not that the height has gone down, it's more that they have moved towards different camouflage techniques. So for example, I have a hideous picture of a tree that I do have with me but I will not show you. Our camouflage techniques from 1994 are obviously substantially different than they are today, as you can see from that photograph. That's what has changed. 75 feet -- I can tell you where I've been. I had a 1 -- 180 -- no, 199-foot pole approved in Sarasota by their planning commission last Thursday. I was just recently in front of Pinellas County with 150 feet.

CHAIRMAN STRAIN: What kind of zoning district were they looking at in comparison to the surrounding residential? Because we've got 400-foot towers here in some places. It's just that's the issue.

MS. WESTINE: You're 2.5 times the tower height residential separation is substantial. It's considerably more than most. I will tell you, Pinellas County is 100 percent of the tower height. 2.25 is considerable.

Can I -- while we're on the topic of height I do want to correct something. We keep talking about how 75 feet is permitted. And what I want to direct everyone's attention to is under the development standards of telecommunication towers is 75 feet is permitted without doing the 2.5 times the tower height setback.

If you go to the next sentence what it says is, is that any tower that exceeds -- and this is under, let me be very clear, under commercial/industrial zoning districts. So this is what we're talking about when we say we're a commercial PUD. It then goes on to say: Any tower that exceeds 75 feet up to 185 feet is a lawful use.

CHAIRMAN STRAIN: Which section of the code are you reading from?

MS. WESTINE: So I'm in 5.05.9 --

CHAIRMAN STRAIN: Should be section G, probably.

MS. WESTINE: Probably. Bear with me. G2A. Thank you, whoever chimed in for me.

My only concern was is that we've somewhat gotten wrapped around the axle here about this 75-foot maximum height. And that's not what your code allowed. Your code does say that you can go up to -- in those types of districts you can go up to 185 feet, provided that you meet the two and a half times the tower height residential separation. The last line is, is those towers that don't may apply for a variance in accordance with, and then the 9.04 standards.

So unfortunately we keep saying 75 feet is permissible. I just want to leave it -- I just want to make sure that we're all on the same page that -- actually in commercial and industrial districts. Your code actually allows people to go up to 185.

CHAIRMAN STRAIN: Well, how do you know that the sentence you're reading doesn't refer to -- when it says respective zoning districts it's referring to the reference, the nearest boundary of all those other zoning districts that are listed. You're rolling it back in commercial/industrial.

MS. WESTINE: I --

CHAIRMAN STRAIN: It's a long paragraph.

MS. WESTINE: It absolutely is, you're right.

Yes, I believe that it's talking about -- specifically it's addressing in in--

CHAIRMAN STRAIN: And the base is separated. So you're looking -- okay, I see where you're reading. Not a problem.

MS. WESTINE: I just -- and that doesn't really change anything other than the 75 feet and doubling it, we keep talking about that. And candidly, we're actually asking for less than the maximum for -- we are asking for a var-- we are not asking -- we're asking for I guess a waiver, because we're not asking for a variance because we're a PUD and we're trying to set our own standards. We're a highbred, I keep saying that.

CHAIRMAN STRAIN: If you roll down on that same code you just looked at.

MS. WESTINE: Yes, sir.

CHAIRMAN STRAIN: Number five.

MS. WESTINE: Yes, sir.

CHAIRMAN STRAIN: Ground mounted monopole communication towers up to 150 feet in height above the natural grade, including antennas, may be allowed as a conditional use with any zoning districts.

And the last sentence: The height of each monopole communication tower shall be limited to the height necessary for its use at its location.

MS. WESTINE: Agreed.

COMMISSIONER EBERT: Slow down.

CHAIRMAN STRAIN: And its height necessary at its use's location has been one of the factors I've been concerned about when I asked and we saw your charts today and I said, well, where's the comparison chart for 75 feet? You didn't have it. You didn't have one for 92 feet. I asked what kind of information you have involving the surrounding areas you may have looked to see if you could put towers there and you left that to a vendor who's not here today. Those are some concerns I had in relationship to that sentence.

And if you move down and go to number seven, at the end of 7.B --

MS. WESTINE: 7.B, got it.

CHAIRMAN STRAIN: -- it talks about the towers in excess of 75 feet and then it says how it should be separated. And it says: And from all other surrounding property boundaries by a distance not less than one-half the height of the tower and its antennas or the tower's certified collapse area, whichever distance is greater.

And when I read that certified letter that you're -- I guess the engineer that wrote it wasn't here, so another gentleman come up and tried to explain it. It was a very ambiguous letter. It wasn't straight this isn't going to happen, it's just all these words and verbiage to kind of catch his certification as, well, if anything goes wrong I really didn't certify it that way. That really wasn't a very strong certification and that concerns me with relationship to that section of the code.

And I'm saying that because I know you're going to have some rebuttal time and I thought maybe you could address that.

And the last thing is, you are from Pinellas County.

MS. WESTINE: I am.

CHAIRMAN STRAIN: And maybe you can explain to me then this one issue with Pinellas County that I seem to have.

Under your Section 138-240, it talks about number 25 communication towers, item F. Towers shall be set back from residential property lines a distance equal to the height of the tower. That's your standard.

MS. WESTINE: I just --

CHAIRMAN STRAIN: Further on, under 138.1347, communication towers and antennas, you may know what I'm going to read, number two: Communication towers which are camouflaged to look like trees or palms which are common to the county may be erected in any zone, subject to a height limitation of 75 feet.

MS. WESTINE: Yes, sir.

CHAIRMAN STRAIN: So I know that's the county that you have operated in, and you're probably familiar with. Why is it we should be allowing it when the very county that you're in doesn't seem to? I mean, they specifically addressed camouflaged towers which we didn't even do.

MS. WESTINE: Been doing this since 1999, never been asked that kind of question before, so I'm going to take a deep breath. And I'm going to look to your County Attorney to at some point tell me this is way outside of the criteria, but I guess I'm not going to get that help.

CHAIRMAN STRAIN: We compare it to other counties constantly to look for ways of doing things, and wondering, the very county you are from and familiar with seems to be contradictory to what we're being asked here to do today, and I'm just wondering how we got there. Why is -- how your county would have looked at it. I'm just --

MS. WESTINE: We have -- I believe we have two 75-foot trees in Pinellas County. Other than that, everything else goes through the board of adjustment.

The 75-foot trees are done as a building permit, candidly. It's done as a walk-through site plan. In this par-- I don't know why your county wrote your code the way they did. So I'm going to start with that premise. In fact, I wasn't a part of even writing the Pinellas code, candidly. I work within it but I wasn't a part of writing it.

Pinellas County has a -- I like to say that I like to see jurisdictions that use both the carrot and the stick approach. In that particular case, building a 75-foot tree that meets the 100 percent residential separation or your district setbacks, if you're not surrounded by residential, is a carrot. It's a walk-through site plan, it's a four to six-week permit and you're done and you're up and you're in the air.

Candidly I filed this site October 5th of 2013. This site's been going on for a long time. I don't know why your code -- your county didn't do that. I can tell you that each site is individual. I'm on a planned unit development so no matter what I do, what I bring before you as a tower, I could bring you a 75-foot tower that meets all my separation distances and I'd still be in front of you asking you to add this to the PUD. There's nothing in your code that gives me a carrot.

If I built 92 feet I would still be in front of you and I'd still be asking. I guess I don't -- I don't know where you're going with your question, other than to say the reason Pinellas County does it is they have kind of a carrot and a stick approach, which is if you want to build bigger than 75 feet and you don't want to do camouflage, you have to go through the board of adjustment.

CHAIRMAN STRAIN: My concern was only if there's a health, safety and welfare issue related to camouflage that we're not familiar with because we don't have -- we haven't addressed it. Maybe another county that did might have addressed it. And since you're from that county, I thought you might know.

MS. WESTINE: I think it's more of an aesthetics issue. I will tell you that we have -- do we build pines up there? I think we've modified it so they do allow not just palms but they do allow pines now as well. I just did one recently. I want to say it's a pine.

CHAIRMAN STRAIN: Okay. Well, that's the last question I had.

So anybody else have any?

(No response.)

CHAIRMAN STRAIN: If not, we can go -- do you want some time for rebuttal to --

MS. WESTINE: I do.

CHAIRMAN STRAIN: -- address your issues today, you're more than welcome to.

MS. WESTINE: I do and I'll be somewhat brief.

One is I heard your concerns about whether this is setting a precedent. And that was whether this doubling of the height was setting a precedent. And my respectful suggestion is, is one, every zoning site that comes before you, every PUD amendment, every Conditional Use that comes before you is based on its own unique facts. And so I would suggest to you that you're not setting a precedent when it comes to that. That's what I heard. I could have been wrong.

There was some discussion about -- I did want to point out that I did meet with the civic association after that letter came out. I'm not sure why I skipped through that in my notes, but I did reach out to them in trying to meet with them and see if I could answer any questions. That's something that's important to me. That's how my client does business and that's how I do business so I didn't want to leave that part out.

CHAIRMAN STRAIN: Did they respond to you?

MS. WESTINE: We did, we had a meeting at the park. We sat at the picnic table and their board met with me and I explained to them what our project was. And Mr. Estes was there. He act--

CHAIRMAN STRAIN: Yeah, slow down a little bit.

MS. WESTINE: Okay.

We talked about how each situation is unique and how this would not set a precedent. We talked

about how other jurisdictions handled these type --

THE COURT REPORTER: Slow down.

MS. WESTINE: We've talked about how other jurisdictions handle these types of things. We talked about the height and how that the 75-foot height is not the maximum, that actually in fact provided you meet the setback you can go up to a max of 185. We talked about the trees.

I'm going through my notes; bear with me, please.

There was a bit of discussion about what if the trees blew down. And the only thing I would suggest to you is we don't zone on what ifs. We don't -- we're talking a lot about the engineering and the structuralness (sic) of the -- structuralness, I just made up a word -- the structural analysis from the tower. All that, provided that this gets approved. And -- but all that is taken into account at building permit time.

That's something where these engineers put their numbers on the line, put their seals on the line and they say this is what we believe this is going to happen. And that's not unique to towers. That has to do with your traffic engineers that you said are before you quite a bit.

So my suggestion is, is that there will be an additional review to review any of those concerns prior to going -- or in the building permit process.

The only other thing that I would -- and I'm hoping I'm not missing anything, is that -- the only other thing that I would suggest is one of the criteria within the rezone criteria and the PUD amendment criteria is what in the changing times have required this amendment. Or has -- I'm sorry, has there been something that has changed in the times.

And I would suggest to you that wireless is -- when I started in this industry they were called car phones. They are now called wireless phones. The demand, I used to years ago in a presentation would say for teenagers. But the demand for wireless is simply a reality of life.

I think that, and I'd said it earlier, that this is a balance, that we're asking you to balance what I consider to be the need for improved wireless. You've got 79 percent of your 9-1-1 calls that are coming from wireless phones; I think that's substantial. And I would ask that you take all that into account as you balance these types of applications.

I'm going to look back and see if I have missed anything. I'm seeing no heads nodding, so with that we would respect-- I'm here for any questions you may have, but I would respectfully request your recommendation of approval to the Board?

CHAIRMAN STRAIN: Anybody have any questions?

Andy?

COMMISSIONER SOLIS: Just one question for staff, or maybe the County Attorney. Is there anything in the Land Development Code or -- that defines what creating a practical difficulty on an applicant would be? Is there anything specific that defines that in any way?

MR. REISCHL: I believe that's subjective.

COMMISSIONER SOLIS: Okay.

CHAIRMAN STRAIN: And I have another question, Lauralee.

MS. WESTINE: I'm back.

CHAIRMAN STRAIN: 92 feet would get you 80 percent instead of 93 percent at 150 feet.

MS. WESTINE: Yes, sir.

CHAIRMAN STRAIN: From 92 to 150 is 58 more feet, which is over 50 percent of 92. I mean, it's a substantial amount just to get another, what is it, 11 percent?

COMMISSIONER ROMAN: 13.

CHAIRMAN STRAIN: 82 from 93. Oh, it's 80 from 93? Okay, 13 percent.

I had heard in the previous rendition that the consideration of a neighborhood at one point from some people was 100 feet. Did you ever look and see where 100 feet would get you? Because if we've got -- if our biological planner is right and we've got 80 to 90-foot trees out there, at 100 feet you're less noticeable from any kind of concerns the neighborhood would have. And I'm just wondering, did you look at that as a percentage of coverage improvement?

MS. WESTINE: We didn't look at the -- let me say this: I did take it back and ask specifically if there was a lower height that would be considered and I was told there was not, that this was the lowest that

they were willing to go.

The reason I had 92 feet looked at, literally last night as I was driving down, was because that is what -- is where we meet that setback, and I thought that you might have a question on that. That's why I had the 92 foot evaluated.

CHAIRMAN STRAIN: Okay. The only reason I thought it might be helpful to know that, is if you could pick up another few percent to get to 100 feet and that's a more, say, view -- visually a better way to approach it, it might be a compromise to consider. But --

MS. WESTINE: I think the balance there is you have to ask yourself, do you want to lose the additional users.

CHAIRMAN STRAIN: The additional users aren't in this room asking for more cell towers. So, I mean -- and all I can see, I have Verizon and I don't have any problem anywhere in the county. So I'm not sure the other users are in the same situation that you are.

COMMISSIONER HOMIAK: You used to have problems. Now you don't?

CHAIRMAN STRAIN: Not with Verizon. No, it was when I had the county phone which was a Sprint. It was terrible.

COMMISSIONER HOMIAK: Well, 10 years ago I couldn't even talk on the phone in my house, I had to go outside. But now I can go anywhere I want inside the house. And it's Verizon. I've always had the same, Alltel and Verizon. It's changed. Things have changed. There's more towers.

CHAIRMAN STRAIN: Are you trying to tell me something?

COMMISSIONER HOMIAK: Yeah, I am. I don't understand what you're talking about.

CHAIRMAN STRAIN: I'm saying I don't see any other people here from any other vendors asking for an increase or more towers. I see one. And that's why the concern of having this tower drop in size that would eliminate other vendors, I don't see any other vendors in here seeking it. That's what my point was.

COMMISSIONER HOMIAK: Well, would 130 feet get you what you wanted? Or 120?

MS. WESTINE: And I say this respectfully. Without allowing Dan to go back and run plots, I will say this, 92 feet, and I -- 92 feet at 80 percent, and I'm only saying in my experience of working for lots of tower companies and lots of carriers, my inclination is they simply wouldn't build that tower.

COMMISSIONER SOLIS: Why is that? That's the question.

MS. WESTINE: Because -- and I'm trying to put it as -- you all -- I realize that zoning and finance are two very separate things. But at the same time when a -- not a jurisdiction, but when a region is only given X number of dollars to do their build-out, they are going to look at how fast can I be on air -- how fast can I be on air, what's the most impact I can have.

So if the question is, is I can impact 80 -- it can get 80 percent of, you know, basically fair coverage or over here I can get 90 something, they'll simply keep pushing this site off.

I think you heard Dan testify that they've been looking in this area since the Nineties. Part of the reason that this site keeps getting passed over and pushed and pushed is because one, the process is a challenge. It's just a challenge. It's a long, expensive process. And for a long, expensive process you need something that's going to not still require you at the end of the day to build two more sites.

And again, that has nothing to do with zoning, that's just money. So that's not --

MR. REISCHL: Mr. Chairman, if I can --

CHAIRMAN STRAIN: Any other questions?

(No response.)

CHAIRMAN STRAIN: Yeah.

MR. REISCHL: If I can give a perspective on that that I learned by working on this petition, SBA towers is, as I've learned, a vertical real estate company. So they are looking at it from a financial aspect. So by having AT&T on the top, that means they can put three other customers below that. And that's the perspective that is coming before you for the 150.

Yes, it's great for AT&T but it also allows SBA to have three other people, therefore making it feasible for them to put the tower there. If it's less than that, and I don't want to speak for SBA but, you know, they're in it to make the money off the vertical real estate.

MS. WESTINE: And let me follow up on that though.

With that said, that's not -- the testimony you've had before you today is that AT&T needs 145 ACLs as centerline to get I want to say 93 percent. That's the testimony that's here before you. And I'm going to be very practical. If this board says, you know what, at the end of the day we're not going to support 150 feet but we're going to say we're going to whack it down to 125, that's something where I walk away, I take whatever I get, I then get set for Board of County Commissioners and AT&T goes back and they run their props. I'm sorry, propagation studies.

I can't commit to anything now. This isn't one of those things where I can say yes, I'll give you double the amount of trees on the eastern boundary line. But if that's something that you all say look, we're part of this community and that's where we think the height should be, we will take it back, do our homework and then we'll be back in front of the board either to say you know what, we went back and reviewed it and we're okay or to say here's why we really can't.

COMMISSIONER EBERT: Another thing that we really do look at is compatibility to the neighborhood. And I can see where the 92 feet, if our trees are 80, you know, to 100 feet tall, it fits in, it's very compatible to what is around it. But when you can knock off 58 feet, that's huge.

And being this is -- and I heard what Fred said. But you are still -- you're right, you are still AT&T asking for AT&T. And I just -- I feel that the 92 feet would give you what you need without the other people going in on it.

MS. WESTINE: Then if, I say that only -- if that's your inclination, then, well --

CHAIRMAN STRAIN: We've got a ways to go before you get a reading from this board. So I think that's one commissioner weighing in. We have all seven of us up here. So why don't you kind of let us get into discussion and we can see where we want to go.

Lauralee, was that the last comment you wanted to make?

MS. WESTINE: Yes. Yes, it is.

CHAIRMAN STRAIN: Thank you. With that, we will close the public hearing and we certainly can entertain either a motion or discussion, whatever this board's preference is at this point.

COMMISSIONER ROMAN: Well, I have a few comments that I'd like to share with the board.

After hearing all of the facts presented before us today, I still have a question about the engineering of these cellphone towers and the coverage, because I know how challenging it might be to have existing towers and you need to get additional coverage and so you look for a location for yet another tower. But I'm not sure, at some point the engineers need to look at reducing the number of towers, getting them in the right position and with the new technologies enhancing the coverage. But that's just a commentary.

Reference this petition, I commend the petitioner for wanting to improve cell service for the customers in this area. I also agree with Brian that the monopine is a good option to a cellphone tower and its wildlife friendliness regarding that.

My concerns are the fact that I -- I went and did a site visit, as I disclosed before the beginning of this petition -- this hearing. And when I looked at the site, I questioned the location of where the tower would be, because I thought the northeast quadrant adjacent to Airport Pulling, if there was going to be a tower, might be a more beneficial location. But Lauralee was very candid in saying why that location was not being requested.

But I think that location of the tower on the property is a concern because then because of the designated location being requested, they need four deviations. And it's almost as if we're sliding the tower to the back of the property so that the property itself doesn't have to experience the tower and then asking for deviations to get it closer within the setback. So I'm a little concerned about that.

The height of the tower. I can understand the petitioner's position of wanting to get the biggest bang for the buck. If they're going to put up a tower and go through all the expense, they want it as high as it can be.

But I also, like you Mr. Chairman, am concerned about maintaining consistency as we go forward. Because there may be other sites where that height as well would not be necessarily compatible.

I think the residential separation is another concern for me, only because of where they're siting the tower on this property by pushing it all the way back to that rear property line.

And I'm not so sure if it is a concern and we go ahead and approve the tower in some capacity today

if we couldn't add something to the PUD to address those concerns that some of the members had on this panel about the trees all blowing down in the hurricane, maybe adding something to the PUD that they be replanted or something like that. But --

CHAIRMAN STRAIN: That wasn't from this panel, by the way. That comment was from the public speaker.

COMMISSIONER ROMAN: Thank you for the correction. Those were my thoughts.

CHAIRMAN STRAIN: Anybody else?

COMMISSIONER EBERT: No, my main thing was the location on the property. Because you are correct, I felt it would be better where they have the most preserve, which would be on Airport and Bailey. That was -- I had a big X there. It would be away from the residential. So I had Charlette's same concerns.

CHAIRMAN STRAIN: My issue is, as I said, the consistency factor. But it all has to do with the height. We're actually being requested to go to a much larger height than would have normally been anticipated in such a zoning matter, at least such a zoning district.

If there was a reduction in the height that still provided for an AT&T usage, I'd still be comfortable with that. But at the 150 feet, it's just higher than what I think is warranted. We've not seen any -- I shouldn't say not seen any, we've not seen sufficient evidence to show that the lower heights have a generation of coverage that would be sufficient for AT&T at a lower height. We didn't see a study indicating the various parcels that were like this one, zoned through C-1, that could possibly be used for a tower location and what their availability was. I would like to have seen all that. And the colored maps we saw showing the triangles, the -- I forgot the name of -- the term, femto devices, and then the coverage improvements at the height of the tower, it would have been nice to see a series of those to understand gradationally how the improvements are placed on the property or seen across the area as the tower height increases. It would have given us something to understand the function of the tower better.

Lacking that, I'm very concerned about the height of the tower. So anybody else? Stan?

COMMISSIONER CHRZANOWSKI: Yeah, femto, 10 to the minus 15th, for those that care.

I was here -- I think it might have been Wilma, the storm that came through and knocked out everything for like a week. And after three days all the cell towers in Collier County kind of went down because they all were on batteries. And nobody could communicate. I've never owned a cell phone; I'm probably the only one up here. Nobody could communicate with anybody because the battery packs all ran down.

And that's when the county decided hey, we should encourage people to put in generators with backup gasoline at all these cell towers. I think they started doing that. And then as things kind of wound down a little the county made it, you know, you've got to get this permit and that permit and they made it a little harder to put in generators.

People tend to forget when these services go out how important they are, how critical they are. And, you know, even though I don't own a cell phone, I would not begrudge -- I wouldn't want to think that anybody wanting to make a 9-1-1 call couldn't if all they have is a cell phone.

I've seen Norfolk Island Pines in this town that I swear to God were 120 feet tall. And, you know, you see them on the skyline there. And they don't bother me. You know, they just stick up a little. It's no big deal.

From my point of view, I'll never own a cell phone, no offense, but I don't have a problem with this.

CHAIRMAN STRAIN: Okay.

COMMISSIONER HOMIAK: I think the Norwalk Pine is a -- you can ride through Lakewood and see them. They were planted in the Seventies and Eighties and they're just -- there's one right next to my house. And in a hurricane the branches break off and the top breaks off and they just keep growing after. They don't fall --

COMMISSIONER CHRZANOWSKI: Yeah, all the ones --

COMMISSIONER HOMIAK: -- or die.

COMMISSIONER CHRZANOWSKI: All the ones on the other coast, they lost --

COMMISSIONER HOMIAK: They're huge. You can ride through and just look up and you can see them scattered through everywhere.

COMMISSIONER DOYLE: And just on that aesthetic beauty point -- I'm sorry, did I cut you off?

COMMISSIONER HOMIAK: No.

COMMISSIONER DOYLE: In my neighborhood on Harbor and Riviera you can stand there and the sky is littered in various parts with pine trees that are obscure, bent and just -- they could look weird, but they don't, it's just a tree. So I agree, it wouldn't obscure my skyline to have that.

CHAIRMAN STRAIN: Okay. Well, with that, we're looking for a motion. Does anybody on this panel wish to make a motion?

COMMISSIONER DOYLE: I'll make the motion. I make a motion that we approve the PUDA-PL20120001128; is that correct?

COMMISSIONER CHRZANOWSKI: And I'll second.

CHAIRMAN STRAIN: Motion made and seconded. Any further discussion?

MR. REISCHL: Would that include the reinstatement of the stormwater and environmental?

CHAIRMAN STRAIN: I was going to ask that question. There were several criteria discussed. First one being the antennas must be hidden by the branches. Second one being no part of the antennas will expand outside the branches. The third one, the tower must be painted brown and green or the tower that -- tower and the branches. The branches will start at 30 feet above the ground. And they will remove the strike-throughs that we discussed that weren't relevant to the tower application.

That's one of the things that Fred was asking about. And those are the other standards we talked about that the applicant acknowledged as affirmative.

COMMISSIONER DOYLE: With those standards approved.

CHAIRMAN STRAIN: Does that work for you?

COMMISSIONER CHRZANOWSKI: I'll second, yeah.

CHAIRMAN STRAIN: Now, I think the applicant has done a good job in hiding an ugly tower. And I'm glad to see the picture. I think that was excellent. I am still concerned about the 150 tower height.

If the motion maker would accept 120 feet as the height, which is a midpoint between the -- it's about 30 feet more than what the percentage they got with 92 feet, and that would get them closer to the 90 percent they're looking for but yet it would be more compatible with the visual impact it would have, I would be able to support the motion. But at 150 feet I cannot. And that's strictly up to the motion maker.

Anybody else have any comments?

COMMISSIONER CHRZANOWSKI: Well, as far as the 120, that's an arbitrary number. I personally think the 75 was always an arbitrary number. They just picked a number.

I'm listening to some science saying 150 is the number. And, you know, at least there's a basis for that. But to go to, you know, another number just because it's a compromise, I don't see it.

CHAIRMAN STRAIN: That wasn't the reason. The applicant said at 92 it was 80, at 93 it was 150. They needed to be closer to 90. This is a little bit closer to 90 which means they may do the tower. And if they lose a band because they can't put it on because they're 30 feet short, it doesn't bother me in the slightest. That's the only reason I was getting there, Stan.

But that's fine, you guys can leave your motion like it is and we can vote on it, if that's how it's to be. So anybody else?

(No response.)

CHAIRMAN STRAIN: All those in favor of the motion, signify by saying aye and raise your hand.

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Three in favor.

All those against, same sign.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER SOLIS: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: One, two, three, four, five. Five against, three in favor -- no, that's eight.

Four in favor. 4-3, the motion loses.

And at that point unless someone wants to suggest anything else, that's the motion as we go to the Board of County Commission, a recommendation of denial at this point.

Is there anybody that wants to consider an alternative to the motion?

(No response.)

CHAIRMAN STRAIN: Okay, that will end this meeting on this issue, and we'll move on to the next item on the agenda.

MS. ASHTON-CICKO: Are the reasons for denial then the --

CHAIRMAN STRAIN: Thank you, Heidi, for pointing that out.

MS. ASHTON-CICKO: -- Chairman Strain.

CHAIRMAN STRAIN: I've got them.

COMMISSIONER ROMAN: This had an EAC review too, didn't it?

CHAIRMAN STRAIN: No. It did at first, it didn't at second.

My reasons for denial are the following: That the 5.05.09(G)(5) limits the height to that which is necessary for its use at its location. And I don't feel that we've had sufficient testimony to justify the 150-foot height.

5.05.09(G)(7)(b) also calls for a certification of the tower's collapse area. I think the certification provided is ambiguous at best.

The variance criteria A, the special conditions and circumstances that are peculiar to this location, I don't think there were any. I think this is a site that could have been used at 75 feet. It was the applicant's preference due to financial and other concerns to get it up higher for whatever reasons that they've expressed today.

This is a -- this action has not been proven by the applicant not to be self-creating. They could have done 75 feet and not been here today, with the exception of the use application. But the height would have not been the issue.

I don't believe that there's been a hardship proven. The -- some of the diagrams that were provided, provided additional information but they were provided at the hearing today. We would have benefited from a series of such information ahead of time to better understand it.

This would grant a special privilege. It's a higher elevation than what would be typically allowed.

And that's most of it that I can think of at this point. So -- anybody else --

MS. ASHTON-CICKO: Mr. Chairman?

CHAIRMAN STRAIN: -- have any other reasons?

Yes?

MS. ASHTON-CICKO: It does say in the staff report on Page 6 that it does require EAC review.

CHAIRMAN STRAIN: I thought that would -- okay, well, we can vote as the EAC. But I thought that was changed from the first one to this one. But that's fine.

COMMISSIONER ROMAN: Well, I didn't get that change.

MR. REISCHL: No, it's because of the removal of the distance from a preserve that requires the EAC.

CHAIRMAN STRAIN: Okay. I'm sorry, I thought that was one that got changed.

So we also will vote as the EAC as soon as we finish up with our reasons for denial.

And those of you that denied, you can either, you know, agree with some of mine or have your own reasons, but we need you to state --

COMMISSIONER SOLIS: I would just add that from my perspective, you know, I wasn't presented with any evidence that would help me to conclude exactly what the practical difficulties were on the applicant. That's -- there's service issues, whether it's 80 percent, 90 percent. You know, that's all I would add.

CHAIRMAN STRAIN: Okay. Diane?

COMMISSIONER EBERT: Yes, you're right. I believe compatibility is one of them. I also believe they can accomplish this through a lesser height and still meet all of their needs on this.

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: Yeah, I said most of my reasons leading up to the motion but a couple I'll highlight would be compatibility with the surrounding area and by the siting of their requested tower in the back of the property inside the setback, the residential, the separation is also a factor regarding that.

Also, from a consistency point of view going forward would be the height of the tower. But primarily it was the siting of the tower on the particular property by kicking it back inside the rear setback that was a major concern for me.

CHAIRMAN STRAIN: Okay. And Heidi, I don't like to send something to the Board of County Commissioners without a recommendation one way or another. This particular one had a recommendation of approval that didn't get supported.

Would it be clearer for the process to get a firm recommendation then of denial or an alternative recommendation to the previous one?

MS. ASHTON-CICKO: Since this wasn't a final decision here, it was just a recommendation, you can take another vote of denial to make the record clean.

CHAIRMAN STRAIN: Another vote of denial? We've already voted once and it was denied.

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

CHAIRMAN STRAIN: We can make another motion and it can be voted either way.

MS. ASHTON-CICKO: Yes.

CHAIRMAN STRAIN: Okay. Then that's why I brought it up, because what I'd still like to suggest is we look at an alternative height. But if there's a -- if that's the consideration of this board and even those on the positive side or the affirmative side of the last vote, it might be something that we can find enough support on to see this move forward with the stipulations and conditions that we've talked about.

COMMISSIONER DOYLE: Would a recommendation since two of our commissioners have spoken of the setback being a major factor in their decision, would we be able to make another motion proposing that with the setback we might find something to agree on?

CHAIRMAN STRAIN: By a setback you're saying moving the tower to another location?

COMMISSIONER DOYLE: On the property.

CHAIRMAN STRAIN: I'm not sure that's even an opportunity. Because I think it's clear that the applicant -- or that the property owner wants to reserve that corner property for potential use there. That's what I've been told a couple different times. And if that's the case, by moving this up there it would kind of damage that possibility.

COMMISSIONER ROMAN: Well, see, that's I think what I understood Lauralee to answer my question when I asked it during the hearing was that that was the site that was given to them on that property. So I don't know that there's any flexibility there.

CHAIRMAN STRAIN: Okay. I mean, if there's no inclination from this panel to change the vote, then we can leave it as it is. I was still trying to salvage something out of it.

MS. WESTINE: If I may?

CHAIRMAN STRAIN: Yes -- well, we can't open the testimony back up, but if you've got a comment, we're willing to hear it. Just as long as it isn't something different than -- I don't want to open up any new evidence.

MS. WESTINE: You had mentioned that you would support 120 --

CHAIRMAN STRAIN: Yes.

MS. WESTINE: -- and reducing the height. And I appreciate that. You had mentioned that there wasn't actually any engineering testimony.

For obvious reasons I would much prefer to go before the Board of County Commissioners with a recommendation of approval and to send this back to the engineers, let them do their homework than I would go before them with a rec. of denial and me having a transcript trying to explain that I might have, could have, maybe could have had something of a recommendation of approval.

This is -- that's my only request is that I certainly from my client's perspective would welcome a recommendation of approval at 120 versus a denial at 150 when I -- I'm hearing although maybe not supported by the engineering, hearing a compromise.

COMMISSIONER CHRZANOWSKI: Would you settle for a continuance? And you can come

back with whatever information you can find.

MS. WESTINE: We've been -- with all due respect, we've been in this process since 2013.

COMMISSIONER CHRZANOWSKI: Yeah, but another couple weeks? 2013. The death of 1,000 cuts.

MS. WESTINE: What I would -- candidly what I would prefer to do, if you all would be inclined to do it, is to go forward if I had the votes for 120, let them do their homework, let them do their math, let them run their props, and if the props simply don't work then I make my pitch to the Board of County Commissioners and explain why, adding in definitely some information that you all have pointed out that we didn't provide here.

COMMISSIONER EBERT: One thing I'd like to let you know is the BCC does not meet until September, so a continuance would not be a problem at this point.

And it also to me is what you're kind of saying is the property owner is also putting constraints on you, not just this board.

MS. WESTINE: Yeah. Well, yes, ma'am. I answered that candidly earlier. But I would -- you know, obviously in protecting my client, both AT&T and SBA's interest, it is in their best interest to go before the Board of County Commissioners even in September.

CHAIRMAN STRAIN: Well, I doubt if you'll get on the September agenda when they first get back.

MS. WESTINE: I think I'm already scheduled --

MR. REISCHL: It's scheduled for September 8th.

CHAIRMAN STRAIN: Which meeting, second or first?

MR. REISCHL: First.

CHAIRMAN STRAIN: Oh, really? So it's already been scheduled. Good. Because if you haven't been scheduled by now, it's real tough to get on their first agenda back.

That's another reason why it would be nice if we resolved something to go forward, because that meeting's going to be very hectic for them in --

COMMISSIONER HOMIAK: Well, I'll make a motion for 120 feet. Do I have to make a motion to reconsider first or just --

MS. ASHTON-CICKO: No, because this isn't a final action.

COMMISSIONER HOMIAK: Okay. Well, I'll make a motion to approve the 120 feet with all the --

CHAIRMAN STRAIN: Stipulations?

COMMISSIONER HOMIAK: -- stipulations, changes.

COMMISSIONER CHRZANOWSKI: I'll second.

CHAIRMAN STRAIN: Motion made and seconded.

Now is there any discussion?

COMMISSIONER SOLIS: I still have the same questions, but -- so the motion's going to be that the height will be 120 feet as opposed to just 150 feet which was the original request.

CHAIRMAN STRAIN: Right.

COMMISSIONER SOLIS: Seems to me it either meets the criteria for a variance or it doesn't, but --

CHAIRMAN STRAIN: No, there's no -- you're 100 percent right. I think, though, that some of the mitigating factors at 120 feet both visually help and it's a little more consistent with the standard instead of going double in the standard. That's how I'm viewing it at least. I think doubling the standard is a real hard precedent to set. We're a little bit taller here, it fits more in what we've heard on your testimony for the vegetation in the area. It will not stand out nearly as much as a 150-foot tower or pole or artificial tree.

So from my perspective I'm more -- I think that's a doable compromise. But that's why I'm suggesting it. And I'm not saying everybody has to buy into it, that's just my thought.

Anybody else want to comment on it?

(No response.)

CHAIRMAN STRAIN: Okay, so the motion's been made and seconded to go to 120 feet with the previous stipulations. We'll do it by both voice and hand sign.

All those in favor, signify by saying aye.

COMMISSIONER DOYLE: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Two, three, four in favor.

Those opposed?

COMMISSIONER SOLIS: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Three opposed. Motion carries 4-3.

Lauralee, that will not leave you on a consent agenda for the Board, but you do have an affirmative vote going forward at 120 feet.

MR. REISCHL: There was already opposition so it's not on consent.

CHAIRMAN STRAIN: Okay. And then as far as the EAC vote, does anybody want to make a motion -- now is the EAC's criteria different than ours? It's strictly the preserve issues from the EAC perspective.

Anybody want to make a motion to vote as the EAC as well.

COMMISSIONER CHRZANOWSKI: Yeah, I'll make a motion that we approve PL-20120001128 Wilson Professional Center PUD as the EAC.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER DOYLE: I'll second.

CHAIRMAN STRAIN: 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 SOLIS: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: That motion carries 7-0.

Okay, thank you all for your attendance on that matter today, we appreciate your time.

***Next item up is old business. Does anybody have any old business?

(No response.)

CHAIRMAN STRAIN: ***There's no new business scheduled.

***Is there any members of the public that wish to speak at this time?

(No response.)

CHAIRMAN STRAIN: There's nobody practically left here. So with that, is there a motion to adjourn?

COMMISSIONER EBERT: Make a motion to adjourn.

CHAIRMAN STRAIN: Motion by Diane.

COMMISSIONER CHRZANOWSKI: Second.

CHAIRMAN STRAIN: Seconded by Stan.

All those in favor, signify by saying aye.

COMMISSIONER DOYLE: Aye.


COMMISSIONER EBERT: Aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.
COMMISSIONER SOLIS: Aye.
COMMISSIONER HOMIAK: Aye.
COMMISSIONER ROMAN: Aye.
CHAIRMAN STRAIN: Anybody opposed?
(No response.)
CHAIRMAN STRAIN: Motion carries. 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 2:25 p.m.

COLLIER COUNTY PLANNING COMMISSION



MARK STRAIN, Chairman

These minutes approved by the board on 8-20-15 as presented or as corrected .

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