

December 3, 2015

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida, December 3, 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:

CHAIRMAN: Mark Strain  
Waafa Assaad  
Stan Chrzanowski  
Diane Ebert  
Karen Homiak  
Charlette Roman  
Andrew Solis  
Absent: Tom Eastman

ALSO PRESENT:

Raymond V. Bellows, Zoning Manager  
Heidi Ashton-Cicko, Managing Assistant County Attorney

PROCEEDINGS

CHAIRMAN STRAIN: Good morning, everyone. Welcome to the Thursday December 3rd meeting of the Collier County Planning Commission.

If everybody will please rise for Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

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

COMMISSIONER EBERT: Yes. Good morning.

Mr. Eastman is absent.

Mr. Chrzanowski?

COMMISSIONER CHRZANOWSKI: Is present.

COMMISSIONER EBERT: Mr. Solis?

COMMISSIONER SOLIS: Here.

COMMISSIONER EBERT: Ms. Ebert is here.

Chairman Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER EBERT: Ms. Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER EBERT: Mr. Assaad?

COMMISSIONER ASSAAD: Here.

COMMISSIONER EBERT: And, Ms. Roman?

COMMISSIONER ROMAN: Here.

COMMISSIONER EBERT: Thank you.

CHAIRMAN STRAIN: And Mr. Eastman did contact me by email indicating he wouldn't be here today, so that's an excused absence.

We'll move into addenda to the agenda. And we do have some interesting changes to the agenda today. We have two consent items. The first one is 8A, and it's East Gateway, and that's been continued multiple times, and it is actually going to be heard today.

The second consent item is 8B, and it's the Briarwood PUD for the man-caves. And is a representative from that project here today?

(No response.)

CHAIRMAN STRAIN: No. There was a request last night to continue it to the 17th; however, the request was a conditional request, and this isn't a negotiated situation. They either want it continued or they don't want it continued.

With their lack of attendance here, I can only assume that they want it continued, but there will be no conditions. That's not how we continue things. It's either it works or it doesn't work.

So from that perspective, I would need a motion to continue the Briarwood PUD, Item 8B, PUDA-PL20150000178.

COMMISSIONER EBERT: I make a motion to continue.

COMMISSIONER CHRZANOWSKI: I'll second.

CHAIRMAN STRAIN: Second by Stan.

Discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER SOLIS: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ASSAAD: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

The next item for a request to continue is both 9B and 9C. 9B is the Pelican Marsh DRI portion of that project, and 9C is the Pelican Marsh PUDA portion of that request.

The applicant has wanted some more time to take a look at some other additional issues that I believe have come up, and typically we have no problem with that. I think it will probably come back with some better information than not, so anybody --

COMMISSIONER SOLIS: I have a conflict, so I'm not going to vote either way even on that, I don't think.

COMMISSIONER HOMIAK: I'll make a motion to continue both items.

CHAIRMAN STRAIN: Okay.

COMMISSIONER ASSAAD: Second.

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

Discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER SOLIS: (Abstains.)

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ASSAAD: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: None. Let the record show there's six in favor, no opposed, and one abstention.

And that -- now, if anybody is here for either the Briarwood or the Pelican Marsh projects today, they have both been continued until the next meeting of the Planning Commission, which is December 17th.

If anybody's here to talk on those and they will not be able to attend the 17th meeting, we have an opportunity later this afternoon for public comment, and we certainly would entertain your comments at that time. So, thank you.

And with that we'll move into Planning Commission absences. Our next meeting is December 17th, and does anybody know if they cannot be here on that date?

(No response.)

CHAIRMAN STRAIN: Well, it looks like we'll have a quorum. On that date we've got the two items we just continued.

And, Ray, is there going to be anything else on that day that you can think of?

MR. BELLOWS: On the --

CHAIRMAN STRAIN: 17th.

MR. BELLOWS: -- 17th?

CHAIRMAN STRAIN: We'll have -- I mean, I know we've got the architectural standards, and they'll take all day.

COMMISSIONER EBERT: They'll take all day.

CHAIRMAN STRAIN: I'm waiting for Andy to react. But we have the LDC architectural standards. They'll be last in line on that meeting, and the first two cases --

MR. BELLOWS: These will be the only two.

CHAIRMAN STRAIN: Okay. So Briarwood would be first up on the 17th, followed by Pelican Marsh. Briarwood consent hearing shouldn't take more than the first 30 minutes to an hour, and then we'll move right into Pelican Marsh on the 17th, and after that we'll follow through with the architectural standards changes that are being put forth.

Okay. The approval of minutes. The November 5th minutes were distributed electronically. If anybody has any changes recommended -- if not, is there a recommendation --

COMMISSIONER HOMIAK: Motion to approve.

COMMISSIONER ROMAN: So moved.

CHAIRMAN STRAIN: Made Charlette, seconded by Karen.

Discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER SOLIS: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ASSAAD: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

And, Ray, do we have any BCC report?

MR. BELLOWS: There was no Board of County Commissioner meeting since our last Planning Commission meeting.

CHAIRMAN STRAIN: Okay. And I have nothing new to report under chairman's report.

\*\*\*We will go right in, then, to the first consent item. The first item is consent 8A. It's for the PUDA-PL20140000548. It's the East Gateway Mixed Use Planned Unit Development.

Now, this is a consent, so it doesn't have testimony other than any questions we may ask of the applicant. On that basis, the applicant may want -- we may want to swear in the applicant should they need to be addressing us in any manner.

So those members of the applicant's team who might be speaking today, please rise to be sworn in by the court reporter.

(All speakers were duly sworn and indicated in the affirmative.)

CHAIRMAN STRAIN: Okay. Now, the Planning Commission received a recent packet, and in the packet there were two documents, one following the other. The first one was an attempt by staff -- and I appreciate the effort that Fred Reischl went to to show what would need to be done to try to meet the Planning Commission's intentions if it were to go forward that way.

The applicant also submitted their changes. That second document is the one we'll work off of today. It's the applicant's re-submittal and response to our last hearing. And you'll notice that in that submittal not everything we had asked was included or changed as we had asked to be changed.

So with that, I think we need to walk through it and see where the Planning Commission may have problems with it in regards to how it's voted on.

And one housekeeping matter before we start. Andy, I think this is one of the projects you refrained from voting on.

COMMISSIONER SOLIS: Correct, yeah.

CHAIRMAN STRAIN: Okay. So you'll still -- you won't be participating.

COMMISSIONER SOLIS: I won't participate.

CHAIRMAN STRAIN: And there were only four members of this commission at the time this was heard: Myself, Ms. Ebert, Charlette, and were you here, Karen?

COMMISSIONER HOMIAK: Yes.

CHAIRMAN STRAIN: Okay. So the four of us will be the only ones that would really be able to render any kind of discussion on this particular consent item. Everybody else would not be involved at this point.

And, Heidi, is that consistent? Is there any issue there?

MS. ASHTON-CICKO: That's appropriate.

CHAIRMAN STRAIN: Okay. So with that --

COMMISSIONER ROMAN: Mr. Chair, I have a question before we begin.

CHAIRMAN STRAIN: Yes.

COMMISSIONER ROMAN: This is the second time this packet has come before the commission on consent, meaning the first time it came it wasn't quite prepared for us, or there were some questions that we still had based upon what our hearing proposed in terms of our recommendation to the Board of County Commissioners and what the actual document said.

This is the second time we're getting a consent packet, so I have a question regarding how consent is handled, because this one seems a little different than those that we've done in the past. And maybe that's just my anecdotal evidence, but my thought is, is when the commission makes a recommendation to the Board of County Commissioners, our consent packet goes forward with our recommendation to the Board of County Commissioners.

CHAIRMAN STRAIN: Well --

COMMISSIONER ROMAN: And --

CHAIRMAN STRAIN: -- there's a couple ways that -- first of all, you're right. This is unique. We have not had an applicant refuse to modify their document to the request from the Planning Commission. And they're willing to take the risk of a denial on consent, which would be an overall denial, then, going forward to the Board of County Commissioners. And that's the second document that's in the packet you just recently received from the staff.

Normally on consent it's not a matter of revoting on the issues. It's simply an acknowledgment that the document in front of us reflects the changes we requested. And all these years we've been doing consent, this is the first time that hasn't happened, so we are going into a bit new territory.

I have found a few errors in the document, two major errors that, to me, are substantial stumbling blocks, and some smaller cleanup issues that might be warranted.

And I intended today to have us review that second document that the applicant produced and either acknowledge it meets the intent of this Planning Commission and, where it doesn't, suggest changes -- and if they refuse the changes, then we could vote to deny, and that's the recommendation that I believe will go to the Board of County Commissioners as denial, unless the County Attorney's Office tells me anything differently.

COMMISSIONER ROMAN: Because -- see, that's the confusion that I had because if our recommendations were not going to be forward in a consent document, then I know in my case my vote would have been no to the overall petition at the time.

CHAIRMAN STRAIN: Mine, too.

COMMISSIONER ROMAN: And I thought that's what we had as our discussion, and then the consent document has come back different from what the hearing produced in terms of our recommendation.

CHAIRMAN STRAIN: Correct.

COMMISSIONER ROMAN: And so is this really a consent hearing, or is this pulling it off of consent and having a re-discussion of it as a petition?

CHAIRMAN STRAIN: I don't -- this is not a rehearing. We've already heard -- we closed that public hearing. This would have to be a consent hearing only to acknowledge whether or not -- at least that's my opinion, and I'm going to turn to the County Attorney's Office to either acknowledge the change or a different position that I may have on it.

MS. ASHTON-CICKO: That's correct. The resolution that you adopted on the procedures for the consent agenda limits your review to confirm that the changes and conditions that you requested were made. There's no public hearing for consent agenda.

COMMISSIONER ROMAN: So in this case the recommendations that we made were not incorporated into the consent document that we want to recommend goes forward to the Board of County Commissioners.

CHAIRMAN STRAIN: Right. So our position, if we all feel that it is not consistent with what we requested, we just recommend denial on consent, and that would end it.

MS. ASHTON-CICKO: So, procedurally --

COMMISSIONER ROMAN: Yeah, procedurally.

MS. ASHTON-CICKO: -- if the applicant chooses not to accept your conditions, when it goes to the Board, the staff report will be clear; the executive summary will state that you made your motion for approval on the conditions to remove those two deviations and to have the preserve area depicted on the master plan.

And so I think the way this is going to play out, if they don't make those changes, is that the vote on the consent agenda will be a denial, and that will reflect that it's a denial because they didn't make the changes that you asked for.

COMMISSIONER ROMAN: And I think where I was confused, Mr. Chair, was the fact that during our hearing when we discussed, you know, those changes, it didn't seem at that time that the petitioner had any objections to making those changes on the packet that would come before us on consent, and that's why I'm a little confused, because I voted yes because I thought we had reached common ground, and maybe my vote should have been no if I knew it would have come to this point.

CHAIRMAN STRAIN: Well -- but, Charlette, if they had provided the information and been consistent with our stipulations, your vote was yes.

COMMISSIONER ROMAN: And I thought that's what we reached at the end of that hearing.

CHAIRMAN STRAIN: And we did, so that vote is still valid in the sense that if they had done that, it would have been a positive vote. The fact that they didn't do it is the problem, and that's what we're crossing -- that bridge is what we're going to cross today.

COMMISSIONER ROMAN: And that changed after the hearing.

CHAIRMAN STRAIN: Absolutely. And --

MR. YOVANOVICH: Can I --

CHAIRMAN STRAIN: No.

Mr. Assaad?

COMMISSIONER ASSAAD: So if it's a consent-agenda --

CHAIRMAN STRAIN: Pull a little closer to your mike.

COMMISSIONER ASSAAD: If we have a consent-agenda item, we're not allowing input from the public?

CHAIRMAN STRAIN: No. It's not a rehearing, that's right. It's strictly to see if the instructions that we worked out in our stipulations had been properly articulated in this document.

COMMISSIONER ASSAAD: I understand that, but we're not taking input or any --

CHAIRMAN STRAIN: No. Questions and clarifications from the applicant, yes, because as you'll see when we go through this -- and I know you weren't here for this one. I did go through it. There are some corrections needed, and I want to verify the applicant's intent in crossing those out today, and after that we'll vote on whether or not this meets our intentions or not.

COMMISSIONER ASSAAD: Thank you.

COMMISSIONER EBERT: Okay. Heidi, I have a question for you. And I just really want to know -- because, yes, I did call. I called you. I called all staff on this because, again, this is unprecedented, and why should we even be looking at what they sent us? That's something new again or trying to reintroduce.

CHAIRMAN STRAIN: No, it's not new, and that's what -- when we go through this, they made most -- almost all the changes, except for a couple. I walked through the stipulations. I compared them to what they wrote. Some of the writing could be a little cleaned up. And our purpose is to send the Board of County Commissioners the best possible package we possibly can.

COMMISSIONER EBERT: Yep.

CHAIRMAN STRAIN: By just ignoring it and saying, well, you didn't meet it, we're going to say no, gives them nothing to work with. At least we ought to acknowledge that the ones that were changed were changed effectively, and there's remaining items that were not changed and did not follow our lead, and that is why we're voting, if we vote, denial.

COMMISSIONER EBERT: Okay.

MR. YOVANOVICH: May I ask you a question?

CHAIRMAN STRAIN: No. You'll wait till we finish first, and then you'll have a turn. I know you want to talk.

MR. YOVANOVICH: Just a question; that's all I have.

CHAIRMAN STRAIN: Let me ask, make sure the Planning Commission has asked all theirs. Any other members of the Planning Commission?

Okay. Rich, what did you --

MR. YOVANOVICH: I just had a -- Mr. Strain, if I remember correctly -- and the reason it got continued is I was out of town and there was going to be a dispute over -- or a question over which version the Planning Commission could consider.

And, basically, our position is, as the owner of the property, we make a petition to the government and we say, this is what we would like you to approve on the property.

What happened was, is you-all made suggested changes to the petition that we requested. We objected on the record to those changes. You-all voted to recommend those changes anyway; however, only the applicant's petition could move forward because the applicant -- the government can't impose on the applicant zoning on its property.

My understanding is the thing that we're only -- had a real disagreement on was the size of the preserve and the location of the preserve on the property. We had asked basically to go off site with -- depending on how you want to calculate it -- all or a portion of the on-site preserve.

I think Mr. Strain's recommendation that you-all voted on was to give us credit for what we were replacing with wetland vegetation and then, perhaps, have us go off site for all or close to all of the remaining difference, which was roughly a little over five acres. Do I have it about right?

CHAIRMAN STRAIN: No, you don't.

COMMISSIONER ROMAN: I don't remember that.

CHAIRMAN STRAIN: Let's see. On-site preserves, no to Deviation No. 4 but supporting counting the South Florida Water Management District area as part of the on-site preservation requirement.

MR. YOVANOVICH: Which was roughly 2.6 acres that we were recreating.

COMMISSIONER ROMAN: And we allowed you to include that in the --

MR. YOVANOVICH: Correct.

COMMISSIONER ROMAN: -- total count.

CHAIRMAN STRAIN: In everything else that was supposed to be there. So what you got out of that was you could -- instead of having the 2.5 for South Florida and 7.72 more, you could include the 2.5 as part of the 7.7.

MR. YOVANOVICH: I understand that.

CHAIRMAN STRAIN: That was the crux of where we were.

COMMISSIONER ROMAN: Yes.

MR. YOVANOVICH: And that is -- that is what we said we could not agree to have to go get five plus-or-minus acres off site. That's -- do I have it right?

CHAIRMAN STRAIN: That's -- I mean, that's what you're saying by the way you rewrote -- the way you gave us the consent.

MR. YOVANOVICH: And what I understood it to be is the commission directed staff to now somehow come up with a master plan that would, in fact, total roughly 7.7 acres of on-site, inclusive of the 2.6 acres off-site. I didn't see that in the package. Maybe it's there.

CHAIRMAN STRAIN: No. Staff produced a draft of a plan to try to show the concept that the Planning Commission wanted in case we want to utilize that as something to present to the Board, but then we've still got a problem that staff doesn't agree with you or us.

So now the Board would get three different ideas and it would only make it more confusing. So the simplest solution is strictly to address this case on the basis of your consent submittal, recommend either acceptance or denial, and then send it forward to the Board, and they'll have to deal with how to handle it if they want to, or whatever comes out of that meeting is the way the Board will want it to be done.

MR. YOVANOVICH: And that's where we thought we were. We wanted to make sure that, you know, our position was, we couldn't agree to a full 7.7 acres on site, and that's why you have in front of

you -- basically we agreed to -- I think we agreed to basically everything but that --

CHAIRMAN STRAIN: No.

MR. YOVANOVICH: -- and the sidewalk.

CHAIRMAN STRAIN: Also the sidewalk issue.

MR. YOVANOVICH: And the two sidewalks. Those were the two that we --

COMMISSIONER ROMAN: Yeah.

MR. YOVANOVICH: -- said no, we couldn't agree to and -- but other than that, we agreed basically to everything else, and that's what our document was intended to show, that we agreed to everything but the sidewalk deviation and the native vegetation deviation.

COMMISSIONER ROMAN: And that was my point that I made, Mr. Chairman, was the fact that if we left off at that point at the hearing, my vote would have been no.

It was the understanding that our document that was going forward was the one with our recommendations in it to the Board of County Commissioners.

CHAIRMAN STRAIN: Well, that was all of ours.

COMMISSIONER ROMAN: Okay.

MR. YOVANOVICH: I understand that.

CHAIRMAN STRAIN: I mean, your thought process is no different than the rest of us, but we don't know that --

COMMISSIONER ROMAN: Okay.

CHAIRMAN STRAIN: -- until it got to this point and we saw this document didn't reflect our changes. Now we simply have to vote the way we feel we should have voted based on the lack of those changes being made.

COMMISSIONER ROMAN: I just wanted to be sure I wasn't missing something in this process here.

CHAIRMAN STRAIN: No. And it's -- we rarely run into an instance where there's not a compromise or a stipulation to work out. I mean, that's the balance that we constantly seek. And there's a lot of times where we could go no denials, but if you have -- if you have a denial, then the Board's got a harder process to deliberate. So stipulating it, finding a compromise, has always been a better way to send things to the Board.

In this particular case, nothing of substance to a point that we could consider it was put on the table at our meeting, and now we're stuck with this document today. Had they provided some more flexibility at the meeting -- I would have liked to have found a compromise at that meeting, but there wasn't any opportunity there to do it. So it will be one of the rare instances in which we can't find a compromise.

COMMISSIONER ROMAN: Thank you.

CHAIRMAN STRAIN: Okay. And what I'd like to do for the Planning -- did you have anything you wanted to add, Heidi?

MS. ASHTON-CICKO: No, I don't. Thank you.

CHAIRMAN STRAIN: Okay. What I want to do is just walk through the document. I've found some -- I just want to articulate where the conflicts are so that when we do vote, if we want to utilize those references as a reason for denial, we certainly can then.

In the applicant's version of the submittal, Section 2.11, it says, native vegetation retention requirements, and there's where one of the changes should have occurred. It's still requesting the deviation and the 100 percent removal off site. So from that perspective, Section 2.11 does not work. That's on Page 13 of the applicant's -- actually, Roman Numeral 2-15 is 2.11; yeah, 2.11.

I'm going to move through this document. If anybody sees things as we move through the pages besides what I'm bringing up, or if you want to bring it up, you're more than welcome to.

On the following page, under 2.13, the deviations, included in those deviations are still Nos. 3 and 4, both of which we recommended to be removed. So it's inconsistent for 2.13, 3 and 4.

COMMISSIONER ROMAN: Was that 4 or the new 5, Mr. Chair, on that one? Three address --

CHAIRMAN STRAIN: Well, I'm using -- let me see. I'm using their --

COMMISSIONER ROMAN: And that's 2-6, right?



CHAIRMAN STRAIN: It's on Page 2-6, but their version of the deviations, 2.13, which is the second document you have, the numbers --

COMMISSIONER ROMAN: The one that's highlighted in yellow or no?

CHAIRMAN STRAIN: No, not the one that's highlighted in yellow. That's the staff version. Well, that's the staff version that Fred tried to show what we were looking for. So that's the right one you're on. Are you there?

COMMISSIONER ROMAN: I'm with you.

CHAIRMAN STRAIN: Okay. The 2.13, 3 and 4 are inconsistent with our recommendation.

And then if you go to the next page under 3.4, maximum intensity, in talking with the County Attorney's Office, Heidi had suggested a better way of rewording the last part of the highlighted yellow, and that may be something that should be changed. It simply -- instead of saying "with a maximum of 250 dwelling units permitted within the PUD," simply to say "no more than 250 dwelling units shall be permitted in the entire PUD." Just a little bit of clarification. Is there any objection to that one from the applicant?

MR. YOVANOVICH: No.

CHAIRMAN STRAIN: Okay. The next item, we have the changes made on Page 3-4, and that is Section 3.3.B. They're highlighted in yellow. I found those to be consistent. On 3-5, the highlights on that page appeared to be consistent.

When we move down to the table on 3-7, I didn't see any issues there. On 3 -- on 4-1, Section 4.4, the suggestion there would be that, in front of the acronym PUD, to put the word "entire" so it's, again, clear that this 250 is for the entire PUD, not just the section under which it's written.

Is there any objection from the applicant on that?

MR. YOVANOVICH: No.

CHAIRMAN STRAIN: On Page 4-3, there's a change that was made that is consistent. Page 4-4, same way, a small change, consistent. The table on 4-5 has got a change. That was consistent. Then we have a change that is our new standard language that the County Attorney's Office has asked us to insert on 5-4. Those are all consistent.

And we get to the master plan, and that is not consistent. There are a couple of things on there that are not consistent. One is the reference to the preserves being off site, and the other point is the 25-foot-wide landscape buffer per the LDC.

I just want to make sure, Ray, when staff reviews this for that landscape buffer, if you go to the LDC it says a wall will be provided. Is it enough to have that there, or should it be added -- that reference be added to the LD -- to the PUD?

MR. BELLOWS: The LDC has that requirement, but I think, to ensure that it's clear, I wouldn't mind seeing it in the PUD either.

CHAIRMAN STRAIN: Why don't we -- to be consistent with the way we've done some of these things before, where it says 25-foot-wide landscape buffer per LDC section -- just list the section, because this is under an interchange activity center No. 9 section. You don't find it anywhere else in the code, and a lot of our review staff may look at your standards and not go to that odd section of the code to find this specialty.

MR. BELLOWS: That would be a better way of referencing.

CHAIRMAN STRAIN: Okay. And is there any problem with that from the applicant?

MR. YOVANOVICH: As long as it has the "as may be amended" tag on, because things move around in your LDC.

CHAIRMAN STRAIN: I don't have a problem with that. Okay.

So those couple of clarifications need to be made. I also -- we get to the Exhibit B, which is Deviation 2 and 3, private road cross-section. The sidewalk is not shown on the -- I think it's the page Sheet 1 of 1. So that cross-section would be inconsistent with our recommendations.

Okay. So with that --

MS. ASHTON-CICKO: I just need to make a note for the record, if I may.

CHAIRMAN STRAIN: Yes, ma'am.

MS. ASHTON-CICKO: There are about three or four pages of strikethroughs that are omitted in this

version. They were included in the version of the one that you had in your packet during the public hearing. So ask applicant to amend their document to reflect those strikethroughs.

CHAIRMAN STRAIN: So you'll need to include those strikethrough pages. Pardon me?

MR. YOVANOVICH: We've provided to the county the complete document.

MS. ASHTON-CICKO: No, you haven't.

MR. YOVANOVICH: We haven't?

MS. ASHTON-CICKO: No. There are about three or four pages of strikethroughs. I mean, if you want to leave them in, that's fine with me.

MR. YOVANOVICH: I don't -- you know, I just printed out or brought with me whatever.

CHAIRMAN STRAIN: Whatever the packet was that was sent out. The packet comes from the applicant, so --

MR. YOVANOVICH: Okay. So if we can coordinate with Sharon as to what may be missing, I'll be happy to do that.

CHAIRMAN STRAIN: Yeah. I don't think it's anything you need to object to. So I just think it's a matter of, yeah, getting it as complete as Heidi's looking for.

MR. YOVANOVICH: I didn't know if it was just a copying error on whose side. I don't know. I don't know what's missing.

MS. ASHTON-CICKO: Well, yours says 1 of so many pages, so obviously the pages aren't omitted from what you have in the package, but it got dropped off from your prior version.

MR. YOVANOVICH: Got it.

CHAIRMAN STRAIN: Okay. So with the few changes that we've discussed right now that you've agreed to and the addition that Heidi's talking about -- Fred, did you make adequate notes so you know the pieces that need to be reworded?

MR. REISCHL: Fred Reischl. Yes.

CHAIRMAN STRAIN: Okay. And I didn't know if any other member of the Planning Commission who was here had any comments on this one at this point beyond what was already discussed.

Well, then --

MR. YOVANOVICH: Can I ask a native preservation question? I don't think it changes what you can do, but just a question.

CHAIRMAN STRAIN: Sure.

MR. YOVANOVICH: I think there have been other off-site preservation requests before, and I think the maximum was -- the biggest one approved so far was around 1.36 acres; does that sound about right?

CHAIRMAN STRAIN: About one and a third. And I see Summer nodding her head yes.

MR. YOVANOVICH: That was about right. So I'm just asking for guidance, because I know you can't change anything. Had we come in with 1.36 acres off site, would that have been something that may have been influential?

CHAIRMAN STRAIN: With or without the South Florida preserve?

MR. YOVANOVICH: Without any South Florida preservation scraping. In other words --

CHAIRMAN STRAIN: So instead of 7.72, you're suggesting you -- if you had utilized 7.72 less 1.36 and done all the rest on site --

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: -- then your off-site would be no more than what we've previously allowed other projects to do.

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: Depending on the facts, it would have certainly -- maybe have a different outcome, but that's nothing we can rehear.

MR. YOVANOVICH: I understand.

CHAIRMAN STRAIN: Now, if you want a rehearing, we'd be glad to oblige.

MR. YOVANOVICH: I'm not asking for that. I'm just asking, you know, future, is 1.36 the measuring stick at this point for consideration?

CHAIRMAN STRAIN: Well, it was done once for another project, and to be consistent, it's

something we'd have to look at on a case-by-case basis --

MR. YOVANOVICH: I understand.

CHAIRMAN STRAIN: -- but it's a good starting point.

COMMISSIONER EBERT: It is always case by case, correct?

CHAIRMAN STRAIN: Right.

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Summer, did you have something you wanted to add? Now, I guess it's relevant to the questions, right?

MS. ARAQUE: Yes.

CHAIRMAN STRAIN: Okay.

MS. ARAQUE: Yeah. Summer Araque, principal environmental specialist.

So just a reminder, the starting point is what is your minimum preserve requirement. And I think -- even as staff we have to remind ourselves that sometimes, when looking at the code, is, do you qualify for this section of the code? The first question is, if you're residential, if your preserve is one acre or less, then you start looking at the section of the code to go off site.

Their starting point for the requirement is 7.72, I recall. So that's where it's just so far of a difference with that starting point. So just a reminder on that.

CHAIRMAN STRAIN: I understand.

MS. ARAQUE: All I had to say.

CHAIRMAN STRAIN: I appreciate it.

And congratulations on your new baby, and it's good to see you back.

MS. ARAQUE: Thank you.

CHAIRMAN STRAIN: Okay. With that, I think with the changes the applicant did accept, there are still three that aren't being accepted. One is the rewording of Paragraph 2.11; the second one is the Deviations 3 and 4 are still there, and they shouldn't be if they're to be consistent with our previous stipulation; and the last would be the -- or the last two would be the exhibits for the master plan changes needed, and Exhibit B, the cross-section of the road.

With that in mind, does anybody have a motion who was here at the time in regards to this consent request?

COMMISSIONER EBERT: Yes. I'm going to make the motion to deny the whole petition.

I'll be honest with you, Mark, you were so kind on this, because this was a PUDA, and you let them grandfather the industrial in, which is no longer allowed in the activity centers.

As far as preserve area, if you went by the 37 acres, the county already credited them for 1.62 acres and -- which should have come close to almost 12 acres of preserve on the property. They lowered it to 25 percent of 30 acres, which came to 7.72, plus the 2.25 should have been 9.97. Mark was kind enough to give you credit for that, bringing your total down to 5.47.

If you take the original 9.97, bring the 5.47, you have already been credited 4.5 plus the county's. You were credited with 6.12 acres that you do not have to have on there. And, to me, that is a huge amount.

CHAIRMAN STRAIN: Well, we'll just -- we'll call this a discussion, not a motion at this point.

COMMISSIONER EBERT: Yep.

CHAIRMAN STRAIN: So you can continue with the discussion, then we'll ask -- I'll ask for a motion when you finish your discussion.

COMMISSIONER EBERT: Well, I think what has kind of bothered me on this one -- and I normally don't say stuff like this. But as a former county attorney and knowing the Land Development Code, you kind of thumbed your noses at the Planning Commission when you were here last time and you said, we don't care if you deny it. We're going to go to the Board of County Commissioners with your denial. Maybe you want to tell us, Rich, which four commissioners are going to vote for this. I mean, I could not believe what you were doing to this Planning Commission.

MR. YOVANOVICH: Can I respond?

COMMISSIONER EBERT: Anyway, that was mine. That was mine.

CHAIRMAN STRAIN: You're going to be able to respond.

MR. YOVANOVICH: Thank you.

COMMISSIONER EBERT: And your actions were unprecedented when you're -- I mean, you didn't do one thing -- we only asked for two things, and you didn't want to do either one.

CHAIRMAN STRAIN: But let's stick to the facts of what we're here to do today. And we know the language. We've already walked through it. We know there's differences between what we stipulated and to what's been put forth.

We need to stick to either voting yea or nay on that. Because of the discussion you just had, it's only fair that Rich has -- Rich have a short rebuttal. Keep it concise, please.

MR. YOVANOVICH: I want to address that comment because I think that wasn't appropriate.

What we did is we came to you with a project. You wanted to change the project. We didn't agree to the changes, and we respectfully said, no, we don't agree with it. We will take our chances.

I don't -- I haven't talked to any of the commissioners. I don't know what their response may be, but at the end of the day we brought you a project that we thought met several goals, which was including essential service personnel housing. And in order to make that pencil out and make sense, we needed more land than we were being -- you guys were willing to give us as far as the preserve going off site.

There was -- what Mr. Strain said to us in an offer of compromise was, I'll give you credit for roughly 2.6, 2.7 acres, but you had to go off site for the full five. Staff said we'll give you credit for zero. The Conservancy said we'll give you credit for zero. There was no offer to compromise from anybody other than the Planning Commission by giving us credit for 2.7. The numbers didn't work with having to go off site for 5.5. We disagreed with you.

So we said we will take our chances. That is -- that was not thumbing our nose at you. We were simply saying we can't reach an agreement.

And that may happen in the future. It's not intended to thumb our nose at anybody. It's simply to say, we just, respectfully, disagree with the Planning Commission knowing that the yes vote was really a no vote because we couldn't live with the yes vote, and that's okay. That may happen in the future, and we're not thumbing our nose at anybody. We're not trying to be disrespectful. We're just simply saying it didn't work out.

CHAIRMAN STRAIN: Okay. And you made your point. Now, both those discussions are nothing that I will utilize to weigh in on my determination of a vote on this. I don't agree with the facts stated in either one of them.

So from that perspective, let's just move forward on what we're here for today, and that's to vote on this consent. We've articulated the differences. We've looked at the issues.

Is there a motion on the consent item in front of us?

COMMISSIONER EBERT: I make a motion to deny.

CHAIRMAN STRAIN: And you're denying based on those differences that we walked through?

COMMISSIONER EBERT: Based on -- that is correct, plus the fact that this is also an EAC, and so that should be marked down also. We sat as the Board of the EAC on this and -- with the preserve, and that should also be a separate denial.

CHAIRMAN STRAIN: Heidi?

MS. ASHTON-CICKO: We don't have a consent agenda for the EAC, so their vote would stand from prior.

CHAIRMAN STRAIN: But the vote from the EAC perspective of the Planning Commission was with the stipulations.

COMMISSIONER EBERT: Yeah.

CHAIRMAN STRAIN: So the Board in the staff report would know that the stipulations were not done; therefore, that vote with the EAC would only be valid if the stipulations were part of it, and it's not.

MS. ASHTON-CICKO: Correct.

CHAIRMAN STRAIN: Right. The consent is for the Planning Commission to see if the language is consistent due to problems we had years and years ago. And I think we've come to the determination it may not be as consistent as we expected it to be.

We have a motion in that regard. Is there a second to the motion?

COMMISSIONER ROMAN: I'll second it.

CHAIRMAN STRAIN: Okay. Now, further discussion.

And just so we're clear, my -- and I think the rest of us are voting for denial because of the inconsistency in Paragraph 2.11, the Deviations 3 and 4 still remain, and the changes were not made on the master plan, or the Exhibit B cross-section.

So unless there's -- any other discussion?

(No response.)

CHAIRMAN STRAIN: With that in mind, all in favor, signify by saying aye.

COMMISSIONER CHRZANOWSKI: (Abstains.)

COMMISSIONER SOLIS: (Abstains.)

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ROMAN: Aye.

COMMISSIONER ASSAAD: (Abstains.)

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: There's nobody -- motion passes 4-0. There have been one, two, three abstentions.

We'll move on to the next one, and I'll announce it in just a minute.

\*\*\*The remaining advertised public hearing is PUDR-PL20150002246. It's known as the Rockedge RPUD at the northwest corner of Sabal Palm Road and Collier Boulevard.

All those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter. If anybody in the audience intends to address this issue to us today and you're here to speak on this, please rise to be sworn in.

(The speakers were duly sworn and indicated in the affirmative.)

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

COMMISSIONER CHRZANOWSKI: Yeah. I talked with Mr. Yovanovich and I -- no, that's it.

CHAIRMAN STRAIN: Okay. Andy?

COMMISSIONER SOLIS: None.

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: Just staff.

CHAIRMAN STRAIN: I've had meetings with staff and the applicant's various representatives, and I think one member of the applicant's team, and the County Attorney's Office where this all happened, I think, a couple days ago, and that's all.

COMMISSIONER HOMIAK: I spoke to Mr. Yovanovich.

CHAIRMAN STRAIN: Waafa?

COMMISSIONER ASSAAD: No communications.

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: None.

CHAIRMAN STRAIN: Okay. With that, we'll move directly into the hearing. It's all yours, Patrick. Do you have any handouts? I saw you come in with a box of something. If you want to get those out early, that would probably help us walk through them. Is that convenient for you?

MR. VANASSE: Yes. Ashley will hand those out.

Good morning. My name is Patrick Vanasse. I'm a certified planner with RWA. It's a pleasure to be here today to talk about the Rockedge PUD petition.

Joining me here I've got representatives from the Rockedge, LLC. Waterman is the development entity. I've got Shawn Martin with me and Eddie Garcia; the attorney, Rich Yovanovich, is with us; we also have Ron Talone with Plummer & Associates, who's our transportation expert; and we have Ariel Poulos with the environmental consultant with us; and Ashley Caserta with RWA.

My understanding from our meetings with staff and some of the commissioners is that we have a few edits and some cleanup in the document throughout the entire document. So I'm not going to do an exhaustive presentation. I'll give you a brief summary with the understanding that we can go through those edits and, you know, look at whatever pages you'd like to look at.

Just to give you an overview, the original PUD was approved in 2006. The project is located at the intersection of Sabal Palm Road and 951, north of Winding Cypress, south of the regional hospital and Hacienda PUDs. The project was originally 74 acres, and it was approved for 400 multifamily units.

Since then the property went into receivership. The bank owned it for a while. Our client bought the property and acquired a few parcels abutting that property. So we're coming back in to bring in that land to the PUD. So we are rezoning all the land. So the existing PUD is being rezoned to PUD, and the ag lands, the extra 32 acres that we're bringing in, is getting rezoned to PUD also. The overall project is roughly 106 acres now.

As part of our request also, a significant issue is that we're reducing the overall density from 400 dwelling units to 266. The 400 dwelling units was previously achieved through base density in the rural fringe designation plus an affordable housing density bonus. We are asking to repeal the affordable housing density bonus. And the 266, the way we derive our density, is the base density in the URF of 1.5, and we're getting an additional one unit per acre through TDRs, which brings us to a density of 2.5 units per acre or 266 units.

Also, we are asking to relocate the project's access point from 951 to Sabal Palm Road. We are increasing our preserve, and we are exceeding the minimum requirement.

And as I mentioned, there's a companion petition to get rid of the affordable housing density bonus. We have several changes associated with the master plan, just the overall configuration. And we have, obviously, development standards associated with that. One thing important to mention, we were only approved previously for multifamily. We are asking for a mix of uses which would allow single-family, townhomes, single-family attached, and multifamily. Obviously, we have new development standards associated with that, which are pretty consistent with a lot of the PUDs you see.

So we've reviewed staff's report. Dan did a great job going through all the items. We concur with his findings that consistent/compliant with the Land Development Code and the Comp Plan, and we fully support his recommendation for approval with one little caveat. He's got two recommendations. Recommendation No. 2 we'd just like to discuss and clarify as we go through this.

So with that said, we're happy to address any of your issues or concerns.

CHAIRMAN STRAIN: You said that you have something indicating the changes that were made previous -- or that you have responded to after discussions?

MR. VANASSE: Yes.

CHAIRMAN STRAIN: I'd like to get those in front of us so we might walk through those to save time.

MR. VANASSE: Okay. What Ashley is going to be handing out is, I believe, a clean copy of the PUD exhibits and also a copy of -- a strikethrough copy that identifies the changes that occurred this week just from our most recent meetings.

CHAIRMAN STRAIN: And the first copy you included in the packet to us is the strikethrough copy. If the Board has no objections, I'd like to work through that one and compare it to any notes that I or others of us have made to the changes that they made. Maybe it will clear some of the issues up.

So if there's no objection, with that in mind, why don't we move to Exhibit A, Page 1 of 18, and we'll walk through the PUD a page or two at a time. And anybody that has any questions from either their notes or what's been presented, put them on the table.

MR. VANASSE: Okay.

CHAIRMAN STRAIN: Okay. And the first page of Exhibit A is your permitted uses and density page. Does anybody have any questions there?

Under your general permitted uses, Patrick, the fourth line down, you have -- it says "private roadways," but I did notice on the master plan you didn't have private roadways, the words noted on the master plan. Has that been changed on the master plan?

MR. VANASSE: We've revised the master plan. We show private right-of-way, I believe.

CHAIRMAN STRAIN: So we can tie where private roadways are to that paragraph then?

MR. VANASSE: Yes.

CHAIRMAN STRAIN: Okay. Anybody else have any questions on that page?

(No response.)

CHAIRMAN STRAIN: The second page, under accessory uses to residential, they've taken out No. 7 and 8; 7 was storage areas for the exclusive use of residences, and 8 was the -- or, yeah, 8 at the time was community maintenance areas and maintenance structures, neither of which are true accessory to a residential lot. I think that's a good move. Does anybody have any issues with that?

(No response.)

CHAIRMAN STRAIN: Under the -- Page 3, we're now going into the recreation area accessory uses. The removal from the residential lots has now been added to the accessory use for the recreation, meaning that the -- if there's a community maintenance area, it would be around the recreation area and the community storage areas.

MR. VANASSE: Correct.

CHAIRMAN STRAIN: So -- okay. It seems to fit better than it did before.

Under the next page, which is 4 of 18, it's just one paragraph. If anybody has anything as we move through this, holler.

Under Page 5, we have their Development Standards Table. And the -- there's a red 8 by the word "townhouse" up on top. Does that mean it's been deleted or added?

MR. VANASSE: Being stricken.

CHAIRMAN STRAIN: Okay.

MR. VANASSE: And the discussion with staff was 8 is associated with the one tree per lot that is required by code, and it clarifies that a little bit, to provide that tree completely within a lot. One of the issues is the townhomes. We can go with a width of minimum 16 feet, which we're looking at 20-foot canopies. So, obviously, you'd be overlapping lots, so it didn't apply. So we struck that from the townhouse category, but it still applies to the other categories.

CHAIRMAN STRAIN: Well -- and I guess, Dan, this is a question for you. If -- does the townhouse -- and it would probably be a fee-simple basis, meaning it would be sold as a lot even though it's a townhouse with a common wall. Would that configuration still require a canopy tree on the lot?

MR. SMITH: Absolutely.

CHAIRMAN STRAIN: Okay. Then how do we get there if it's -- if that language is not applicable or struck that was found as a solution for some of the others?

MR. SMITH: Well, that's why I had them -- that's why I agree with the "applies to all residential lots."

CHAIRMAN STRAIN: Can you bring the mike closer to you, Dan?

MR. SMITH: Yeah. Daniel Smith, principal planner.

All residential lots -- and I assume that the townhome is a residential dwelling, so I did not want that stricken. If anything, there were some issues regarding, I think, between buildings. I think there were setback issues. But I did not want -- I wanted all residential lots to have that 20-foot area for the required canopy trees.

CHAIRMAN STRAIN: Okay. I know that Patrick had discussed this in front of staff. Did you object at the time?

MR. SMITH: When we talked about it, I thought we were talking about between buildings. I thought that was in -- that was what the issue was.

CHAIRMAN STRAIN: Well, how would you -- and I don't mean to be putting you on the spot. I'm trying to figure out the thought process. How would you apply that Footnote 8 that requires a 20-foot canopy to a 16-foot-wide lot? And the reason I'm asking is because that gets to the crux of how it can or cannot apply, and I'm trying to understand where you're --

MR. SMITH: Well, I think the issue is going to be the size of the footprint of the building that's going to be attached, is they're going to have to make those determinations based on the structure.

CHAIRMAN STRAIN: Well, no. If they had a 16-foot-wide lot --

MR. SMITH: Correct.

CHAIRMAN STRAIN: -- and they put a canopy tree in the center and it had to be 20 feet, how do they fit it?

MR. SMITH: Well, we were talking about the front and the depth, too.

CHAIRMAN STRAIN: Okay. But say they had a 25-foot setback and the -- say they held the building back 20 feet --

MR. SMITH: Correct.

CHAIRMAN STRAIN: -- and they put a canopy tree in dead center of the 25- and the 16-foot. You still wouldn't get a 20-foot canopy tree because you'd be over on the 16.

MR. SMITH: Well, in a lot of cases there is going to be some overlap with -- there's some language with overlap with utilities, with sidewalks. This is kind of new language.

I did not want the canopy trees -- I want room for canopy trees. And like I said is, until -- at the site plan approval process, I'm really not sure exactly how this is going to apply until I -- at the SDP level.

CHAIRMAN STRAIN: Dan, I've worked with you a lot lately, and you're a very smart individual, and if you have a 20-foot-wide width, how do you fit it on 16 feet? That's the -- and knowing that, why would this have gotten to this level without that issue being resolved? And I guess that's kind of what I'm worried about. If you can't -- by that footnote if you believe you've got to have a 20-foot crown spread on a canopy tree, and a canopy tree like that is required by the code --

MR. SMITH: Correct.

CHAIRMAN STRAIN: -- then how does this width of this lot accommodate that requirement?

Well, no -- what you just -- okay. Tell me how you put that in the center of a 16-foot-wide lot that's got eight feet from the dead center point --

COMMISSIONER EBERT: So you're taking --

CHAIRMAN STRAIN: -- when you need 10 on each side.

COMMISSIONER EBERT: Well, it's not -- and it's funny that you should mention this, because I circled it because -- let me tell you. Who's going to go out and check from the county to make sure they have a canopy tree on each lot? It doesn't happen.

MR. VANASSE: We do show it on the building permits. But just -- if I might just offer something. The code requires the one tree, and we're fully willing to comply with that. This is new language.

COMMISSIONER EBERT: Just a smaller one.

MR. VANASSE: And we wanted to accommodate the request. It just creates a conflict. I think we can still provide one tree per lot. There's different species with smaller canopies.

COMMISSIONER EBERT: Yep.

MR. YOVANOVICH: No, you can't. Excuse me.

This is essentially a multifamily structure. They're row houses, if you will. And instead of it being by a condominium -- if it was a condominium, everybody understands those as multifamily. You don't put a tree on each condominium unit. But for row houses, you're buying the dirt below the row house. We have never ever put trees on each townhome lot.

The change we made dealt with single-family homes or duplexes where you basically have two separate lots that you provide the house. The townhomes are six, eight, however many homes in a row together. And Mr. Strain is absolutely correct, we've never done that because you've got a driveway to get in, which there's no way to fit it on the individual townhome lot. That's why the eight came out because it shouldn't be there.

CHAIRMAN STRAIN: Well, I understand that, but Dan offered testimony in the beginning that said that paragraph is consistent as a requirement from the LDC, which kind of threw me. And if it is, now we've got to look at a deviation to get this lot into existence. And, Dan?

MR. SMITH: Yeah. The issue with multiple family --

CHAIRMAN STRAIN: Well, no.

MR. SMITH: It actually changes for multiple family for foundation plannings, which does -- now you have a group of homes which would give, through the foundation plannings areas for your required



canopy trees.

So it's a different way of -- I guess it's a different way of understanding the foundation planning portion of it, which is different than the one canopy tree per lot.

CHAIRMAN STRAIN: Okay. But let's go back to where we started. We have this paragraph. We have this example. You had said you didn't -- if you had seen this, you wouldn't have gone along with it because it's inconsistent with the LDC. Are you telling us now that it is consistent with the LDC, with that 8 taken out as a footnote?

MR. SMITH: Absolutely. Yes, correct.

CHAIRMAN STRAIN: Okay. And when you -- when someone reviews this, whatever landscaping is required will be able to fit on that lot pursuant to the LDC?

MR. SMITH: Absolutely.

CHAIRMAN STRAIN: Okay. Because that's not where we started, and I just want to make sure you're --

MR. SMITH: I understand. I understand, yes.

CHAIRMAN STRAIN: Ray?

MR. BELLOWS: For the record, Ray Bellows.

I think there was some confusion between fee-simple townhomes versus the condominium townhomes, as Mr. Yovanovich had indicated. It's really a multifamily-type product. It goes through an SDP process, as well as the platting process and so, therefore, there's no tree-per-lot requirement.

CHAIRMAN STRAIN: So a tree per lot doesn't apply to all fee-simple lots?

MR. BELLOWS: No. I said those that are part of a townhome development where the buildings are attached.

CHAIRMAN STRAIN: So if you have a duplex, a tree per lot doesn't apply?

MR. BELLOWS: That's the townhome concept. It's the townhome concept.

CHAIRMAN STRAIN: Okay. So it's not if they're attached. It's a matter of a certain amount of them are attached?

MR. BELLOWS: Yeah. Basically you have a condominium-type multifamily where there's platted lots through the middle of the building.

CHAIRMAN STRAIN: But this is not a condominium. It's an HOA --

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: -- with fee-simple lots.

MR. BELLOWS: And that's why the fee-simple lot comes in.

CHAIRMAN STRAIN: Right. And -- okay.

MR. BELLOWS: And that's why they're 16 feet.

CHAIRMAN STRAIN: I understand what you've said. I necessarily will reserve the right to do my own review of that, but I understand.

MR. BELLOWS: Sure.

CHAIRMAN STRAIN: On that same table, now that we understand what the significance of the red 8 is up on top, towards the bottom there has been a clarification for the 20 percent that applies to the pie-shaped lots, and on No. 3 on the bottom, the yard -- they're talking about a corner lot and how that applies, and they went to a 12-foot instead of a 10-foot setback.

And on the next page, under the continuation of the footnotes, No. 4, which is a footnote from the sixth line of the Development Standards Table, applies to accessory buildings, not principals.

And the last, No. 8, which is the one we just got discussion, they modified to clarify that it doesn't reply -- apply to all residential lots, just those that apparently have the 8 in front of them. Is that an interpretation, Patrick; is that correct?

MR. VANASSE: Correct.

CHAIRMAN STRAIN: And that takes us to the PUD master plan, which brings up a question in regard -- you didn't make any changes to that --

MR. VANASSE: Actually, Mark, if I could interject here. I just realized that one of the changes we made, the 12-foot was incorrect. It was meant to be for Footnote No. 2 associated with side-loaded garages,

side-entry garages.

CHAIRMAN STRAIN: Right. But on a corner lot, the purpose of the additional two feet is to cover roof overhangs.

MR. VANASSE: Yeah.

CHAIRMAN STRAIN: On a corner lot, your utilities will follow the road. So if you have two frontages, generally your utilities are going to be in that same location as they would if they were in front of the house. So wouldn't your need to provide that overhang clarification apply there as well?

MR. VANASSE: It would apply there also.

CHAIRMAN STRAIN: So you really want that 10 foot in No. 2 to be 12 feet.

MR. VANASSE: Yeah. And that's what we discussed.

CHAIRMAN STRAIN: Leave the one in -- leave the one that you've already got for the side yard, right?

MR. VANASSE: Correct.

CHAIRMAN STRAIN: And, Dan, as we go through these kind of grammatical changes, I'm assuming you're keeping track of them. I'll make notes, but --

MR. SMITH: What was the last one again?

CHAIRMAN STRAIN: On Footnote No. 2, the 10 foot that's there --

MR. SMITH: Yeah. That's supposed to be 12, right.

CHAIRMAN STRAIN: Should be 12. And the 12-foot that's on No. 3 should remain.

Okay. If we move on to the master plan, does anybody have any questions about the master plan? This one -- you didn't make any changes on this compared to the one that's in our packet, I take it?

MR. VANASSE: Just -- I'm not -- can't exactly recall if it's in your packet or not. One of the requests that we've had within about the last week or so was a little grammatical change to the potential future interconnection. We had interconnect before, so we just made that grammatical change, and we've added the label for private right-of-way for the roadways.

MS. ASHTON-CICKO: Yeah. One of the labels just needs a little arrow because you have it in the residential tract on the bottom left.

CHAIRMAN STRAIN: Oh, yeah. See where you have the circled 7? That's a good point.

MR. VANASSE: Okay, yep. We just need --

CHAIRMAN STRAIN: Move the 7 down and put the private right-of-way between the 7 and the 2.

MR. VANASSE: We'll make that correction.

CHAIRMAN STRAIN: Thank you, Heidi.

On that same page, I need to discuss what the RA projects need for a buffer and, with a wall, is on its southern property line where it faces existing residential. We typically have looked at where these kinds of intensities that are up against outside -- areas outside the project. In this case your residential -- your recreation area will be up against existing residential that could be modified to more future residential even to the -- kind of like you've just done.

So like we have on other projects, that may not be developed on the outside. Wherever these facilities go, we've requested a 6-foot wall. And I haven't seen that language in here yet, so maybe you could help me understand.

MR. VANASSE: If you look at the illustrator here, we have an aerial depicting the RA tract that's hatched. I'll just grab a mike here. Is it working? Okay.

The RA tract is over here. And we've identified the closest home to the RA tract, and it's over 162 feet away. So right now we have a 15-foot buffer already, and I think the request is, is there a need for a wall? And at least the projects that I've worked on where we did put a wall was when we had some residential abutting, like being, you know, less than 50 feet away from our recreational tract.

So in this case we felt it may not be needed because of the distance. We're already going to have a vegetated buffer there. So we obviously are open to discussion on this issue, but we felt that the distance mitigated for any concern.

CHAIRMAN STRAIN: Well, we have had other projects where this issue's come up, and we've realized, especially at the time -- what's that project next to -- on Immokalee Road. It's -- boy. It's that

expensive -- Grey -- not Grey Oaks. You might --

MR. BELLOWS: Hacienda?

CHAIRMAN STRAIN: No, no. North, on Immokalee Road just across from Autumn Oaks Lane. I can't remember the name of it now. I can't believe it.

MS. ASHTON-CICKO: Quail Creek?

CHAIRMAN STRAIN: Pardon me?

MS. ASHTON-CICKO: It is Quail Creek.

CHAIRMAN STRAIN: Quail Creek, yes. We had that front triangular parcel in Quail Creek come forward, and we realized that -- when they moved their RA section close to the homes, the problems that causes both from light, from noise, from pools, from accessory uses. It's not the buildings as much as it is the rest of it.

And we provided a wall there; a wall was provided. We've done that on other projects too more recently because the intensity of these residential projects is greater with the recreation areas than it is in basically almost any other part of the project.

I'm not sure why a south property line wall in such a small section of this project is a deal breaker for you guys, but it's one that I'm very concerned about, and we've been consistently looking at these this way.

MR. YOVANOVICH: Mr. Strain, you're right. And -- clarification, though. We'll do the wall. That's not a problem. But as you know, I think that direction's east. You've got an FP&L easement. So I can't put the wall along the entirety of the RA tract, but I can certainly do it along the portion that's not within the FP&L easement.

CHAIRMAN STRAIN: Yeah. You're not --

MR. YOVANOVICH: I mean, FP&L --

CHAIRMAN STRAIN: -- developing on an FP&L -- okay. I'd have to -- now I have to acknowledge --

MR. YOVANOVICH: So if we could just do it along the portion of the RA that's, you know, not within the FP&L easement, that would be okay. And maybe we just depict it on the master plan so everybody's clear where the 6-foot wall would be.

CHAIRMAN STRAIN: Well, I was -- that's where I was looking for it. That would be great.

MR. YOVANOVICH: Yeah. We'll --

CHAIRMAN STRAIN: At the same time, you're not going to be putting much else than probably parking in the FP&L easement, so --

MR. YOVANOVICH: Right. So I can't imagine that's going to be --

CHAIRMAN STRAIN: So the 15-foot -- you're going to put the buffer there, though.

MR. YOVANOVICH: You know, that's interesting. I don't know. Do we -- are we allowed to put buffers?

MR. VANASSE: No.

MR. YOVANOVICH: We wouldn't be able to do that anyway because that interferes with their access.

CHAIRMAN STRAIN: So you're now telling us you're going to put the RA parking into the FP&L easement with no buffer, no wall, no anything?

MR. YOVANOVICH: Well, because to the south of us is more FP&L easement. There's not even any development south of us -- or north.

CHAIRMAN STRAIN: The vegetation buffer, I mean, FP&L's -- Manchester Square is a good example, right up there on Livingston Road. They've got a buffer on both sides of their entryway right through the FP&L easement with a road access.

Would you be willing to at least include the vegetation buffer from where the wall would end at the west side of the easement to where the pavement ends for the parking area? That way the headlights and everything showing to the south won't be so obtrusive.

MR. YOVANOVICH: How about we commit that we will request FP&L to let us do that within their easement. And if they give us permission, we'll do it.

CHAIRMAN STRAIN: That's fine.

There's a second page to the master plan, Exhibit C, Page 8. Then we get into a legal description that goes on through Page 12, and the next textual section is a list of deviations on Page -- Page 12, actually. And that, I guess, is where we might have some clarifications needed.

In the deviations I notice you struck the four or five words on the top. I think that works better that way. I don't know why it was written the way it was to begin with.

MR. VANASSE: We actually struck a little too much. Streets should be included, internal streets.

CHAIRMAN STRAIN: Yeah. That should be the last four words, "that include public utilities."

MR. VANASSE: Yeah. We were working a little faster than the speed of thought, so...

CHAIRMAN STRAIN: Deviation No. 9, we get into the preserve setback for principal structures. I know that you had some additional information on that because I had asked that question of you.

MR. VANASSE: Yes. We -- the question was related to the language that talks about "in combination with a structural buffer as allowed by the district."

CHAIRMAN STRAIN: Right.

MR. VANASSE: Let me pull this, and I'll put it on the illustrator.

CHAIRMAN STRAIN: You can, but I want to -- I've got the Section 3.05.07 of our code, which is one of the sections you referenced. And in it, it says under -- the preserved wetlands shall be buffered from other land uses as follows: F, little three, a structural buffer may be used in conjunction with a vegetative buffer that would reduce the vegetative buffer width by 50 percent. A structural buffer shall be required adjacent to wetlands where the direct impacts are allowed. A structural buffer may consist of a stem wall, berm, or vegetative hedge with suitable fencing.

Now, the word "structural" to me doesn't -- I'm not sure how all those other definitions of what a structural buffer is got in there. Stem wall certainly would be.

MR. VANASSE: Just to clarify, we don't need -- we don't intend on putting a structural buffer as in a stem wall. Vegetation is what we were considering. And I think the clarification was -- and this section only applies -- in the code only applies to the fringe. And it was more from a definition standpoint of what a structural buffer can be, and a structural buffer can be a vegetated, can be -- and the same thing with the district. I provided a PowerPoint from the district that defines what -- a structural, and it could be vegetation.

So the idea was just we were using the term that's been used by the district and is also used in the Collier County code. We don't have to use the word "structural." We can just simply say a hedge or just vegetative buffer. We're fine with that.

CHAIRMAN STRAIN: Well, under the South Florida PowerPoint under buffers, it says, wetland preserve areas typically have a dedicated upland buffer between the development and the wetland. Number 1, district criteria requires an average of 25 feet, minimum 15-foot-wide upland buffer. You're asking for a 12-and-a-half-foot-wide.

MR. VANASSE: We do already provide the upland buffer, so this is a -- it's a setback from the preserve. So the buffers -- we already have that upland buffer provided, but it does vary along our preserve. It's not always the 25, and in some instances it goes down to --

CHAIRMAN STRAIN: Okay. So part of your preserve is uplands, so that's your upland buffer portion, which will be at least 3, 2-and-a-half feet then.

MR. VANASSE: Yeah. So --

CHAIRMAN STRAIN: So that's how you meet your South Florida criteria. Interesting.

Okay. As far as whether -- what kind of buffer it is -- I don't know if Charlette or anybody on this panel had any preferences as to how that buffer was created. I just wanted to point out the word "structural." My reading of that is something different than what I've come to learn, and I wanted to make sure it was on the table in case anybody had any preferences as to how that buffer was created.

COMMISSIONER ROMAN: Did staff take a look at this? Maybe we could ask staff.

MR. VANASSE: We've had discussion with staff on the issue, so I'd be happy for them to comment on this.

CHAIRMAN STRAIN: Oh, here's Steve. Good. I saw Summer not moving, so I figured she didn't want to comment. I didn't see Steve over there on the left.

MR. YOVANOVICH: He doesn't want to comment either.

MR. LENBERGER: Good morning. For the record, Stephen Lenberger, planning services.

I was looking at the exhibits. There are -- these are for side yard setbacks, and then in the exhibits of the environmental data that were provided to you, there is one identifying preserve, upland preserves and wetland preserves.

So the side yard setbacks that I see are mostly against the wetlands, so it seems like it would be appropriate that the -- that there would be a structural buffer, but as far as a, you know, wetland within the preserve, it doesn't look like there is on some of these side yard setbacks.

CHAIRMAN STRAIN: Okay. So from Charlette's question, though, staff has reviewed the 12-and-a-half, and you don't have any objection to it, is what you're --

MR. LENBERGER: We don't have any objection to it. We feel it would be an adequate distance for separation for maintenance of buildings and for access to the preserve, and the vegetated structural buffer should prevent encroachment into the preserve. So staff's comfortable with it.

CHAIRMAN STRAIN: As far as the type of structural buffer, do you have any -- am I right there's three kinds mentioned, or four; a hedge, a fence, and -- I mean, it doesn't talk about height or anything like that, and it says a berm. A berm could be six inches, and then a structural -- and then it also says stem walls. Stem walls are usually concrete or tie back, something like that.

Do you have any preference as to how that should occur in a project such as this?

MR. LENBERGER: We've had all different types -- excuse me. They're all acceptable. We've had berms -- as long as there's a delineation of where the preserve begins and the lot is. And usually the berms swale, because they have to have a swale to direct the storm water from the lot away from the preserve, so the berm is satisfactory. Usually what we'll see is a hedge by the district. That's usually what they permit.

CHAIRMAN STRAIN: Thank you.

Anybody else have any questions?

COMMISSIONER ROMAN: Did I --

CHAIRMAN STRAIN: Charlette?

COMMISSIONER ROMAN: Did I see in this document -- and I know we just had these handed to us. Did I see that the word "wetland" was removed from this document? It might have been.

CHAIRMAN STRAIN: That's on Deviation No. 9 on the bottom.

COMMISSIONER ROMAN: Yeah.

CHAIRMAN STRAIN: It just said preserves, because not all the preserves, I believe, are wetlands. I think that's what they're saying.

COMMISSIONER ROMAN: I understand, but I just heard Steve say that they were where this area was on the site map, that they there are adjacent to some wetlands.

MR. LENBERGER: They're both, so I asked the applicant to remove the word "wetland."

COMMISSIONER ROMAN: Okay. All right. Thank you.

CHAIRMAN STRAIN: Okay. The next page is only three lines on the top under Deviation 10, a continuance.

Then we get into Page 12, developer commitments. There's no changes there. Page 14, I'm sorry, developer commitments. Then Page 15 is a continuation of that. And then we get into Phase 1 assessment language that has been modified.

Where is Phase 3? I didn't see that on any of the maps. What map is that on?

MR. VANASSE: Just -- we --

CHAIRMAN STRAIN: It says site labeled designated for Phase 3 mitigation. What does that mean?

MR. VANASSE: If you look at the copy I provided today -- and I think the original copy that you obtained had two exhibits missing. Exhibit G in your packet. We have an exhibit identifying archaeological sites.

Dr. Carr, who's our archaeological expert whose worked on this property for years, did an initial assessment, and there was some followup. And as part of this followup, we identified archaeological sites that we have to preserve, and we incorporated those into our county preserve, and those will remain intact.

And what this exhibit depicts is the ones that are going to be preserve. And then we had three that

were not eligible to be preserve, and Dr. Carr in the process he's going through, everybody's agreed that -- no need to preserve these.

And then there was one that had to be addressed a little further and had to be mitigated. Dr. Carr, my understanding is he's currently working on that, and the process is almost over, meaning that through this mitigation process we're going to get the okay that there's no need to preserve that site.

So that's what the exhibit depicts is which ones will be preserve and the ones that will not be preserve.

CHAIRMAN STRAIN: Okay. So the reference to the A designated as Phase 3 mitigation is only for CR 1371?

MR. VANASSE: Yes, correct.

CHAIRMAN STRAIN: Okay. The CR 726, 873, and 1372 are not eligible for what reason?

MR. VANASSE: I'm not an expert. My understanding is they just didn't meet the requirements for archaeological sites that need to be preserve. I think it's more from -- my understanding is you start off with a probability map of where there might be some issues, and through the process you demonstrate that they're -- we haven't found anything, that there's no issue here. We don't need to preserve those.

CHAIRMAN STRAIN: Okay. So when you get into the Phase 3 review of 1371, there's a possibility that you cannot remove it and that you cannot build homes in that location, is that what you're saying, or whatever else is there?

MR. VANASSE: My understanding is -- like I said, we're going through the mitigation. I think we're almost done there, and we should be fine.

MR. HALL: Hi, Commissioners.

CHAIRMAN STRAIN: Tim, I'm used to seeing you for marine stuff. What are you doing with --

MR. HALL: For the record, Tim Hall with Turrell, Hall & Associates.

The Phase 3 refers to the type of archaeological survey that's done on that site. And what a Phase 3 is is basically an excavation of the site where they do the fieldwork, and they systematically excavated any materials that they discover are preserved and -- if needed. So what the Phase 3 is is actually the removal of that site through the physical fieldwork.

CHAIRMAN STRAIN: That helps.

MR. HALL: Okay.

CHAIRMAN STRAIN: Thank you.

MR. VANASSE: I'm glad he was here.

CHAIRMAN STRAIN: Me, too. We weren't getting too far with your explanation, Pat, but thanks for trying.

MR. VANASSE: I am no an archaeological expert, that's for sure.

CHAIRMAN STRAIN: There's -- the remainder of Page 12 has one more note on B, and then Page -- I'm sorry. I keep saying 12 because it's in the center. Page 15 and 16. Fifteen and 16 wraps up that section. We have a new map on Page 17. And then on Page 18 is the cross-section of the streets, and they do show sidewalks on both sides, which is a welcomed relief that we haven't got to fight that battle today.

So with that, I don't know if there's any other questions from the Planning Commission members on what we've got in front of us here.

COMMISSIONER HOMIAK: I just have one question about where do you plan on locating the multifamily 55-foot-high buildings?

MR. VANASSE: At this time we don't have a specific location or a specific intent to develop multifamily. We're -- we're going through a site planning process, and the applicant hasn't decided exactly what product's going to be there. But it's tending towards single-family at this time.

CHAIRMAN STRAIN: Does anybody have any other questions of the applicant at this time?

(No response.)

CHAIRMAN STRAIN: Okay. Patrick, thank you. We'll go to staff report, and after staff report we'll go to public speakers. We are going to take a break at 10:30 for 15 minutes for the court reporter.

Dan?

MR. SMITH: Planning and zoning staff recommends that the Collier County Planning Commission

forward Petition PUDR-PL20140002246, Rockedge PUD, to the Board of County Commissioners with a recommendation of approval with the following stipulations: First off, that the changes be made according to information brought forward to the Planning Commission today that we've gone over.

CHAIRMAN STRAIN: And the comments that we made?

MR. SMITH: And the comments, yeah, that's correct; that we revise the master plan Exhibit C to read "potential future interconnection" instead of "potential future interconnect." That was just more of a word change more than anything else.

And then we add language regarding the development commitment to read, at the time of the first Site Development Plan involving interconnectivity at locations where future vehicle and non-vehicle interconnection points are indicated on the PUD master plan provide, to the maximum extent feasible, vehicle and/or non-vehicle interconnectivity with abutting roadways in between adjoining sites.

If interconnection effort are unsuccessful, the developer shall provide all correspondence between the parties involved to sufficient document efforts.

I know that language has been discussed, and I think there's -- comp planning is here to answer any questions regarding that language.

CHAIRMAN STRAIN: Well -- and, Dan, your conclusion is -- I had a question about that. For example, Exhibit F, developer commitments. And it isn't of the applicant. It's of staff.

It says, add language at the time of the first Site Development Plan involving interconnectivity at locations where potential future vehicular or non-vehicular interconnection points are indicated in the RPUD for providing to the maximum extent feasible."

Can you show me where -- and I didn't get time to look at it myself -- where the words "to the maximum extent feasible" are found in our code?

MR. SMITH: Is there someone from comp planning that can answer that question?

MR. BOSI: Mike Bosi, director of planning and zoning. I don't believe that's straight from the Land Development Code. I believe that's from the Comprehensive Planning section regarding interconnectivity where we want to promote interconnectivity, but we do not require interconnectivity.

CHAIRMAN STRAIN: Right. But the language there that I believe is included in the report from staff says, all the new and existing -- Policy 7.3. An existing development shall be encouraged to connect. It doesn't say to the maximum extent possible. And I'm worried about that legal threshold to overcome. If it ever got to a battle, how does someone not do something if they have to do it to the maximum extent possible? They may be forced to buy out a high-rise next door just to get the interconnection you want. I know that's impractical, but the maximum extent feasible is, I think, a stronger threshold than what's indicated by the code.

MR. BOSI: And we recognize -- and maybe we hadn't contemplated it in that regard, that language and the impact that language would have. I think we were only trying to enforce that they do pursue and they make an earnest effort to pursue that interconnectivity.

So whatever language that would make the Planning Commission -- and I agree that it's more practical and more appropriate and would obviously be agreed upon by staff.

CHAIRMAN STRAIN: I would just like you to reconsider your conclusion based on the terminology used in the code or the Growth Management Plan, specifically, use those words, "encouraged," and -- I think you had two different things. "Encouraged" was one and "wherever feasible" another.

It doesn't say "to the greatest extent feasible." That, to me, is a different level of demand, and I'd rather we didn't go outside the code. Does that work for you guys?

MR. BOSI: Absolutely, yes.

CHAIRMAN STRAIN: Okay. So you'll appropriately, then, revise your conclusions.

MR. BOSI: Yes.

CHAIRMAN STRAIN: Okay. That's all I'm asking for. Thank you.

Dan, did you have anything else you wanted to add?

MR. SMITH: No, I did not.

CHAIRMAN STRAIN: Okay. Does anybody from the Planning Commission have any questions of staff?

(No response.)

CHAIRMAN STRAIN: I want to make sure I've got the last one.

MR. VANASSE: Mr. Strain --

CHAIRMAN STRAIN: Yes, sir.

MR. VANASSE: -- a question, if I may. With regards to the recommendation from staff, I'm just wondering when we get to see the language. And, again, consistent with your previous hearing of going to consent, we're going to be going to consent, I would assume, and when are we going to find out what that proposed language is? Because we had a concern because it was ambiguous. It's not the interconnection that we have a problem with. We just don't know what that entails, what we're supposed to do, and what we're supposed to demonstrate. So --

CHAIRMAN STRAIN: Well, I think the demonstration is showing that you've provided your -- that you document your efforts to interconnect. We've done that on projects before. I don't think there's anything there that is onerous, because documenting could be done in any number of ways. It provides, actually, flexibility.

I mean, it could be just a certified letter to the property owner next door requesting that interconnect to be placed in and then having no response after an ample amount of time might be all it takes.

MR. YOVANOVICH: And just how it's been working in practice for the Planning Commission, obviously, we have property owners that own a significant amount of acreage next to us. We reach out to them and say, we're getting ready to move forward. If you want to come through our property, that's fine, but we need to work out sharing the expenses of the gatehouse and things like that. Just so you know, those are the types of letters we send out.

Most of the times we don't get a response. But I don't want anybody to -- we don't automatically say, come through. We ask for a sharing of the expenses for private roads and things like that. So those are what you'll see in the letters we send out.

CHAIRMAN STRAIN: Well -- and I think -- to answer the question that you asked, though, I think the language would either work towards using the word "encouraged" as the code requires, or the words "wherever feasible" as the code requires.

So -- and I don't think we can go to a higher threshold than that without a demand, and that might be something we'd have another issue with, so...

MR. VANASSE: Okay. That makes sense. If it's "encouraged" or "where feasible," I think that works fine with us.

CHAIRMAN STRAIN: I mean, I'm just sticking to the code one way or another. That's the way it's written, so...

Is there any other questions of staff from anybody?

(No response.)

CHAIRMAN STRAIN: Okay. With that we will -- why don't we take our break now, and as soon as we get back, we'll hear the public speakers. We'll take a break until 10:40 and return and finish up.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay. Ray, thank you.

Okay. Everybody, please take your seats. We'll resume the meeting. We left off with moving into the public discussion. Do we have any registered public speakers, Ray?

MR. BELLOWS: We have one speaker. James Square, or Jim Square.

CHAIRMAN STRAIN: Mr. Square, come on up, use the microphone. Please identify yourself for the record, and we're glad to hear what you've got to say.

MR. SQUARE: Good morning. Jim Square, former owner of Square's Landscaping that used to be on the corner of Sabal Palm and 951.

My only concern here, gentlemen, is we've still got four major businesses on the corner here, and now we're going to be dumping a minimum of 250, 300 automobiles a day onto Sabal Palm, which is a secondary road at best. And we're going to have a real problem down there. It's already a nightmare at 951 and Sabal Palm since they changed that intersection.

I'm just wondering if there's any provisions where they can open that intersection up again or a traffic



light possibly going in because, I mean, it is going to be an absolute nightmare.

CHAIRMAN STRAIN: And that's a good question. We do have standards in which those things are triggered. And I'll ask our transportation individual to come up and address that question. It's Mike Sawyer. He's in charge of transportation planning.

MR. SAWYER: For the record, Mike Sawyer, transportation planning.

As far as that particular intersection goes, there are -- you know, when we reach the level of needing to have that signal, there will be -- you know, basically this development will have a fair share of that signal as soon as we get to the warrants. We haven't gotten there.

Certainly at this point -- we don't see this development triggering that requirement at this point, but when it does, that's when -- you know, as soon as we get to the warrants as far as needing that signal, that's when the signal will be provided.

MR. SQUARE: What's the criteria that you're looking at in order for a light to go in?

MR. SAWYER: It's based on the amount of traffic that we've got, you know, both coming to that intersection and going out of the intersection. It's a fine line as far as increasing the number of signaled intersections on a roadway. Particularly on 951 what we want to encourage is a free flow of traffic whenever possible. So it's -- there's a number of criteria that actually have to get met in order to get to the warrants on that.

MR. SQUARE: Well, what about even opening up that intersection to where you could make a left turn there again like it used to be? I mean, you've created a real problem the way you have that right now.

CHAIRMAN STRAIN: But we need to -- sir, this meeting's got to stay focused on the aspects of the PUD. I know you may have traffic problems, but that's not what this issue's about.

MR. SQUARE: No, I understand that, Mark.

CHAIRMAN STRAIN: Okay.

MR. SQUARE: But I'm saying, you put another 3- or 400 cars in the morning out there, I don't know how it's going to work.

CHAIRMAN STRAIN: And I don't disagree with you. The project that was -- that this one is supposedly replacing had almost double the number of units, which would have been almost double the traffic that is being proposed by it today. They were having 400 units with less acreage. They've expanded the acreage and reduced the units to 266 from 400 where they would have naturally increased them if they were going to increase the acreage.

I'm not saying that helps your matter any, but the impact of this project is less, which means there's -- your intersection's not -- how the improvements are there are not really dependent on only this particular project.

The warrants are things like accidents. There's several different levels of warrants. Accidents, I know, was one, because I had to wait for people to have accidents in order to have a light put in in a project I was involved with.

What are the other warrant needs?

MR. SAWYER: Correct. There's a number of different warrant needs. Certainly accidents, the actual traffic, the actual capacity of the roadways themselves over time, which do change depending on, you know, how many access points you actually have.

Again, there's a whole study that goes into those warrants for the signals themselves.

CHAIRMAN STRAIN: Do you have a predicted feasibility for that interchange -- intersection to be improved?

MR. SAWYER: At this time we do not.

CHAIRMAN STRAIN: LRTP plan or anything like that?

MR. SAWYER: It is not currently on any of our plans.

CHAIRMAN STRAIN: Okay. And that's something that is outside the realm of what we're doing today.

MR. SQUARE: Right.

CHAIRMAN STRAIN: But it isn't outside of something you may want to have discussions with your elected officials with as far as moving that forward if there's justification for it.

MR. SQUARE: Well, the only reason I brought up opening up that intersection again, I just thought it would alleviate the traffic faster on Sabal Palm Road exiting, because people could be going left rather than everybody going right.

CHAIRMAN STRAIN: And you're right. Ironically, we have a lot of areas where left turns are currently in place, including one near my home. And our road department is shutting it off so my wife and I can't use it anymore. I'm probably just as upset with that as you are, so...

MR. SQUARE: Well, that's all I had. Thank you.

CHAIRMAN STRAIN: Thank you, sir.

Is there any other speakers registered, Ray?

MR. BELLOWS: No other speakers.

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

(No response.)

CHAIRMAN STRAIN: Okay. With that, we'll turn to the Planning Commission. Is there any last comments of the applicant, staff, or anybody else?

(No response.)

CHAIRMAN STRAIN: I do have one or two, Patrick. And I had mentioned this, but I don't think I mentioned it on the record. I think I mentioned it to you as a concern.

In the handout you provided under general permitted uses -- under permitted uses, general permitted uses you talked about -- I'm trying to get to the right one. Hang on a second. I'm sorry. It's up on top. The very first paragraph.

It says you're going to have -- you're going to be consistent with the LDC and the GMP in effect at the time of issuance of Site Development Plan or subdivision plat. That is not what we typically do, and the reason for that is you can get an SDP and keep it alive for a long period of time, and you can also do the same with a subdivision plat.

Typically we have language -- and I'll try to pull a draft up and tell you. This is -- it's like the East Gateway typical language. It says, regulations for development shall be in accordance with the contents of this document, the Planned Unit Development, and other applicable sections and parts of the Collier County Land Development Code and Growth Management Plan in effect at the time of building permit application where these regulations fail to provide development standards, and the provisions of the most similar district in the county Land Development Code shall apply.

I'm suggesting you utilize that kind of language instead of the Site Development Plan and subdivision plat language.

MR. YOVANOVICH: Mr. Strain, my concern about that -- and maybe I need to fix it in other projects -- is that if I get a plat approved and I get a Site Development Plan approved and I've done everything that I'm supposed to do to get those accepted and there's a change in the LDC before I pull a building permit for a house within a plat, there may be different requirements for the plat itself, and do I have to come in and amend all of my engineering drawings? Because I'm now down to the last house within a plat, and there's been a change.

I think we've always measured it that whatever the development order is, we meet the requirements of the Land Development Code at the time for platting and site development plans, likewise with building permits.

I don't think we've ever interpreted that if you have already platted a piece of property and now you are pulling a building permit on that last house five years later, I now have got to bring the entire subdivision up to standards on the date of the last building permit.

CHAIRMAN STRAIN: Well, I don't think we've ever had that discussion before, Richard. I think what's come through is language like I've just read that seemed to be typical. The change that I noted was like other small changes in some parts of this document. There's been a few words here and there modified. Well, this modifies a time stamp compared to what we've previously looked at.

I don't know if Dan caught that in comparison to other projects. I don't know if he's reviewed for it.

MR. YOVANOVICH: And I'm just saying what I understand the practical application of the language that has been typically brought forward. I mean, this seems to be -- I don't think we've ever -- like

you said, we've never had this conversation before to focus on what does it really mean in the real-world application.

I just don't know of a circumstance where if a building permit is pulled five years later, we're going to apply whatever subdivision changes occurred.

CHAIRMAN STRAIN: Well, Ray, from staff's perspective, I mean, this is different language than I've just shown as an example. Is that something staff took a close look at and understood the ramifications of, or do you see anything that we need to be concerned about, or would you have a preference as the zoning director?

MR. BELLOWS: Well, I don't believe we really analyzed this particular issue, and I'd like to take a little more time.

CHAIRMAN STRAIN: Could we do that by consent?

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: And so by consent you'll come back and let us know what is your recommended language, and that's what this Planning Commission at that point will be able to see on the consent document. Does that work for you?

MR. YOVANOVICH: Mr. Strain -- yeah, what page was that, again, in the PUD, under Exhibit A, very beginning?

CHAIRMAN STRAIN: Well, it's the top of the page of Exhibit A, top paragraph.

MR. YOVANOVICH: Okay, thank you.

CHAIRMAN STRAIN: Okay. I'm going to take a minute to make sure I've asked all the questions I have. Yep, that's it.

Okay. Anybody else have anything they want to ask of anybody at this time?

(No response.)

CHAIRMAN STRAIN: If not we will close the public hearing and entertain a motion.

Richard, I didn't go to rebuttal because I'm assuming you don't need one.

MR. YOVANOVICH: Other than I think Michelle Arnold's a little nervous I'm trying to get rid of something, so I just want to put on the record I'm not.

CHAIRMAN STRAIN: Okay. That's nice. That works.

With that, we'll close the public hearing. And I've only -- besides the new handout --

COMMISSIONER HOMIAK: I wouldn't let him anyway, Michelle.

MS. ARNOLD: What?

COMMISSIONER HOMIAK: I wouldn't let him anyway.

CHAIRMAN STRAIN: Besides the new handout and the verbal discussions we've had on various corrections needed, there were a couple of points that were added. One is that there will be a 6-foot wall on the south boundary line of the residential, the RA tract, up to the point of the FP&L easement. From there, a hedge will be continued to at least pass the paved area for the parking lot, assuming FP&L allows that to occur.

MR. BELLOWS: Mark?

CHAIRMAN STRAIN: Yes, sir.

MR. BELLOWS: Can I ask for a clarification? Is that hedge to be four feet or three feet?

CHAIRMAN STRAIN: I would suggest four feet at least. At least it's not a wall, so a hedge at the highest of that magnitude will at least keep the traffic -- it's a 15-foot buffer. So what's our typical hedge size in that buffer?

MR. SMITH: Daniel Smith, principal planner.

The B buffer is required, and it's going to be trees every 25 feet and a 5-foot single-row hedge. What FP&L usually does is they require smaller canopy trees that don't get over 20 feet tall, and that's usually the smaller. But as far as the hedge is concerned, a hedge and a row of trees are required.

CHAIRMAN STRAIN: Okay.

MR. SMITH: And FP&L usually allows that. They have certain -- their own certain requirements.

CHAIRMAN STRAIN: Well, you said the hedge should be five feet. Ray said three or four.

MR. SMITH: Five feet tall; five foot.

CHAIRMAN STRAIN: Five foot. But whatever the hedge code requirement is, that's all we're looking for.

MR. YOVANOVICH: Whatever FP&L consents to, we'll do.

CHAIRMAN STRAIN: Okay. That will work. And then the second thing I made note of, accepted changes distributed as we discussed and the conclusions by staff modified as discussed.

MR. SMITH: Yes.

CHAIRMAN STRAIN: Those are the only notes I have. Does anybody else have anything else?  
(No response.)

CHAIRMAN STRAIN: Is there a motion from the Planning Commission?

COMMISSIONER ASSAAD: Move for approval.

CHAIRMAN STRAIN: Mr. Assaad? And it would be subject to the --

COMMISSIONER ASSAAD: Move for approval subject to those conditions.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER HOMIAK: I'll second.

CHAIRMAN STRAIN: Motion made by Mr. Assaad, seconded by Ms. Homiak.  
Discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER SOLIS: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ASSAAD: Aye.

COMMISSIONER ROMAN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

Thank you-all.

Richard, I do have one last question about --

COMMISSIONER HOMIAK: Consent.

CHAIRMAN STRAIN: Well, the consent, it will have to come back on consent. Does anybody want to make a motion to come back -- well, I don't think we need a motion, just a consensus.

COMMISSIONER EBERT: It has to come back.

CHAIRMAN STRAIN: It's coming back on consent. Does anybody have an objection to that?

COMMISSIONER EBERT: No.

CHAIRMAN STRAIN: Okay. It was pointed out to me, and I'm -- I think it's the first time I've seen this. Gray pants, gray sports jacket, gray shirt, and gray hair. You are really gray today.

COMMISSIONER SOLIS: Impeccable coordination today.

CHAIRMAN STRAIN: And the tie.

MR. YOVANOVICH: I appreciate you calling it gray instead of white hair, but I'll take gray.

CHAIRMAN STRAIN: Well, when you wear all white we'll call it white hair.

MR. YOVANOVICH: Thank you.

CHAIRMAN STRAIN: Thank you.

With that, is there anybody else that has any other items for today's -- let me make sure -- new business or old business?

COMMISSIONER CHRZANOWSKI: You know, we may be the cause of some of that gray hair.

MR. YOVANOVICH: All the white is you.

CHAIRMAN STRAIN: There is no old business listed. I don't think anybody has any new business. Is there any public comment?

(No response.)

CHAIRMAN STRAIN: None heard.  
With that, is there a motion to adjourn?  
COMMISSIONER EBERT: Make a motion to adjourn.  
CHAIRMAN STRAIN: By Karen seconded -- I mean by Diane. Seconded by --  
COMMISSIONER HOMIAK: Second.  
CHAIRMAN STRAIN: -- Karen.  
All in favor, signify by saying aye.  
COMMISSIONER CHRZANOWSKI: Aye.  
COMMISSIONER SOLIS: Aye.  
COMMISSIONER EBERT: Aye.  
CHAIRMAN STRAIN: Aye.  
COMMISSIONER HOMIAK: Aye.  
COMMISSIONER ASSAAD: Aye.  
COMMISSIONER ROMAN: Aye.  
CHAIRMAN STRAIN: Thank you.

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There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 10:53 a.m.

COLLIER COUNTY PLANNING COMMISSION

  
\_\_\_\_\_  
MARK STRAIN, CHAIRMAN

ATTEST  
DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 1-7-16, as presented  or as corrected \_\_\_\_\_.

TRANSCRIPT PREPARED ON BEHALF OF  
GREGORY COURT REPORTING SERVICE, INC.,  
BY TERRI LEWIS, COURT REPORTER AND NOTARY PUBLIC.