

April 21, 2016

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida, April 21, 2016

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, 3299 East Tamiami Trail, Naples, Florida, with the following members present:

CHAIRMAN: Mark Strain
Wafaa F. Assaad
Stan Chrzanowski
Diane Ebert
Karen Homiak
Charlette Roman
Andrew Solis

ALSO PRESENT:

Raymond V. Bellows, Zoning Manager
Eric Johnson, Principal Planner
Heidi Ashton-Cicko, Managing Assistant County Attorney
Scott Stone, County Attorney's Office
Tom Eastman, School District Representative

PROCEEDINGS

CHAIRMAN STRAIN: Good morning, everyone. Welcome to the Thursday, April 21st meeting of the Collier County Planning Commission. If everybody will please rise for Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

COMMISSIONER ROMAN: And then here's Andy.

COMMISSIONER CHRZANOWSKI: Just in time for roll call.

CHAIRMAN STRAIN: We'll wait for Andy to get up here.

Welcome, Mr. Solis.

Will the secretary please do the roll call now that everybody's here.

COMMISSIONER EBERT: Yes. Good morning.

Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER EBERT: Mr. Chrzanowski?

COMMISSIONER CHRZANOWSKI: Here.

COMMISSIONER EBERT: Mr. Solis?

COMMISSIONER SOLIS: Here.

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: I think we have a quorum.

Addenda to the agenda. We have four items for today. Two of -- the last two items will be review of the Land Development Code amendments that have been -- some have come back and forth a couple of times.

Prior to that we have two normal hearings. The first one would be Heritage Bay, and the second one will be Highview Roost Road.

Are there any changes to anything, Ray, that you have?

(No response.)

CHAIRMAN STRAIN: Mr. Assaad?

COMMISSIONER ASSAAD: Some time ago I requested that we have a discussion about deviations.

CHAIRMAN STRAIN: Yes.

COMMISSIONER ASSAAD: That didn't make that?

CHAIRMAN STRAIN: And it's -- no, it's not on the agenda, neither is Stan's request for exotics. I had gotten, I think, an email from Stan indicating he wouldn't be at the Planning Commission meeting, but he's here. So I didn't put it on for that reason. And until last week I didn't know if I'd be here. So I was concerned at -- the agenda has to be organized weeks before the meeting, and I thought it would be better if we were all here when we had that.

COMMISSIONER ASSAAD: As long as it's not forgotten, that's okay.

CHAIRMAN STRAIN: No. I wouldn't forget such a thing.

Planning Commission absences. The next meeting is May 5th. Does anybody know if they're not going to make it on the May 5th meeting?

(No response.)

CHAIRMAN STRAIN: Okay. That takes us to approval of the minutes. There were two minutes supplied from March 3rd and March 17th electronically. Does anybody on the March 3rd one have any

questions or concerns?

If not, is there a motion to approve?

COMMISSIONER ROMAN: Move to approve.

COMMISSIONER CHRZANOWSKI: Second.

CHAIRMAN STRAIN: Made by Charlette, seconded by Stan.

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.

Second packet was March 17th, same question. Anybody?

COMMISSIONER CHRZANOWSKI: One. I already -- my name is spelled differently a couple times, which is not unusual.

CHAIRMAN STRAIN: But isn't that intentional, Stan?

COMMISSIONER CHRZANOWSKI: I know. I don't think it's important either.

CHAIRMAN STRAIN: Okay. With that clarification, is there a motion to approve?

COMMISSIONER ROMAN: So moved.

COMMISSIONER CHRZANOWSKI: Second.

CHAIRMAN STRAIN: Made by Charlette, seconded by Stan. Stan actually seconded a motion with a document with multiple names for himself.

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.

BCC report and recaps, Ray?

MR. BELLOWS: Yes. On April 12th the Board of County Commissioners heard three items. The first was the Buckley PUD amendment. That was approved 5-0 subject to Planning Commission recommendations.

Then the Abaco PUD rezone was approved 5-0, and they had an additional change to the stormwater management provisions. I don't have that exact language. I could provide that to you at a later date if you'd like.

And then on the summary agenda, the Board approved the Goodland rezone that went from C4 GZO to VR GZO.

CHAIRMAN STRAIN: Thank you, Ray.

MR. BELLOWS: You're welcome.

CHAIRMAN STRAIN: Chairman's report. There is one issue on today's agenda I just want to make Ms. Homiak aware of because she's going to end up dealing with it. 9A is the Heritage Bay PUD PDI for a RaceTrac that's going to be proposed -- or it is proposed for the front part of the activity center. I will not be

participating in that because that was moved from my office to here.

So, Ms. Homiak, at the time we get to 9A, I'll step down. You'll, as vice-chair, monitor and manage the meeting, and then I'll come back up for 9B.

COMMISSIONER HOMIAK: Okay.

CHAIRMAN STRAIN: And that's the only item on -- there is no consent agenda, and with that I'll turn this over to Karen Homiak, who is our vice chair, to handle it from here.

Oh, one item. I got a phone call a few minutes ago. The applicant and their party can't -- are caught in traffic, and I should have -- I was hoping we'd be able to delay long enough to get them here. They're not here yet. It will take them a few more minutes to get here.

So with that in mind, I don't think it would be fair to start without them, and I think the time frame for them to be here is not going to be very long, probably five or 10 minutes more.

What's the wishes of this Board? We could go on to the second agenda item.

COMMISSIONER ASSAAD: Yeah, we can do that.

CHAIRMAN STRAIN: What's the --

COMMISSIONER CHRZANOWSKI: I think we should find out if the public's here --

CHAIRMAN STRAIN: Oh, speak of the devil. I don't mean that literally.

MR. YOVANOVICH: Yes, you do.

CHAIRMAN STRAIN: Okay. And I'll leave the rest of the meeting on this item to Ms. Homiak.

COMMISSIONER HOMIAK: Okay. On to petition -- Agenda Item 9A, Petition No. PDI-PL20150001083, Heritage Park PUD for RaceTrac.

Is the petitioner here? Oh, you're the -- for Heritage Bay?

COMMISSIONER EBERT: That's a change.

MR. YOVANOVICH: For the record, Rich Yovanovich. Actually, I'm here for it, but John Wojdak is going to do the presentation, and I'll answer any questions he can't answer.

COMMISSIONER HOMIAK: Okay.

MR. YOVANOVICH: Swear us all in?

COMMISSIONER HOMIAK: Is there anybody -- yeah. And all those wishing to speak on this item, would you please rise and be sworn in by the court reporter.

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

COMMISSIONER HOMIAK: Okay. Did anybody have any contact with the petitioner or -- Stan, did you speak to anybody?

COMMISSIONER CHRZANOWSKI: No. And, unusually, no one has talked to me about this at all.

COMMISSIONER HOMIAK: Andy?

COMMISSIONER SOLIS: No contact.

COMMISSIONER HOMIAK: Diane?

COMMISSIONER EBERT: Staff. Quite a bit with staff.

COMMISSIONER HOMIAK: Okay. And I didn't speak to anyone. Wafaa?

COMMISSIONER ASSAAD: No contact.

COMMISSIONER ROMAN: No contact.

COMMISSIONER HOMIAK: Okay.

MR. WOJDAK: Good morning. For the record, my name is John Wojdak with DeLisi Fitzgerald. I'm here on behalf of RaceTrac Petroleum and -- for the petition today, which is a PDI amendment to the Heritage Bay PUD.

COMMISSIONER ROMAN: Could you zoom in?

MR. WOJDAK: So the affected area of the PUD is in the southwest corner of the overall Heritage Bay PUD in the activity center area, and it's the property on the corner of Immokalee Road and Bellaire Bay Drive.

This is our master concept plan for the specific site, and it is a convenience food and beverage with fuel pumps. There's a 5,500-square-foot convenience store with a canopy parallel to Immokalee Road with

eight MPDs, or 16 fueling positions, and parking in the front of the building and on the east side.

The landscape buffer -- I'd like to point out that we have right-of-way frontage on three sides of the property. It fronts Immokalee Road. Bellaire Bay Drive was originally a private internal roadway to Heritage Bay. It has been turned over to the county for ownership, so that is now a public roadway, and then Sage Avenue is an internal road to the activity center, platted right-of-way, but it is private.

And what I'd like to do now is briefly go through the deviations that are proposed from the Heritage Bay PUD as part of this application.

And if you're kind of following along, I'm going to do them -- if you don't mind, I'd like to go through the deviations in groups rather than numerical order, the ones, landscaping related, architecture related. It's just easier to discuss with exhibits, if that's okay with everybody.

So the first two deviations that I want to talk about are Deviation 1 and 10. Deviation 1 is related to the west project buffer. And what we're asking for is to use the code provision that allows what they call a joint project plan where you're sharing infrastructure on a property line, which we are doing. We're proposing a shared access drive straddling the property line. And under that code provision, you can reallocate one of the buffers internal to the site so all of the landscaping required for the RaceTrac side, which is a 15-foot, Type A buffer, has been reallocated internally.

And on the west, basically, because we're coming in -- the code contemplates that two projects come together to use this code provision. We're coming in on our own. So to mitigate that, we're providing now the buffer that would be provided by the adjacent property. So basically, all the landscaping that's required, we're putting in.

And we worked a lot with staff on this to get it figured out. And, like I said, all the code landscaping provided; we're just coming in independently of development of the adjacent site.

And then the other landscape deviation is 10 for the buffer along Immokalee Road. Here. And, again, because we front three rights-of-way, the code requires that for gas stations, a 25-foot buffer on those three sides. And what we've done is provided that buffer on the north where our parcel would be visible to the residential sections of the PUD and push the site forward with the reduced buffer in width only all along Immokalee Road. So all of the required plant material, part of the gas station, buffer is provided. It's just in 15 feet instead of 25 feet.

And I'd also point out there's a 100-foot canal right-of-way in front of our property such that the -- from the travelway the site is over 130 feet away from the pavement.

The next two deviations are architecture related, and they're Deviations 4 and 7. So Deviations 4 and 7 are from the same code section related to primary facades. So the code allows a -- requires a primary facade when you are fronting a road, and it allows only one that's not facing a road. So, essentially, what we're requesting is at the back of the building, which faces the internal private roadway, to be considered a secondary facade, and it would also be a second secondary facade.

As you can see, the back of the building is heavily landscaped. The building is tucked up tight to the buffer so that there's really no view corridor to see the back of the building, and I have a little visual of the landscape.

This is a rendering of the back of the building from Sage Avenue. And as you can see, the back of the building is completely shielded by the required berm and buffer. And we've also, in working with staff, agreed to increase the height of the trees that are planted from 14 feet to 16 feet at time of installation.

And with the reallocated buffer that I talked about earlier, we're using some of that material in this buffer to further shield the back of the building.

The next three deviations, 5, 6, and 9, relate to signage. And Deviations 5 and 6 relate to the canopy. And basically the code requires, or allows, 12 square feet of sign area on the canopy on any face that faces the road, which we face two roads, Immokalee and Bellaire Bay, and we're requesting an additional sign on the west so that it's visible from Immokalee Road.

And then we're also requesting that the area be increased from 12 feet to 50 on the front and 30 on the sides. And the rationale for that is that it -- 12 square feet is just not visible from approximately 150 feet away at 50 miles an hour. That's 80 feet per second when you're traveling down the road, and you need to be able to see the sign, maneuver, and 12 square feet is not legible at that distance and speed.

The other sign deviation is the monument sign.

COMMISSIONER CHRZANOWSKI: John, did you say 8 feet a second?

MR. WOJDAK: Eighty.

COMMISSIONER CHRZANOWSKI: Eighty.

MR. WOJDAK: The proposed monument sign is right here at the corner when you come in off Bellaire Bay Drive, and this is the canal here. And, again, same rationale on the distance and offset from the roadway; we're requesting 118-square-foot sign. This is consistent with other deviations on other RaceTracs in similar scenarios. A similar deviation was granted on the site at Rattlesnake and 951. It's not constructed, but it is approved, and there you have -- it's not a canal, but a large drainage ditch alongside the road where the property is offset substantially from the roadway.

So we're increasing the sign proportionally so that it's basically the same visibility as if it were closer to the road in a typical section.

COMMISSIONER HOMIAK: This is the price sign?

MR. WOJDAK: That's correct. I have a graphic of it.

So the sign is only a little over 11 feet tall, and this area here, even though it's shown kind of a brown color, it would actually be the stone that is on the building. So it's architecturally identical to the building.

And then the last deviation -- I'll just use this landscape plan. Ease it in a tiny bit there -- relates to parking. We're asking for a relief of one parking space.

And with -- the previous RaceTracs that have been approved in the county were considered automobile service stations parked at a rate of one per 250 square feet.

Automobile service stations kind of went away as a category with the recent LDC amendments. So now the site is parked at the convenience store rate of 1 per 200, which obviously increases the parking required. And our rationale is that we've obviously been doing quite a few RaceTracs in Collier County and Southwest Florida, and RaceTrac knows how many parking spaces they need to serve their customers and the -- using the new rate basically overparks it for what they need.

And while we could potentially accommodate that, RaceTrac likes to provide a very convenient experience for the customers, so the drive aisles are a little wider than the bare minimum, and the parking spaces are 10 feet wide instead of 9 feet wide. So they're easier to get in and out of.

And so we're asking for a relief of one space to get down to basically the rate that we typically have been parking these at.

That's all the deviations. I'm happy to answer any questions.

COMMISSIONER HOMIAK: Anybody?

COMMISSIONER EBERT: Yes. I have a lot of them.

The shared driveway that you plan on, these are all out-lots, correct?

MR. WOJDAK: That's correct.

COMMISSIONER EBERT: And is Carrabba's going to be next to you?

MR. WOJDAK: I don't know the answer to that.

COMMISSIONER EBERT: So this is a shared driveway to nowhere, to the canal?

COMMISSIONER HOMIAK: It's to the lot next door.

COMMISSIONER ROMAN: Could you just zoom out just a little bit on that so we can see this site plan.

MR. WOJDAK: So here's the shared drive, and, you know, it doesn't, you know, go through. Our buffer extends to the end. So it's not access to the canal. And the adjoining owner would, you know, based on their site plan, connect to that versus having a separate driveway right next to ours.

COMMISSIONER EBERT: Well, if these are out-lots, Sage Avenue is there -- I drove the site because I live by this site. And they can very easily just come in Sage Drive (sic) on this.

To me, looking at the plans in going over this, you're overbuilding for the lot size, it looks like to me. I think you could maybe take one or two pumps away and get within the Land Development Code.

We just did all this work for gas stations this last fall. This is a new area, and we are redefining it. You do not meet the setbacks. You want all your signs changed, and landscaping. And I'm going, wait a minute, we just devised this thing and you don't want to adhere to anything.

So I did some checking, and we have a cell station at the Strand which is behind the 100-foot canal that you keep talking about, the variance. They are in code. You have the 7-Eleven on Interstate I-75 and Immokalee. They are in code. You have the Mobil station also on Immokalee on the north side of the canal. These are all on the north side of the canal, and they have -- they follow code except for the setback of the ground sign, which is because Longshore Lakes protruded, so they made a slight adjustment there.

Then we have the town center. Everything was fine there. And I'm going, wait a minute. Then you also -- which is not on Immokalee Road, you also have your Pine Ridge and Whippoorwill, which is according to code.

And this is new for the county. We have not really had a chance to implement this. And I'm seeing already -- and you brought it up -- that you're going to expect these deviations because it was granted on another site.

That bothers me when you start expecting. Each site is different, and it should be taken that way. I think you should probably reduce the amount of your canopy. You could take one or two pumps off to be within these limits.

There is -- from what I was reading in here, that your back door was going to be delivery. If you're putting that much landscaping in there, who's -- how are they going to deliver stuff? Where is their trucks going to go?

MR. YOVANOVICH: May I? For the record, Rich Yovanovich. I want to address a few things that were said there.

First I'll go on the last one. On the delivery, they're all going to be hand delivery. The trucks -- there will be no truck traffic in the rear of the store. So it will be -- it's a rear access point for some deliveries -- for delivery people, which will all be on foot. So the bigger trucks will not be going back behind there in any way.

But going back to the sign -- the sign deviations, RaceTrac has done several projects in Collier County, and they have their typical sign package that you see on all of their existing stores.

We don't -- we certainly don't cite as a basis that you need to give us this deviation the fact that that sign package has been approved on multiple occasions in the past. But it's a sign package that has proved both to be -- I don't think there's any question that RaceTrac in Collier County has been the leader in architectural standards for convenience gas delivery in Collier County. I don't think -- I've heard a lot of things about RaceTrac, but the one thing I haven't heard about RaceTrac is that they're unattractive, that they're not clean, that their signage is distasteful.

The signs that we're asking for are consistent with the other properties. Comparing Whippoorwill and Pine Ridge when that was approved in the '90s is dramatically different than --

COMMISSIONER EBERT: I know, Rich --

MR. YOVANOVICH: -- what's going through the process.

COMMISSIONER EBERT: -- but guess what -- guess what? Everybody knows where the RaceTrac is on Pine Ridge, and it isn't just because of the sign.

MR. YOVANOVICH: What I'm saying, though, in this particular case we're 100 feet back. And just by way of history -- and another thing that I think is kind of unique is we sent out 3,000 letters to the neighborhoods, and we have support from the community for what we're requesting.

So there's not objection to the RaceTrac with the deviations that are before you from the neighborhood. Your staff is recommending approval of every one of the deviations that we're requesting.

This site is different. It's further back. The signage on the canopy is necessary for it to be visible.

COMMISSIONER EBERT: Rich, what did I just talk about about the other gas stations that are set back behind the canal? They -- they went to their sign codes. There was not a problem. And so the setback -- I mean --

MR. YOVANOVICH: The question isn't what the other people did. It's not.

COMMISSIONER EBERT: Okay.

MR. YOVANOVICH: You say to me in one instance you can't use as precedent what someone else got approved, and now you're saying because someone else didn't ask for a deviation I shouldn't be allowed to ask for one.

COMMISSIONER EBERT: No, it's their justification. They always use the canal as their justification for asking for it. So I went and checked out the other gas stations that are also set back from the canal just like this. They're all on the north side. And they don't seem to have a problem.

This one just -- and I understand it's new, but we have not really had much of a chance to implement this, and all of a sudden -- when I started reading this, I thought, wow, they're telling the county exactly what they're going to do each time, and -- to me, it just kind of set me off. You know, I said to myself, who's running this, the county or RaceTrac?

And, first of all, the setbacks for the property line, it's supposed to be 50 feet, which the north side isn't. It's supposed to be 50 feet for the -- all the way around. And you're asking for a 25-foot rather than 50 and a 20-foot because of the shared driveway.

I -- actually, they should buy Lot 3 and rearrange this so that it fits within the deviation pattern. I mean, we made these deviations and -- last fall.

MS. ASHTON-CICKO: Madam Chair, perhaps would you like to focus on questions that the Board might have for the applicant at this point and then hear staff's recommendation and then get into the positions of each of the Planning Commission members?

COMMISSIONER HOMIAK: Sure.

MR. YOVANOVICH: I don't know how I would buy Lot 3 and solve your concern about --

COMMISSIONER EBERT: Setbacks.

MR. YOVANOVICH: -- the setbacks. And if I can, when we initial -- we started this process with staff, staff didn't consider Immokalee Road -- because of the canal, they didn't consider that frontage. They then realized that in the description of -- because not all of the road right-of-ways actually include the canal adjacent to it in the road right-of-way description.

So what happened was staff said, oh, this is one of the rare times where the canal itself is in the road right-of-way description. It's now frontage, which added that additional requirement of a setback along Immokalee Road.

So the question became, why? Why do I need a 50-foot setback from a road -- a 100-foot road right-of-way canal from a pavement that's now about 150 feet or 140 feet away? And I guess we could have redone the site and asked for the setback reduction along Immokalee Road, but staff -- staff believed that under the circumstances in the applicable way that this should be developed, it made more sense to push the canopy further away from Immokalee Road and have an enhanced landscape buffer along the rear of the building and ask for the reduced setback there.

But to me it makes no sense to require a 50-foot setback from a 100-foot canal that separates the traveling public from that distance. So that's kind of how we got to where we are on that. And we took the required -- the landscaping that would be along that entry road. We're not allowed to just avoid that landscaping. We still provide it. We put it in the other portions of the project, and we enhanced the buffer along the internal Sage road or boulevard.

But -- so we've worked very closely with staff and the adjoining property owner and the neighborhood through keeping them informed as to the layout of this site. I mean, this is -- this is not in any way detrimental to the community, and the signage package is consistent with what you've seen in practice in Collier County for RaceTracs. And you know what, we may ultimately be the leader for others that may come in and ask for deviations, but who knows. But these are all sign deviations that make sense and are supported by your staff.

COMMISSIONER HOMIAK: Is there anyone else?

COMMISSIONER SOLIS: I've got a couple of questions.

With regard to the Deviation No. 1 -- and as I understand that, usually that's a situation where the two property owners come in with an agreement relating to an access drive and the buffers. And as I read the staff's report, it says that one of the conditions is that the owner of Lot 3 is going to disclose to a purchaser these requirements. The owner of Lot 3's not part of the application, right?

MR. YOVANOVICH: But they've written a letter to the staff acknowledging that they have those obligations. The irony of it, the owner of Lot 3 sold us the property, so it's --

COMMISSIONER SOLIS: Okay. But let's -- but what is -- and what's going to be recorded that's

going to make that a requirement? Because a letter's one thing, but if the current owner --

MR. YOVANOVICH: PUD.

COMMISSIONER SOLIS: -- of Lot 3 -- let me finish.

MR. YOVANOVICH: Sorry.

COMMISSIONER SOLIS: -- sells the property to another purchaser, who's to say that that's going to be disclosed to another purchaser?

So my question is, how is that requirement going to be formalized so that in the chain of title the subsequent owner of Lot 3's going to have to do that?

MR. YOVANOVICH: It will be in the PUD document itself that they have the obligation. Zoning, as you know, is an obligation of every property owner. So they will have in the PUD -- so if I'm the buyer of Lot 3, I'll go look and see, what are my zoning obligations within the PUD, and it will clearly say I have the obligation to do all these things.

COMMISSIONER SOLIS: And I guess this is a question for staff. Staff is comfortable that although this change to the PUD's going to affect Lot 3, they're not an applicant, but they're agreeing to it?

MR. YOVANOVICH: Scott -- you might want to ask Scott.

COMMISSIONER SOLIS: Or Heidi.

MS. ASHTON-CICKO: Yes. The letter that Mr. Johnson put on the visualizer will be made part of the record today. So he's consented to that requirement where he's got to notify any purchaser of these requirements.

COMMISSIONER SOLIS: And I must have missed that. Can you put that letter --

MS. ASHTON-CICKO: It's on the visualizer right now.

COMMISSIONER SOLIS: On there now, okay.

MR. WOJDAK: Mr. Solis, I'd also like to add that as part of the PUD, there's a requirement that the -- that there be a shared access agreement recorded between us and the adjacent property owner. A draft of that is in the package.

The adjacent owner has not only consented to us providing their buffering for them, that -- we provided that early on when this came up, and then they recently provided this letter at the request of the County Attorney's Office that they would notify any purchaser.

So we have a letter of authorization from them to -- acknowledging that this is what we're doing. We have a draft shared access agreement that's required at SDP, and we have the letter from them addressed to RaceTrac and the county that they will notify anyone, and that will be part of the PUD resolution.

COMMISSIONER SOLIS: And staff -- and Heidi, you're comfortable with everything that we have?

MS. ASHTON-CICKO: Yes.

COMMISSIONER SOLIS: Okay.

COMMISSIONER EBERT: Can I ask a question? So you purchased Lot 3 also, so both lots are under your name; is that it?

MR. YOVANOVICH: No. I said we purchased, from the owner of Lot 3, Lot 4. So the person who's next to us owned both parcels, sold us our lot. So they're fully aware, obviously, of the proposed joint development, and that's why there's the shared access and --

COMMISSIONER EBERT: That was Cameron Properties.

MR. WOJDAK: That's correct.

COMMISSIONER HOMIAK: Anybody else?

COMMISSIONER ASSAAD: I want to hear from staff first.

COMMISSIONER ROMAN: Not at this time.

COMMISSIONER HOMIAK: Sure. Okay. Eric?

MR. JOHNSON: Sure. Thank you, Madam Chair.

For the record, Eric Johnson, principal planner.

Just some housekeeping measures. Just for everyone's edification, the CCPC today will make a decision, and this will be the final -- you guys will be the final authority on this matter. It will not be going to the Board of County Commissioners.

Staff did receive public comments, phone calls, emails. And in the staff report it's indicated, you know, the applicant rightly said that they were requesting 10 deviations. Staff is recommending approval of all deviations.

I did want to point out -- again, this is a housekeeping measure -- that on some of the colored renderings that you have in your packet includes these things called window clings. Originally, the applicant had requested a deviation for 100 percent coverage or a greater coverage that is allowed by code and has subsequently withdrawn that -- withdrew that deviation, but the elevation drawings that you have in your packet still show some of those windows clings.

So I can -- I have marked in my packet which drawings are inaccurate. If you want, I could put it on the visualizer. If not, I can proceed.

COMMISSIONER HOMIAK: Anybody want to see them or --

MR. JOHNSON: Would you like to see them or -- just for the record?

COMMISSIONER HOMIAK: All set.

MR. JOHNSON: Proceed, okay.

As I mentioned in the staff report, there is a deficiency in the number of trees. Staff has determined that there are 13 trees that the landscape plan is deficient on, but I would like to point out that the actual review of the landscape plan would be more appropriately conducted at the time of SDP should this be approved, Site Development Plan review. So that kind of matter can be hashed out later if this is approved.

In your packet, as an attachment, I included an email from the applicant, and he notes that there is an issue with the overlapping of the water management area and the landscape buffer, and he's agreed to rectify that at the time of SDP.

I noticed this morning, however, that he didn't acknowledge the 13 trees. So if and when he's asked to speak again, I'd like to get some clarification as to whether or not he intends to be able to comply with the Land Development Code at the time of SDP with respect to those trees.

At the neighborhood information meeting there were comments/commitments that were made by the applicant, Mr. Tom Hardy. And those commitments and that narrative has been summarized in your staff report. So I just wanted to point that out.

One thing that I needed to get clarification on was the commitment or the -- I don't want to say promise, but the narrative that Mr. Hardy had with respect to Dark Sky's initiatives. Dark Sky's initiatives to me -- I think we've all kind of heard that concept, but it's hard to quantify exactly what that means. So if and when the time comes, maybe we could have the applicant expound upon what he intends or intended by Dark Sky's initiatives.

Some of the comments or -- I would say more of the comments were talking about -- from the public that is, was with regards to exterior lighting and landscaping. And, again, you have the summary of the NIM in your packet. You have my summary as I tried best to glean from listening to the tapes.

I'm going to read the staff recommendation, and I'm only going to read part of it. So if you would, on Page 19 of 21, staff recommends that Collier County Planning Commission approve this petition subject to the following conditions to be incorporated into the final CCPC decision:

And, number one, approval of Deviation No. 5. That's regarding the canopy sign area. That's -- approval of that is contingent upon the approval of Deviation No. 6, the number of canopy signs, and then there are other recommendations that are in the packet, 2, 3, 4, and 5, which were commitments made by the applicant at the neighborhood information meeting.

So that basically sums up my recommendation. You know, the matter of who approves this, it will not be going to the Board of County Commissioners.

COMMISSIONER ASSAAD: Explain to me, please, sir.

MR. JOHNSON: Well, the way I understand it, is that -- hmm. If an item is set to go before the Hearing Examiner and for one reason or another it has to be elevated to the Collier County Planning Commission, that it won't -- it does not need to go before the Board of County Commissioners.

COMMISSIONER ASSAAD: So why didn't that go back to the Hearing Examiner?

MR. JOHNSON: I really can't speak on that.

COMMISSIONER ASSAAD: Excuse me?

MR. JOHNSON: I don't know the answer. Once it was determined that --

COMMISSIONER ASSAAD: By whom and why?

MR. BELLOWES: For the record, Ray Bellows, zoning manager.

It's my understanding that the commissioner of this district requested it to go to the Planning Commission. Since this is an insubstantial change to a PUD PDI, those are historically approved by the Planning Commission.

COMMISSIONER ASSAAD: And who's the commissioner of that district?

COMMISSIONER EBERT: Commissioner Henning.

COMMISSIONER ASSAAD: Hmm?

COMMISSIONER EBERT: Commissioner Henning.

COMMISSIONER ASSAAD: Okay.

MR. JOHNSON: Finally, the applicant emailed me an elevation drawing of the canopy, and it's showing the height from -- the clearance from the bottom of the canopy to the ground and then also to the overall height. And I apologize for not bringing that to this meeting.

But that wraps up my presentation. I'll be happy to answer any questions.

COMMISSIONER ASSAAD: Do we have the right to send it back to Commissioner Henning?

MS. ASHTON-CICKO: No. Under the Land Development Code, insubstantial changes are heard -- of PUDs are heard by either the Hearing Examiner or the Planning Commission. So today you are the final decision maker, and depending on whether this is approval or denial, if it were to go as a denial, then you're going to have to state your reasons for the record.

COMMISSIONER ASSAAD: But we cannot kick it back to the Hearing Examiner?

MS. ASHTON-CICKO: No, you cannot.

COMMISSIONER ASSAAD: You just said that it's either/or.

MS. ASHTON-CICKO: Correct.

COMMISSIONER ASSAAD: Per the code, it could be heard by the examiner or the planning board. Somebody decided that they want it heard by the planning board. My question is, why couldn't the planning board say, send it back to the Hearing Examiner? They made the first decision. They have the background. They should hear the second application.

COMMISSIONER CHRZANOWSKI: Could I ask a question?

COMMISSIONER HOMIAK: Sure.

COMMISSIONER CHRZANOWSKI: Last time we heard something like this, there were a lot of members of the public opposed to it, and the item went to the Board anyway because they appealed our decision.

When somebody asked if people would stand up if they had anything to say to be sworn in, I don't remember seeing any members of the public standing up opposed to this, and I -- from the sound of it, is anybody opposed to this?

MR. YOVANOVICH: No. And I think what happened, kind of in response to Mr. Assaad's question -- I'm sorry?

COMMISSIONER EBERT: There is a person out there.

MR. YOVANOVICH: Okay. I think that with the number of people that were going to be noticed, the through might be that this might be one of those petitions that a lot of people might have concern over the -- what we're requesting. And it turned out, I think, that that didn't show itself to be the reality, that since we were going into an established community, that established community might have concerns with what we're requesting.

And it didn't play out that way. And it may -- and, again, hindsight's 20/20. Had that all occurred first, maybe we would have stayed where we were, in front of the Planning Commission (sic). But I think by going this way, there was the opportunity for the public to come and voice their objection if they had objections to what we're proposing.

I'm not going to tell you that everybody in that community -- obviously, if there's one person here opposed or to speak, I don't even know what they're to speak for or against. But I think that was why we ended up here instead of staying in front of the Hearing Examiner, to see if the public would have a large

concern over what we're requesting.

COMMISSIONER ASSAAD: Thank you.

COMMISSIONER SOLIS: Can I ask a quick question. Just procedurally, can somebody explain again to me what transpired? This -- the application was made, was going to be heard by the Hearing Officer? Was it heard by the Hearing Officer?

MR. YOVANOVICH: No.

COMMISSIONER SOLIS: It was not heard by the Hearing Officer?

MR. YOVANOVICH: It was not heard.

COMMISSIONER SOLIS: Okay.

COMMISSIONER ASSAAD: The first --

MR. YOVANOVICH: This petition has never been heard by Hearing Examiner. It was submitted under the normal process, and I believe Commissioner Henning said, I would like to have this go the Planning Commission route versus the Hearing Examiner route because it's an either/or. And I'm only surmising that. I'm thinking, because of the location of this, the amount of residents who are around it, that the public notification process and people are used to the Planning Commission and coming and voicing opinions, this would give the public the opportunity to interact with the Planning Commission to say, hey, please don't do this. And this gave -- that was the process more people are used to and are more familiar with, and I think that's why we're here versus the Hearing Examiner route.

Again, that's Rich Yovanovich's interpretation of how we got to where we are.

COMMISSIONER EBERT: Could --

COMMISSIONER HOMIAK: Are you ready to address the deficiency of the trees, the 13 trees?

MR. YOVANOVICH: Yeah. I mean, we've already said, as part of SDP, obviously, we'll take care of the trees.

COMMISSIONER HOMIAK: Okay.

MR. YOVANOVICH: I believe John can --

MR. WOJDAK: For the record, John Wojdak with DeLisi Fitzgerald. If the specific 13 trees was omitted from my email to Eric, I do apologize. Our intent is to fully comply with the LDC at the time of Site Development Plan.

And just to add a couple -- touch on a couple of the other things that Eric asked about -- it's a little -- little hard to see, but this is an elevation of the building and canopy. And off to the right of the longer view of the canopy is a elevation mark noting that the underside of the canopy is 16 feet in height, and then the canopy itself is 4 feet thick with a maximum height of 20 feet.

So if that needs to be conditioned, it is part of the code, so that was shown to comply with that. But to answer Eric's question, from the ground to the underside of the canopy is 16 feet.

And then regarding the lighting, all of the lighting on site is Dark Sky's compliant. It's -- any site lighting is fully shielded. The lights on the underside of the canopy are recessed, so they don't -- they're not visible. They're tucked up in the canopy and shine down, so that's what Mr. Hardy meant when he made those statements at the public information meeting.

COMMISSIONER HOMIAK: And is that consistent with what you've been doing on the other RaceTracs here in Collier County?

MR. WOJDAK: Yes.

COMMISSIONER HOMIAK: Okay. Is there anything -- yes.

COMMISSIONER ROMAN: Yes. I have a question, first from the applicant and then from -- then for staff.

There was a comment made earlier by one of my colleagues on the board about delivery trucks. And the reply was made that everything is hand trucked in. That led me to think of where do the delivery trucks park. That's what I thought the question was. Where are those delivery trucks?

MR. YOVANOVICH: No. I think -- I thought the question was, would there be delivery trucks around the rear of the building for the --

COMMISSIONER ROMAN: Okay.

MR. YOVANOVICH: And I was saying, no, everything that will be delivered at the rear of the

building will be by someone physically walking it to the rear of the building and bringing it in.

There will be, obviously, delivery trucks that come to the site. So John could tell you where they will park.

COMMISSIONER ROMAN: Okay. If he could clarify that.

MR. WOJDAK: This is actually a sheet from our Site Development Plan, and the service drive is here where the dumpster is. And the deliveries besides fuel are all small, single-unit trucks. It's not semis delivering goods. So they're single-unit trucks. And here is our required loading space right here, and then there is basically a sidewalk from that area behind the building to the receiving area at the back of the building, which is tucked between the building and the toe of slope of the landscape berm that's required.

So all that activity is fully shielded by the buffer. So the truck would park here and then hand truck -- as Rich was referring to, would be basically like a dolly and they, you know, take it into the back of the store.

COMMISSIONER ROMAN: Okay. Thanks for the clarification.

Eric, I had a question regarding the landscape buffer. Having observed two RaceTracs in East Naples that were constructed, their appearance is very, very attractive in the amount of landscaping that was added around the structure. So I would like to ask you specifically about the landscape buffer that is facing Immokalee Road in that water retention area. What is the requirement by code?

MR. JOHNSON: Madam Chair, Ms. Commissioner, I'm going to defer that question to Mr. Smith.

COMMISSIONER ROMAN: Okay.

MR. SMITH: Hi. Daniel Smith, principal planner, zoning.

There's three buffers, or actually there's four buffers, but there's three that are going to have the landscaping that you normally see along the right-of-way.

COMMISSIONER ROMAN: If you could just address the one facing Immokalee Road and that water retention area for right now. Just focus on that.

MR. SMITH: Well, those are two different areas, though. One's a water retention along Bellaire. That's the water retention area.

COMMISSIONER ROMAN: Okay.

MR. SMITH: The other one's Immokalee, which is -- they're asking for a deviation of -- instead of 25 feet, 15 feet.

Those are 5-foot shrubs along with smaller shrubs and trees roughly in clusters 20 feet apart.

COMMISSIONER ROMAN: Okay. Now, what I'm reading --

MR. SMITH: And then -- and the one on Bellaire -- just to clarify, the one on Bellaire is going to have the berm. The one on Immokalee they're asking for a deviation to not put the berm.

COMMISSIONER ROMAN: Okay. That was one of the points. So the berm has been left out.

MR. SMITH: Correct.

COMMISSIONER ROMAN: And, secondly, I'm reading from this site landscape calculations, and it says -- is Immokalee Road the south buffer?

MR. SMITH: Correct.

COMMISSIONER ROMAN: Okay. It says, south buffer section is 15-foot Type D with 5-foot shrubs. A Type D, according to our code, is trees 30-foot on center and two rows of 3-foot-high shrubs. So it -- that's what I'm looking at, a page in the code.

MR. SMITH: Yeah. It's not a Type D. It's just -- the landscape code for gas stations is its own buffer. It's not really -- doesn't have a name to it. It's not an A, B, C, or D. It's only -- it's its own enhanced buffer and has its certain language on the type of plant material and how much plant material, and it doesn't -- it's nothing close to what an A, B, C, or D buffer is. So wherever you're reading the D, that's incorrect.

COMMISSIONER ROMAN: I'm reading out of the code.

MR. SMITH: Okay. Yeah.

COMMISSIONER ROMAN: And I'm also reading from my packet.

MR. SMITH: Okay.

COMMISSIONER ROMAN: So what I don't have, which is a key data point for me today, is what

exactly that buffer's going to look like along Immokalee Road.

MR. SMITH: Right. It's actually in the new -- it's in the automobile or facilities with fuel pumps, it's in that portion. Because you're probably looking at the wrong portion. Let's see.

COMMISSIONER ROMAN: All right.

MR. SMITH: Okay. Go ahead.

COMMISSIONER ROMAN: Because I know the berm's been omitted, and we know that we're short, I understood it was 13 canopy trees, not just trees, but canopy trees, according to staff.

MR. WOJDAK: And the 13 canopy trees that are short, we basically did an SDP level landscape plan --

COMMISSIONER ROMAN: Okay.

MR. WOJDAK: -- to verify that we could meet the reallocated buffer area and not overlap all of these areas. We worked extremely close with staff on that.

There are a couple overlaps that need to be corrected. There's plenty of room to do that, and we will fully comply with that at time of SDP.

So the 13 trees was just when we did the initial SDP level to -- staff, you know, made a good point when we were talking about this. They're like, we need to see more detail to make sure that this all works when we get to SDP. We don't want to agree to it in theory and then get to SDP and it not work.

So we basically went ahead and did the SDP level landscape plan. It needs a couple tweaks, but it showed and got staff comfortable that we can make it work, specifically to the --

COMMISSIONER ROMAN: If you could zoom out a little bit here so I -- I can read this.

COMMISSIONER HOMIAK: Deficiency in the trees is not in that area, correct?

MR. WOJDAK: That's correct. And to -- kind of to Dan's point, the -- when you have a gas station, we generally refer to it as the gas station buffer, which is the 25-foot.

COMMISSIONER ROMAN: And that's what I'd like you to cover, and I appreciate that.

MR. WOJDAK: Sure. So what we requested relief on was the width in the berm. And in response to the berm, you're basically coming up from the bank of the canal. So you have the, you know, visual appearance of a berm anyway because you're coming up the bank of the Immokalee Road canal.

There's -- there is no reduction in plant material requested here. So basically the plantings that are here are the plantings from the quote-unquote gas station buffer. There's no reduction in size, quantity, type.

So in terms of plant material, it's fully compliant with the gas station code.

COMMISSIONER ROMAN: So there's no reduction, and there's no enhancement, other than the fact that the reduction is (sic) the berm is missing?

MR. WOJDAK: That's incorrect. We actually, similar to the north side, have agreed to increase the heights of the trees from 14 to 16 feet.

COMMISSIONER ROMAN: So those will be 16-foot trees.

And this might be a question for Dan. Dan, when they look -- when you look at a palm substitution for canopy trees, what's that equation?

MR. SMITH: The equation is the royal palm and the date palm, which are the larger palms, meet the definition of a canopy, the canopy requirement. Anything lesser than that, it's three to one. So in the case -- we have a native sabal palm, you have to actually plant three of those to equal one canopy tree. Foxtail palm, the same way. Some of the smaller palms have to meet the three-to-one ratio.

COMMISSIONER ROMAN: Okay. Thank you.

MR. SMITH: Okay.

COMMISSIONER ROMAN: In going along the eastern side of the property, could you cover that, too.

MR. WOJDAK: Sure. And just to add, that this graphic here was basically created to memorialize the buffer and is included in the resolution as what we have to provide.

COMMISSIONER ROMAN: Thank you for clarifying that versus the Type D. Okay. That was -- thank you.

COMMISSIONER EBERT: Dan, I have a question for you. Is -- are we going to create a new buffer for facilities with pumps? Is it going to be a complete new Land Development Code?

MR. SMITH: Well, I can only address, you know, each individual project as it comes forward. Each of them have their own little --

COMMISSIONER EBERT: But you're saying this is not A, B, C, or D.

MR. SMITH: No.

COMMISSIONER EBERT: So this is completely different.

MR. SMITH: Well, you have to look at the intent when the code was originally written. And it talks about clustering. It talks about no more than 20 foot for the clusters. If a landscape architect who does a design comes in for similar trees and he has the clusters going 15 or 10 feet, I'm going to look at that plant material to make sure it's going to meet and it's going to survive in a long-term solution. I'm looking for sustainability over the course of 10, 15, 20 years.

And so each one may have a little uniqueness, but I'm making sure I meet that intent of what the code was originally written --

COMMISSIONER EBERT: Okay.

MR. SMITH: -- by the -- the intent for what the Planning Commission and the Board of County Commissioners had in mind, so...

COMMISSIONER EBERT: Okay. Well, it was just because you said, well, it's not A, B, C, or D, and that's why I was wondering, are we going to have a new code for --

MR. BOSI: Mike Bosi, planning and zoning director.

Just a point of clarification. We adopted the new standards for automobile service stations with fuel pumps. We created a new buffering for those specifically. That's why it's not an A, B, C, or D. Those -- that buffering was specifically crafted for automobile service stations, and that's why it's a little outside of the traditional buffers that we have expressed within our Land Development Code.

COMMISSIONER ROMAN: It was just my document said Type D, and then they were changing things. Okay.

MR. BOSI: So there's the clarification. And that is codified. That is part of our Land Development Code. It's just outside of the traditional buffers.

COMMISSIONER HOMIAK: Some of the landscaping here is from working with the neighborhood, correct?

COMMISSIONER ROMAN: That was the rear, as I understand it.

COMMISSIONER HOMIAK: The rear.

MR. WOJDAK: Yeah. Basically what we did, because there were deviations related to setbacks, and -- we basically enhanced the buffers where the property -- you know, it doesn't directly abut, but where the residential part of the Heritage Bay PUD is behind us.

So kind of following along, going around the property line, here's the buffer we just talked about, and then the gas station buffer, as we'll call it, is provided in full along the east side, and it wraps around. Again, we've tucked it up tight to the parking so, you know, you're -- there's less of a view opportunity behind the buffer. And there was also -- because of the curve in the road, there was concerns about all that plant material creating a sight distance problem around that curve. So we tucked the buffer tight up to the parking.

And then, again, we took the material from this reallocated buffer and enhanced here, and then some of that is also distributed out here for more landscaping along Bellaire Bay Drive.

And then on the rear of the site, again, the full 25-foot gas station buffer is provided with the berm enhanced in itself with larger material and further enhanced with reallocated material from the west buffer.

And then it doesn't show on here, but when we were talking about the first deviation with the joint project plan, there will be a 10-foot Type A buffer also provided here. That is essentially the neighbor's required buffer, but we're planting it now.

COMMISSIONER HOMIAK: Okay. Thank you.

Oh, go ahead.

COMMISSIONER ASSAAD: Would somebody explain to me the difference between the main elevation and the secondary elevation?

MR. SHAWINSKY: Peter Shawinsky, staff architect.

The -- this being in a PUD, the code requires four primary facades on a building. It does allow for

one secondary facade. Those primary facades are typically facing public right-of-ways. In this case it would be Immokalee, Bellaire, and Sage.

And the difference between a secondary facade is it does not have to meet the primary facade requirements. The primary facade has five design elements that are typically incorporated into the building.

As a secondary facade, it would not have to meet that requirement, but there are 22 additional design elements that apply to all facades. So in this particular case, they're asking for the second secondary. So there would be two primary, two secondary.

COMMISSIONER ASSAAD: Okay. Thank you.

COMMISSIONER HOMIAK: Okay.

COMMISSIONER ASSAAD: I have more questions.

COMMISSIONER HOMIAK: Okay.

COMMISSIONER ASSAAD: Okay. On the staff report on Page No. 3, under the purpose and description, starting on the second line, it reads, RaceTrac is requesting deviation to the PUD standards in order to develop the site to their preference; is that correct?

MR. JOHNSON: That is correct.

COMMISSIONER ASSAAD: Why is it to their preference and not according to the county codes? Where does it say that every applicant that comes to Collier County will have their own preferences?

Collier County has codes particularly having to do with signs, setbacks, all of that. Collier County came through a long, long, hard work experience of developing codes to maintain our lifestyle, our appearance, our community image which created the beauty and the desirability of doing business in Collier County.

So now you have newcomers who like Collier County because it's a likable community, but when they come in they tell us, we don't like your setbacks, we don't like your site limitations, we don't like your site requirements or your buffering requirements or your parking criteria, and we would like 13 deviations. That tells me something is wrong here.

One of them is either the site is not suitable for their purpose and they should look for another site, or they should look for another county. I hate to say that because we like to welcome people with good development standards to come to the county. But I'm -- I, for one, would like to maintain the image that made Collier County great. Part of that is the long, long, hard work and code enforcement.

I look at the Planning Commission function as an enforcing agency. We enforce the codes.

And then you hear statements like Mr. Yovanovich made a second ago when he was talking about setbacks. He made a statement, and I quote, 50-foot front setback doesn't make sense to me.

Well, I couldn't find anything in the code that said setbacks have to make sense to Mr. Yovanovich or any other applicant. I know he has his opinion, and I have mine.

Then you go through the staff report, and it seems to me like double standards. They want a waiver from the primary facades, but they want the bigger signs that goes on the primary facade.

So it should be either/or. If you want the primary facade, you get the bigger sign. You want the little facade, you get the little sign.

And then when you buy property that faces three streets, then you understand that you have to comply with the code. The fact that you have three streets abutting the property doesn't mean that you get waivers here and there and you can waive this and waive that.

And then you're asking for more height for the free-standing sign. Why? Why is a taller sign better?

Years ago Collier County had no sign regulation, and you can drive through the Tamiami Trail or any major road and you find taller signs, bigger signs on every lot, and it created a proliferation of signs that wasn't appealing.

So they created the sign ordinance that gave a grace period for everybody to comply. And after 15, 20 years, now we have a beautiful county with mostly compliant developers, but every once in a while you get somebody who wants to break the rules, and he wants to ask for many deviations --

COMMISSIONER HOMIAK: Do you have a specific question?

COMMISSIONER ASSAAD: -- because it doesn't suit their formula.

COMMISSIONER HOMIAK: Mr. Assaad, do you have a specific question about this petition?

COMMISSIONER ASSAAD: Excuse me. I --

COMMISSIONER HOMIAK: No. We need to focus on this petition here and these deviations.

COMMISSIONER ASSAAD: I am focusing on that.

COMMISSIONER HOMIAK: Which ones don't you want? All of them?

COMMISSIONER ASSAAD: I am. I am. Excuse me. You can't cut me off.

And also -- and also, in the staff report you make references to previously approved deviations, and I want to ask, if they don't have precedence, if they don't mean anything, why are you citing them in the staff report? It's a point in history. It's -- I don't know what's the value of reminding us that -- that you approved this and that in prior applications some time ago.

One can say, excuse me, I have sent (sic) -- I have granted too many deviations in the past, but I think from now on we should adhere to the code unless there's a very strong argument, not a matter of preference of liking, or liking. Then one would grant and consider a deviation.

But to get the small development like that -- and you're asking for 13 deviations; it's just un-comprehensible.

COMMISSIONER HOMIAK: Heidi, do you have something?

COMMISSIONER ASSAAD: I cannot -- I cannot in good conscience approve or recommend approval of anything like this.

Going back to the signs for a second, you have a lot of illumination, okay. You have a big, big, huge canopy, and I don't think a big sign will enhance your visibility. People can see the lights and the height of the canopy, and everybody knows there is a gas station here. So giving exemptions for bigger, taller, higher signs doesn't do it for me.

COMMISSIONER HOMIAK: Heidi?

MS. ASHTON-CICKO: I'd like to place on the visualizer for the Board the section of the Land Development Code that the applicant is proceeding under, because this is a planned unit development. I have highlighted the language that will take you into the request for the deviations and the reason for that section.

COMMISSIONER ASSAAD: Sure.

MS. ASHTON-CICKO: Okay. And I think we also have one public speaker, if you'd like to hear from that person --

COMMISSIONER EBERT: Yeah.

MS. ASHTON-CICKO: -- before you get into discussion.

COMMISSIONER HOMIAK: Yes, yeah.

COMMISSIONER ROMAN: It's cut off on one edge. If you can zoom out a little bit.

MR. BOSI: This is Section 2.03.06, planned unit development district from our Land Development Code. It says the -- the terms and provisions of this LDC in the GMP may depart from the strict application of setback height and minimum lot requirements of conventional zoning districts while maintaining standards by which flexibility may be accomplished and while protecting the public interest in order to, and it goes through the process of the five things that the PUD is intended to accomplish.

Provide a creative approach to improving the quality of the built environment contiguous tracts; create a more desirable environment providing for a consistency and visual harmony that would be possible through strict application; encourage patterns of land use that support economic provisions of infrastructure revolving -- resulting in small networks of utilities, streets; evaluate the impacts of particular PUD on the present and projected population, economy, and land use patterns, traffic, or tax base, street systems; and ensure that the development employs techniques featuring amenities in excellence in the forms of variety -- of variations in city, mixed land use, and a variety of dwelling units.

Essentially -- essentially that provision in the PUD was specifically crafted to allow for flexibility within the proposed development.

Mr. Assaad, you're correct. You as that individual are required to see the deviation, evaluate the justification that was provided, and come to your own individual conclusion.

The prior deviation that was -- that was approved should have no bearing, you're correct, should have no bearing. Maybe the staffs included that only to say prior -- in previous -- in previous determinations that there was justification that was provided for.

Each individual justification has to be substantiated for each individual variance and can't stand upon a past granting.

You as an individual make a subjective evaluation upon the deviation that's being suggested, the rationale that's being provided for, and you reach your own determination. Each one of the planning commissioners does that on an individual basis. And then the majority of vote -- of the Planning Commission will make the determination as to whether we feel that deviation is appropriate or not based upon the justification.

The task is on the individual applicant to provide the justification that would substantiate that deviation. It's an expressed allowance within the PUD process.

The valuation from staff had made that determination as an individual, as a -- an individual with experience within the planning field. Each Planning Commission member is asked to make that own individual determination, and that's the basis for how the deviations are to be granted, per the code and per the individual evaluation.

MS. ASHTON-CICKO: Madam Chair, we do have one speaker that has to leave for a doctor's appointment and has asked if he could speak before he has to leave.

COMMISSIONER HOMIAK: Sure. Have you been sworn in?

MR. TATRO: Yes.

COMMISSIONER HOMIAK: Oh, you were? I didn't see.

MR. TATRO: The public one you did at the beginning of the meeting.

COMMISSIONER HOMIAK: Okay.

MS. ASHTON-CICKO: And Mr. Frank Tatro.

MR. TATRO: Good morning, and thank you for the opportunity to speak.

I find it particularly troublesome that RaceTrac is back for a second time looking for deviations.

They did a hearing, that gentleman chaired it at a church on Immokalee Road, and several variations were presented and presumably passed then. I don't understand why they're back again looking for deviations.

COMMISSIONER HOMIAK: There's nothing been passed yet, sir. This is -- this is the hearing here.

MR. TATRO: Okay. Thank you.

COMMISSIONER HOMIAK: That was just a public meeting where everybody could voice their opinion.

COMMISSIONER ASSAAD: He's talking about the Hearing Examiner.

MR. JOHNSON: No. To clarify, he's talking about the neighborhood information meeting.

MR. TATRO: I'm hearing deviations here I didn't hear there, so I'm sorry for the misunderstanding.

This gas station is highly visible from the Quarry community. I'm a resident of the Quarry community, and I'm also an owner in the golf course that directly abuts this gas station development.

As a matter of information, the berm that faces our community is going to be four feet high. They keep referring to it as a -- they were granted or they're looking for a reduction in the space behind the gas station, and it will be masked by a four-foot berm with plantings on the top.

I'm afraid that just isn't going to do it. I mean, it's going to be as visible now and once it's constructed as it will once they put the berm up.

The Dark Sky's initiative only refers to in the lights that have downward illumination. The signs they're looking for are not Dark Sky's compliant. They will illuminate all the way out to Immokalee Road and all around the gas station. That kind of defeats the purpose of the Dark Sky's overhead lighting.

And, in conclusion, I just -- I just don't see -- I agree with Mr. Assaad. I mean, you have variations. You have regulations to control the signage and the structure of gas stations in the community. If they don't -- if they don't have enough room for the gas station, make it smaller or find another location.

I mean, the rules you have in place now are not at the whim of the people doing the construction. The construction should comply with the regulations, not the other way around. It seems like the tail is wagging the dog.

Thank you for the opportunity to speak, and have a good day. Thanks.

COMMISSIONER HOMIAK: Thank you.

COMMISSIONER SOLIS: I'd like to ask one question and maybe it, in a different way, goes to what Mr. Assaad is raising, and that is, is there, and if there is, what is the standard for us to review the deviations, the legal standard? I mean, we're sitting as a quasi-judicial body here. This is a public hearing, and our decision is going to be the final decision on this petition.

So maybe that -- understanding that would be helpful.

MS. ASHTON-CICKO: Okay. You'll be looking at two things. One is whether what they're requesting is detrimental to the health, safety, and welfare, and then you'll be looking at your original rezone findings to see if, as a result of the request, any of those findings are no longer acceptable.

And on the break I'm going to make a copy of the rezone findings so you-all can look through the findings, you know, before a motion's made.

COMMISSIONER ASSAAD: May I respond?

COMMISSIONER HOMIAK: Okay. Was there one -- wait a minute.

COMMISSIONER ASSAAD: May I respond?

COMMISSIONER HOMIAK: Was there another speaker, or is he --

MS. ASHTON-CICKO: There are several speakers, and there are some people in the audience that would like to speak but haven't submitted a speaker slip.

COMMISSIONER HOMIAK: Okay. Well, we'll take a 15-minute break right now and then come back and hear the speakers.

MS. ASHTON-CICKO: Okay.

(A brief recess was had.)

COMMISSIONER HOMIAK: Okay. Are there any other speakers that haven't been sworn in? Because I didn't see -- okay. Anybody that wants to speak on this item now, would you please rise and be sworn in.

MR. JOHNSON: Madam Chair, so far I have two cards. One from Mike Minor, the other from Frank Tatro, but I believe Frank already spoke.

COMMISSIONER HOMIAK: Okay.

(The speaker was duly sworn and indicated in the affirmative.)

COMMISSIONER HOMIAK: Okay, sir. You could -- you can come up and speak.

MR. MINOR: Excuse me, but my voice doesn't work very well. I had a bout with throat cancer a few years ago, so I have trouble sometimes.

COMMISSIONER HOMIAK: Oh, sorry.

MS. ASHTON-CICKO: If you just want to speak a little bit closer to the mike, it will pick you up better.

MR. MINOR: Mike Minor, Heritage Bay. I'm one of the board members for Heritage Bay. I'm sorry that I didn't realize or didn't know the procedures when I first walked into the room.

I have talked to Eric on the phone. I was a little bit taken aback, to be honest, with you. When we got this letter from you people, my constituents went ballistic because we were -- basically the letter showed that you were getting ready to let somebody do something in our preserve. And my phone just lit up from emails.

If you looked at this map that you sent out, or Eric sent out or whoever sends out, it shows that it's actually -- I don't know. I don't know how you do this, but it's actually in 11 -- Lot 11 and 12, not in 23. And that's where all our people were upset. Anyway --

COMMISSIONER SOLIS: I'm sorry. I think we're -- the two lots are Lot 4, and the adjacent one is Lot 3.

COMMISSIONER CHRZANOWSKI: Could you get somebody to translate that for us? Do you know what he's --

MR. JOHNSON: Madam Chair, if I may explain. Mr. Minor is referring to the property owner notification letter that was sent out. And the property owner notification letters, I think it says site location and project location, and it points to really just the PUD boundary. It wasn't meant to point to a specific parcel within the PUD, and I think that was one of the main concerns of Mr. Minor and probably the people who contacted him.

MR. MINOR: That is true. I mean, that's correct.

COMMISSIONER HOMIAK: Oh, okay.

MR. MINOR: But, I mean, the letter just was not very specific, and that really upset me and a lot of my constituents.

The only other thing that I wanted to say was -- and I have to agree with Mr. Assaad and Ms. Ebert -- if you're going to make rules, then why don't we stick to them? I mean, if you're -- like I told Mr. Eastman a minute ago, I'm on three boards, and we're in the process of doing an \$8 million improvement to our facilities, and we have to stick by the rules.

I've got 1,250 people, or 1,250 doors that I have to answer to. And if we're going to set code, as Mr. Assaad was talking about, the only people that I see that are getting any benefit from this is RaceTrac. I mean, I don't see how it's going to improve Immokalee Road or Sage Avenue or Sage Road, whatever it's called.

I realize that you've got the -- whatever that things called, that Cocohatchee Canal or whatever run down through there. And anything they do is going to make it look better.

But, anyway, that's pretty much what I wanted to say. I just feel like the only people benefiting is RaceTrac, and I don't know why we need to change our rules just to be able to pump gas.

Thank you.

COMMISSIONER HOMIAK: Thank you.

Eric, did you have something you wanted to get on the record?

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

The handout that you were given concerning the PUD rezone findings, there was a reference in the staff report that Eric had prepared referencing this section. Basically it references Section 10.02.13.E.2, which asks the question, does this petition change the analysis of the findings and criteria used for the original application?

The response was no, it doesn't.

And I asked Eric to take it out because I thought it was kind of redundant, but it really should be in there from a legal standpoint. And then the findings that were made part of that record were given to you as well.

COMMISSIONER HOMIAK: Okay. Thank you.

COMMISSIONER EBERT: Can I ask --

COMMISSIONER HOMIAK: Scott, did you have something you wanted to add?

MR. STONE: Yes. In the proposed resolution under Section 1.11.A, which relates to the deviation for the joint project plan, there are three conditions, three subsections under A, and the second one relates to the obligation of the owner to record a shared maintenance and access easement with Lot 3. There's just a minor change to some of the language in that paragraph, and Eric has provided those changes on the visualizer.

And I can read that into the record, those changes, if acceptable to you.

COMMISSIONER HOMIAK: Why don't you go ahead and do that.

MR. STONE: We will be removing the proposed language "parking or" and in place of that adding "access, ingress, and egress by pedestrian traffic and by motor vehicles on to Sage Avenue, and for such," and so the remainder of the paragraph will remain the same. And the purpose of this is just to specify the purposes of the access easement in a little more detail.

MS. ASHTON-CICKO: And we made that change because the owner letter had this language. That's why we want to mirror it.

COMMISSIONER HOMIAK: Okay. Thank you.

COMMISSIONER EBERT: Could I ask Mike from transportation to come up, please?

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

COMMISSIONER EBERT: Yes. Good morning, Mike. Bellaire Bay Drive. They're talking about a sign facing the west area. Is Bellaire Drive -- can they make a left turn from the eastbound lane going in there?

MR. SAWYER: The intersection of Immokalee and Bellaire, that actually is a full opening

currently.

COMMISSIONER EBERT: That is full open?

MR. SAWYER: Correct.

COMMISSIONER EBERT: So you could go right or left out of there?

MR. SAWYER: Correct. Currently, yes.

COMMISSIONER EBERT: What is -- what is Goodland Drive; is that --

MR. SAWYER: Goodland, I believe that -- I would have to double-check, but I believe that is channelized.

COMMISSIONER EBERT: Okay. Because according to the picture, Bellaire is closed off, and I thought I came out that way and could only turn right. So if -- there's going to be openings that you can make a left on?

MR. SAWYER: Yeah. I think if you look at the visualizer, you can see that the one access that we're actually looking at right now is a full opening and that the --

COMMISSIONER EBERT: So you're going to let people turn left to get out of here -- get out of there to go eastbound?

MR. SAWYER: Currently, that is the condition that we've got on Immokalee, yes.

COMMISSIONER EBERT: But there will be --

MR. SAWYER: We are constantly looking at these types of intersections and are making changes. Now, there is a substantial change that is now going to be occurring at 951 and Immokalee, and we will probably hold off doing a major study of this area until that gets completed so we know what the final ability of those road segments are going to be to adapt to that traffic once that change is actually made.

COMMISSIONER EBERT: Okay. And so the county owns that road but Sage -- Sage Avenue is privately -- is private within this?

MR. SAWYER: That is my understanding, yes.

COMMISSIONER EBERT: Yeah. Okay. Because it is in. They just kind of have it blocked off now. But that street is already in.

All right. That's what I wanted to know on this left and right turnout. Thank you.

MR. SAWYER: Thank you.

COMMISSIONER HOMIAK: Will this concept plan be part of this resolution?

MR. JOHNSON: Madam Chair, no, the concept plan will not be.

COMMISSIONER ASSAAD: It will be part of the PUD.

MR. JOHNSON: It's a part of the PUD backup material, and it's part of this hearing, but it's not going to be part of -- go ahead, Scott.

MR. STONE: If I may, the only two exhibits being added to the actual PUD will be the Exhibit E1 which shows the affected area location map and Exhibit B2 which depicts the proposed enhanced buffer relating to the buffer deviation. All of the other material is backup material for informational purposes.

COMMISSIONER HOMIAK: Okay. Rich?

MR. YOVANOVICH: I don't know when we get to get back up but, I mean, if it's something that you-all would like to become an exhibit to the PUD, I don't believe we have an objection to that.

COMMISSIONER HOMIAK: Well, personally, I'd like to see it in there.

MR. YOVANOVICH: That would be fine with us.

When appropriate, I'd like RaceTrac's representative to come up and speak, and then I would like to address some comments that were made. But I wanted to jump up and address that one while that was fresh.

COMMISSIONER HOMIAK: Sure. Well, he can come up and speak if he has something to add.

MR. HOPKINS: Good morning. For the record, my name is Corey Hopkins. I work for RaceTrac Petroleum.

I want to kind of address a larger narrative. I know we're focusing on the details of this particular site, but I just want to address a couple of comments that have been made during these conversations.

The greater narrative is that RaceTrac Petroleum has actually been a business partner in Collier County for quite a long time. We're not a newcomer. We've been here. And I would say that our innovative approach to our industry has helped set the standard and really upped the game for development standards for

this particular use.

We've brought value to the community that I think was not there before in terms of the offers that we provide and the value to our guests.

So that said, what we do is -- has made us experts at developing these gas stations. Now, that's not to say that that puts us above your code, and that's -- I would never suggest that.

What I would say is that the PUD exists for specific purposes like this. When there's an opportunity to increase the value to the community, you're not restricted by that code. And so, in a thoughtful manner, you redefine the code.

And I guess, the tone I'm hearing is that RaceTrac Petroleum is here to try to take advantage of that opportunity, to try and take advantage of the community, and nothing could be further from the truth.

The reality is we want to partner with the community. We've worked very diligently with staff. We took the time to hear the community and their concerns and believed, honestly and sincerely believed that we had addressed those concerns with this development plan.

Now, we understand that new concerns can be raised, and so we want that dialogue to constantly be open. So more than anything, I want taken away from this hearing not that here's a new business trying to come take advantage of the community, but here's an existing business partner that has shown, you know, adding value to the community, that truly shows concern for its guests and wants to improve their experience and can help the county move the needle in terms of what they can demand of other businesses.

So I certainly appreciate your time. I appreciate the community's time. And I'm willing to answer any questions you have about the business.

COMMISSIONER EBERT: Corey, I have a question for you. On the canopy, you said it's 16 and 20 feet; 16 on the underside, 20 on the top. Have they always been that tall?

MR. HOPKINS: No, ma'am. Our standard is 18 feet on the bottom and 22 feet on the top.

COMMISSIONER EBERT: So you're telling me you're lowering this --

MR. HOPKINS: Yes, ma'am.

COMMISSIONER EBERT: -- two feet?

MR. HOPKINS: If I can add to that, too, the architecture of the canopy, if you've seen any of our others, it's quite enhanced. It's specific to the area.

COMMISSIONER CHRZANOWSKI: What's a standard highway overpass?

MR. HOPKINS: If I'm not mistaken, I think FDOT requirements are 14'5", but I'm not absolutely positive on that. John? I'm not absolutely positive.

But I will say that the driving force behind our 18-foot canopy is the fact that we've had issues before. And what happens is people do actually hit an 18-foot canopy. Now, it doesn't happen all the time, but it's happened enough for us to justify.

COMMISSIONER EBERT: What's taller than 18 feet? What truck is taller than that? Because the fire engine is -- can go under 14, so I'm -- and I believe 15, your semi-trucks can go under?

MR. HOPKINS: Yes, ma'am. Now, these are unusual circumstances. We have construction crews with flatbed trailers and rubber-tired backhoes on them is typically what seems to be our biggest issue.

COMMISSIONER EBERT: Okay. I guess my big concern on this is we spent a lot of time; the BCC spent a lot of time. This particular new facility with pumps is all new. Gas station is out.

Stan and I, they said, are just too old to understand that there's no more gas stations, so we have to have facilities with pumps.

But because we spent so much time on this -- and it really was because of RaceTrac, I think, in a different location -- I'm looking in here and where I see a bad pattern is you already -- since this new thing just went through, you have now built two new facilities with pumps. And you start out with deviations right away.

Are you telling us our Land Development Code is going to have to change on signs right away because you're -- you don't want to -- I mean, the pattern is, you're asking for deviations for this one, and you've already had two other ones, your two new stations, and my problem with this is it's going to be expected. We got it on this one. And you mentioned the two that you got it on. And that, to me, is setting a bad pattern for these service stations.

You have one on Pine Ridge. That followed code. Everything was fine. That's my problem with this one.

MR. HOPKINS: And I can appreciate that. I will say that as codes evolve and then also as industries evolve, we have to determine what we can do to try and meet the needs of both.

And I will say that for as much thoughtful intent that goes into the crafting of these codes, they cannot apply to every single circumstance that we encounter in terms of real estate development.

And so the understanding that deviations, the protocol exists, or PUDs, they exist simply for these opportunities to create a new rule after thoughtful consideration that applies specifically to that one piece of property because it's justified, because sound judgment was employed in developing the proposal.

And I understand your responsibility of protecting the community from the standpoint of we need to make sure we get like-for-like value. If we have any cause to deviate from this code we've worked so hard to establish, we need to make sure we get like-for-like value.

And so what I'm telling you is the source of these deviations, again, is not for us to build something that is gaudy or inappropriate. The purpose of us building this gas station here is to serve the community and a need that we, as experts of this business, know that the community needs. We're in a position to provide that value.

You encounter certain circumstances that then justify a potential deviation from code, and I firmly believe that this is one of those; the fact that the property is pushed back, the geometry of the property, and then also our objectives to make our guests' experience at these stores as positive as possible. Nobody likes a tight gas station where you feel like you're going to run into a car that's backing up while you're trying to drive through where it's difficult to maneuver a vehicle through a canopy, or inside the store, a real tight, cramped, dirty feeling convenience store.

And so for that reason we have really worked very, very hard to improve the entire quality of our facilities and the entire guest experience.

That puts us in a position to where, yes, sometimes we have to ask for exceptions because what we're doing we feel like is driven by the needs of the consumer, and that's why we're here today.

Yes, sir?

COMMISSIONER ASSAAD: You've been very eloquent and definitely represented your point of view very nicely, but I've got to ask you a few questions.

What if you reduced the number of pumps? You have a smaller facility. Wouldn't that allow you to comply with the codes so, therefore, you comply with the setbacks and everybody would be happy? You don't have to have tight driveways. You can still have your generous driveways if this is your philosophy in doing business, but you don't have to have umpteen pumps. You can have maybe six less or eight less or two less or something, so...

MR. HOPKINS: Can I answer that one?

COMMISSIONER ASSAAD: The point is -- yeah. The point is the site could be developed under the existing codes.

MR. HOPKINS: So --

COMMISSIONER ASSAAD: Do you agree?

MR. HOPKINS: No, I don't, simply because our challenge is not the width of the property. Our challenge is the depth of the property. So the most meaningful deviation we're asking for here is the rear building setback.

We cannot alter the configuration of the canopy in any way to make that conform to code with our current building prototype. We've looked at tons of alternatives.

COMMISSIONER ASSAAD: Then maybe the site is not the best choice.

MR. HOPKINS: Well, the location --

COMMISSIONER ASSAAD: You should pick up a site which is deeper than the one that you selected.

MR. HOPKINS: The site selection mentality that we employ is not necessarily a part of this discussion in that we're trying to provide the value because we know that this is the --

COMMISSIONER ASSAAD: I understand the value and the fairness and all of that, but that

doesn't --

MR. HOPKINS: Okay. But part of that conversation is where you can actually build a store, where you can come to terms with a property seller, where that store really can reach the most people and grant the greatest value.

So, again, that's where I say our expertise drives us to select locations that we believe we can do that, and this happens to be it.

COMMISSIONER ASSAAD: But if your expertise and selection method leads you to a site that is not appropriate to comply with the code, then that's the choice that you made.

MR. YOVANOVICH: Can I add something, Mr. Assaad?

COMMISSIONER ASSAAD: Of course.

MR. YOVANOVICH: This is -- 1989, the county changed its Comprehensive Plan and went to an activity center designation. This property is in an activity center. This property was rezoned to PUD, and this PUD absolutely permits gas stations within the PUD, okay?

Your Comprehensive Plan says this is where you want gas stations to be, at major intersections, which are where your activity centers are.

Your Growth Management Plan directed us to this location as an appropriate place. The PUD says, it's an appropriate location. The PUD predated the most recent changes in the Land Development Code. That's where the -- kind of the conflict has come about. There have been some recent changes to the Land Development Code that predate the original PUD adoption.

So now we have -- we do have some -- we're going through this right now. We have some conflicts that weren't contemplated when the original PUD was adopted.

So if the new provisions didn't exist and we applied the old --

COMMISSIONER ASSAAD: How does that, as an example, affect the height of the sign?

MR. YOVANOVICH: You didn't ask me that.

What I'm trying to focus on, right now the focus was on the setback issue, is what I'm trying to refer to, when you said, well, then go to a different location if the site's not deep enough.

COMMISSIONER ASSAAD: Yes.

MR. YOVANOVICH: Forget -- the sign issue's a different issue. I'm focusing on the new -- the new code provisions putting us at odds with now we need a deviation. And what I said about the 50 feet was I don't see the need for a 50-foot setback when you have an existing 100-foot canal. I didn't say, generally, I don't see the need for a 50-foot setback. So I just want to make sure what we're saying --

COMMISSIONER ASSAAD: I listened very carefully to you, because I want to see how did you develop the idea of asking for the deviation. What is the logic behind it?

MR. YOVANOVICH: The logic behind the setback -- setback --

COMMISSIONER ASSAAD: I listen to every single word that you say very carefully.

MR. YOVANOVICH: But you can't quote back everything I said in response to the 50-foot and why we needed a setback deviation.

The setback deviation down to 25 feet in the rear was related to the fact that later in the game we were told we were considering Immokalee Road to be a front because of the canal, and now I had to be 50 feet from the canal versus -- and I said I didn't see why we needed to be 50 feet when I already had a 100-foot canal in that place.

So to us it seemed to justify the need for a 25-foot variance for the Sage setback, which we were making up for with enhanced landscape plantings and the like.

COMMISSIONER ASSAAD: Then maybe the code should say if your property fronts on a canal.

MR. YOVANOVICH: You've been around a long time. I've been around a long time. There's no chance that a code is going to anticipate every instance when you write a law. I wrote enough code ordinances back when I was in the County Attorney's Office, and I'm sure Ms. Ashton has and Scott has. There's no way we get it all, and things come up, and this is one of those instances, and that's why you go through this process.

COMMISSIONER ASSAAD: I ask you another question. If in your business and the gas station business you have accomplished this knowledge and you're advanced above others, why don't you come to

Collier County and tell them your code is obsolete and I want you to amend the code to accommodate the following points? Instead of asking for a deviation, you convince the county to amend the code. This way it would be fair for all of the businesspeople in your line of business. It would be fair to Hess, it would be fair to Shell, Exxon, everybody. So all of you in this business can enjoy the benefit of the knowledge that you have accomplished in your field.

MR. YOVANOVICH: Take the signs out of the equation for a moment, if you will. Who do you think you patterned the current code after?

COMMISSIONER ASSAAD: I don't know.

MR. YOVANOVICH: You patterned it after RaceTrac, because RaceTrac was going through the process. And people were saying, you know, we really do like the way the Airport Road store came about, how it looks, the setbacks.

We had actually submitted an application on a totally different piece of property that you may or may not hear at some point that had these enhanced setbacks and these enhanced buffers. That code came from RaceTrac submittals.

Now, that didn't include signs. But I will tell you the site stuff all was partnered with RaceTrac.

COMMISSIONER ASSAAD: Wonderful.

MR. YOVANOVICH: So RaceTrac has -- now, I will tell you, it is so difficult to amend your Land Development Code, because the natural reaction of people is, you do a global fix and people worry about the unintended consequences of a global fix.

So I think people are more comfortable with the approach like we're doing when you look at it on a site-by-site basis to say, does it make sense, instead of the global fix.

I'm flexible. I'll do it any which way you want to do, but my experience has been most recently I tried to amend the Land Development Code for another, quote, standard deviation, and Ms. Ebert will know, it was -- we were always getting sidewalks on one side as a deviation.

I proposed a Land Development Code amendment to codify a standard deviation, and it didn't go very well. People said, let's just do it on the old -- we like the deviation process. We're comfortable with that.

COMMISSIONER ASSAAD: I can tell you that if you proposed to amend the code and you make sense in many of your own points and your own view, I would be a big supporter of you or your request.

MR. YOVANOVICH: And I believe you.

COMMISSIONER ASSAAD: The idea of deviations, deviations, deviations is -- I'm opposed to that. You can tell that. I'm very passionate about it.

And I can tell you that to grant you those deviations is -- number one, erodes the code that the county developed, because you're nibbling at the codes, and it creates a precedent. Whether staff would agree to it or not, they tell you each case is different, but when you do it so many times, it creates a precedent.

Staff cites it in the report. They continue to remind us of the deviation that was heard and granted. And I ask them, is that the precedent? They said no.

I said, does it apply here? They say no.

So why is it in the staff report? I don't know. But you're eroding the code.

COMMISSIONER HOMIAK: We need to --

COMMISSIONER ASSAAD: Number one, it's not fair to your competition. If you get all of those benefits and the other gas station companies do not have the same benefit --

MR. YOVANOVICH: Well, first of all, there -- we're playing -- I don't want anybody to think we're playing outside of the rule book. We are totally within the rule book.

We're a PUD. PUDs are allowed to come in and ask for different development standards. I know you're philosophically opposed to deviations. But the code allows for the deviation process, and we're going through that process.

Now, most recently the Board of County Commissioners heard two petitions, and the discussion of why haven't we changed the code to codify these standard deviations came up. And I will -- I will paraphrase what I heard. And Mr. Bosi will correct me if I'm wrong -- was basically that staff doesn't have the resources at this time to accommodate doing the Land Development Code changes they believe would be appropriate

based upon the fact that a lot of these deviations have really become standard; road right-of-way widths for private roads, et cetera; 64 square feet to 80 square feet on signs.

Those have become more standard deviations, but staff hasn't had the time or the resources to change the code yet. That's why you see a lot of these, quote, standard deviations.

Any other -- Hess, who you brought up; Hess can go through the same process and ask for deviations on a site-by-site basis. We're not getting any competitive advantage. They can go through the same process we're going through. You may grant it; you may not grant it.

This site is different. This site -- it was a PUD that was approved prior to the new standards. It has a 100-foot canal that is a factor and, because of the new standards, makes the site too narrow. I think we have more than justified the deviation for the rear setback. Your staff -- it's not detrimental in any way to the public health, safety, and welfare. Your staff has reviewed it. They're professionals, and they're recommending approval of all of the deviations.

And I know you're philosophically opposed to deviations, and I understand that, and I respect it. I don't have to like it, but it is; it is what it is, and we're going to have to play within the rules.

MR. HOPKINS: Can I close the loops on signs?

MR. YOVANOVICH: Sure.

MR. HOPKINS: And I just want to close the loops on the signage. The intent behind what we're asking for is directly driven by that hardship, the fact that we're pushed further away from the traveling public. There is a limitation on visibility of signage, the length of visibility.

And so what happens is the further away you get away from the viewing public, the harder the small signs are to see. And the last thing you want to do is confuse the traveling public where they have to be looking at something else for longer than is safe or necessary because they can't see it.

So that's the drive behind the signage, not because we want to put something inappropriate on our property.

COMMISSIONER EBERT: Corey, I'm going to ask you a question. Because we just did this last fall for these facilities with pumps, did you participate in that? Your company participated in that, and we had other fuel companies also participate in that?

MR. YOVANOVICH: He wasn't involved in that process.

MR. HOPKINS: I'm sorry. I wasn't --

COMMISSIONER EBERT: Oh, he wasn't in that process?

MR. YOVANOVICH: He wasn't. But, yes, Tom Hardy from RaceTrac, who I'm sure you're familiar with, we were involved, and we commented on the provisions. A lot of what we said was incorporated. Some of what we said was not incorporated.

I don't know if any of the other competitors, who I'm not going to name by name and give free advertising, participated in the process or not. They certainly were aware of it, and I think they even spoke at the LDC amendment adoption.

So there was some input on that, and we were active in -- recognizing that, hey, you know, it impacts us. And we truly believe we have stepped up the game --

COMMISSIONER EBERT: I know.

MR. YOVANOVICH: -- for that, and we're happy to have others come along and step up their game, too.

COMMISSIONER EBERT: Yeah. And that's why the code was changed for these places because they're becoming so large. Actually, most of the people thought that with that many it should be on the freeway. But the signage was not part of that, was that, Rich, at the time?

MR. YOVANOVICH: And it wasn't, because nobody was ready to talk about the global signage deviations necessary. You take -- you take things in bites that people can handle, okay. And when we were participating in that process, we were discouraged from involving signs in the discussion. Let's talk more about -- if you remember, it was distance from residences and buffers.

Let's get what was really important done, and we'll come back and worry about signs in the deviation process, because it was working. The deviations process was really working for signs. Let's go with what was -- the bite that people could handle, which was enhanced buffers, distance from residences, things like

that. So we took it in bites that people could swallow.

MR. HOPKINS: Any other questions for me?

COMMISSIONER HOMIAK: Anybody have a question? Because we're going to close the public hearing now. You all set? Okay.

MR. HOPKINS: Thank you.

COMMISSIONER HOMIAK: Thanks.

COMMISSIONER CHRZANOWSKI: I have a comment.

I saw the artist's rendering you put up of the facades, the different facades. None of those looked all that onerous. I mean, the signs don't look out of scale. Nothing looks tremendously out of scale. It looks normal. Were those things drawn accurately to scale, everything?

MR. YOVANOVICH: Can I add one other comment on that? You brought that up, and I apologize forgetting to bring that up. Some of it is based upon the structure, like the canopy, the sign we're asking for is really more aesthetically appropriate for the size. And I'll give you an example, not mine.

But, you know, the new -- the shopping center that was redone by the shopping center -- I mean by the mall? If you -- where you have the PGA super store and you have the new Publix and you have all of that? They went through the City of Naples. You may have been on the Planning Advisory Board at the time. And they went with bigger signs. And one of the rationales for the bigger signs was it just aesthetically made more sense to have the bigger sign on those facades because it looked more appropriate as to scale.

And I think what Mr. Chrzanowski's saying, the signs that we're proposing on the building are appropriate in scale, just like the signs on the canopy are appropriate in scale for the structures that they're on. And part of that --

COMMISSIONER ASSAAD: You remember the reason they cited that they needed a bigger sign? I can remember that.

MR. YOVANOVICH: I'm sure you can.

COMMISSIONER ASSAAD: The sign maker said that he hates sign ordinances because they limit his ability to be creative. And if you leave the sign people to be creative and exercise all of their abilities, they want to make it bigger and higher and funkier and everything else, and this is not what the community wants. We want less signs, smaller signs, informative signs, but not bigger, higher, billboards.

MR. YOVANOVICH: And we're not doing billboards.

COMMISSIONER ASSAAD: That was the reason behind that.

MR. YOVANOVICH: Now, he may have said that as the reason, but he didn't get that approved as the justification.

COMMISSIONER HOMIAK: Okay. That's --

COMMISSIONER SOLIS: I've got a couple of questions for staff, but I don't know if -- we probably should keep the public hearing open until we finish those, at least.

One is in the staff report -- and I'm asking this question because I want to make sure that I understand what's going on now that this change has been made that references facilities with fuel pumps.

In the staff report, in regards to Deviation Number -- which one was it -- 2, the setback, the staff's analysis -- excuse me -- says that -- this is on Page 6 -- no. I'm sorry. Where did I go? On Page 7. Right. I'm sorry. It's the next deviation. It's Deviation No. 2.

In the staff's analysis it says, the subject property which is located in the activity center on Heritage Bay PUD master concept plan is considered having frontage on three of its property boundaries.

Because this PUD does not have exemption language specific to gas stations, the minimum required setbacks for this use is regulated under LDC Section 5.05.05, which is the provision that relates to facilities with gas pumps, okay.

Do -- and I'm assuming that that provision was adopted to apply to gas stations, right? That 5.05.05.B.1?

MR. BELLOWS: For the record, you're correct. The -- that's a modification from the old gasoline service stations. Now it's facilities with fuel pumps, but...

COMMISSIONER SOLIS: But that -- so my question is, what is the reference to exemption language specific to gas stations? Do -- are PUDs that are adopted post the adoption of the change to 5.05.05,

are they including in those PUDs language that exempts them from 5.05.05? I'm confused by that.

MR. BELLOWS: For the record, Ray Bellows. If I understand the question correctly, some PUDs have specific standards for automobile service stations with fuel facilities or gasoline stations, and that would supersede the LDC provisions in regard to what they require for buffering and things.

Other PUDs allow the use but are silent to any development standards, so those LDC provisions would apply. That's the purpose of today's amendment, to adopt specific standards for this particular location.

MR. YOVANOVICH: So to answer your question, Mr. Solis, since these have been adopted, when I've come through with PUDs with gas station, and in them I usually ask for deviations from 5.05.B.1 (sic) --

COMMISSIONER SOLIS: Okay.

MR. YOVANOVICH: -- because I'm aware of some of the limitations that occur based upon these changes to the code.

COMMISSIONER SOLIS: Was -- are the standards in the PUD -- I'm looking at the chart on Page 7 where it says PUD document, it says 15 feet, LDC 5.05.05 says 50. The PUD document -- those standards in the PUD document that predated the current 5.05.05, was that consistent with what the old service station standards were? I'm trying to educate myself as to the history here. We don't know?

MR. BELLOWS: I don't recall what the old standard was.

COMMISSIONER SOLIS: Okay. It's not a trick question.

MR. YOVANOVICH: The irony is if we looked at just the convenience store itself, I only have a 15-foot setback, but it's because we're now a convenience store with fueling opportunities or facilities, whatever the right word is, the convenience store now has a 50-foot setback versus a 15-foot setback that the PUD would require if it were just a convenience store.

COMMISSIONER SOLIS: Right. And I think I just maybe heard -- overheard Mr. Bellows discussing that the PUD setbacks that are in the chart are the -- just basic setbacks for a structure.

MR. BELLOWS: Correct.

COMMISSIONER SOLIS: Okay. Okay.

COMMISSIONER EBERT: Yeah.

COMMISSIONER SOLIS: Okay. My other question is, looking at the aerial -- let's see if I can get back up here. Looking at the aerial photograph, Sage Avenue is bent (sic) on both sides by outparcels. I'm -- am I correct in assuming that all of those are commercial? All of that's commercial area?

MR. JOHNSON: What I'll do is I'll put the location map on the visualizer.

COMMISSIONER SOLIS: Okay.

MR. JOHNSON: So you're asking the question if all these over here --

COMMISSIONER SOLIS: No, no. On the north side of Sage, behind.

MR. JOHNSON: I believe they're all in the activity center.

COMMISSIONER SOLIS: That's all activity center, okay.

COMMISSIONER EBERT: They're all outparcels.

MR. YOVANOVICH: They are commercial.

COMMISSIONER SOLIS: Right. It's all commercial, okay.

Have any of those been approved for anything? Any site plan? Do we know what's going on on those other parcels?

MR. YOVANOVICH: I don't.

MR. JOHNSON: Yeah. I don't know.

COMMISSIONER SOLIS: Okay. Fair enough.

Okay. My last question relates to the second sign canopy request for deviation. And I understand that you -- under the code you're entitled to one sign canopy -- I mean one canopy sign, sorry, and it would be on -- the deviation asks for a second one, doesn't it?

MR. WOJDAK: The code allows for a 12-square-foot sign on the facade if it faces the street. So we would be allowed two, Immokalee Road and Bellaire Bay. We're asking for a third on the west side of the canopy that would be viewable from Immokalee Road, but it would be on the west face of the canopy. But the code allows --

COMMISSIONER SOLIS: Two.

MR. WOJDAK: -- two.

COMMISSIONER SOLIS: Okay. I'm sorry. So you would be entitled to one on Bellaire and one on Immokalee Road, and you're requesting another one, essentially, along that shared drive access that we've been talking about.

MR. WOJDAK: Correct.

MR. YOVANOVICH: So you could see it as you're driving along Immokalee Road. Heading east, you'd see a RaceTrac sign on that canopy instead of it being blank.

COMMISSIONER EBERT: And what happens when they build on Lot 3?

MR. YOVANOVICH: What about -- what do you mean?

COMMISSIONER EBERT: Will you see the sign?

MR. YOVANOVICH: I don't know until I know what they build on -- my guess is, yes, because they're going to also have some setback from the canal. So I believe you'll probably still see that canopy sign.

COMMISSIONER SOLIS: Okay.

COMMISSIONER HOMIAK: Okay.

COMMISSIONER SOLIS: No other questions.

COMMISSIONER HOMIAK: Is that it?

MR. JOHNSON: Madam Chair?

COMMISSIONER HOMIAK: Yes.

MR. JOHNSON: Just some housekeeping measures. In your staff report on Page 7 of 21 and also 8 of 21, those are the two charts that Commissioner Solis was referring to.

The east front setback requirement as per LDC Section 5.05.05.B.1, that should be 50 feet rather than 40 feet. And then the west side setback, per LDC Section 5.05.05.B.1, should be 40 feet. So it was flip-flopped, but that doesn't change any of the analysis.

Also, with respect to Deviation Request No. 5, the applicant makes reference to the speed limit being 50 miles per hour, and it actually may be less than, between 45 or 50. I cannot recall which, but that doesn't change our analysis of it, and we'd still recommend approval of that.

COMMISSIONER HOMIAK: Okay. Thank you.

Okay. Now I'm going to close the public hearing.

COMMISSIONER ASSAAD: I move we close the public hearing.

COMMISSIONER HOMIAK: I just closed it.

Okay. Staff is recommending approval. And we had language added to the shared maintenance section of this resolution.

COMMISSIONER ASSAAD: I move for denial of the application.

COMMISSIONER EBERT: I second.

MS. ASHTON-CICKO: We'll need to have, for the record, the basis of the denial. I handed out the rezone findings, so you have to mention the ones that it doesn't meet.

COMMISSIONER ASSAAD: Do you want me to cite the reasons?

MS. ASHTON-CICKO: Yes. Yeah. This is a final decision here, so we have to have a basis for the denial.

COMMISSIONER ASSAAD: Okay. It is not consistent with the proposed goals, objective policies, and future land use and the map element of the Growth Management Plan, whether it is going to -- it does, in my view, adversely influence the living conditions in the neighborhood.

There are no substantial reasons why the property cannot be used in accordance with the existing code. In my view, it is not impossible to find other adequate sites in the county for the proposed use.

It is unfair for the competition. I find the signage excessive. I find it detrimental to the nature and character of Collier County, and it erodes the value of the development codes and ordinances that we have.

MS. ASHTON-CICKO: Thank you.

COMMISSIONER ROMAN: Madam Chair, discussion? Discussion?

COMMISSIONER HOMIAK: There's a motion and a second, and then discussion?

COMMISSIONER ROMAN: Okay. I have a couple of comments here.

I was a part of the Planning Commission during the time that we painstakingly went over the Land Development Code amendment for facilities with fuel pumps, and I don't think any member of this board at that time took that discussion lightly.

I seem to recall two or three meetings that we discussed it, and we discussed it for hours of what we saw as requirements for facilities with fuel pumps.

So at least, in my view, I'm seeing deviations coming into that -- those standards that we recently looked at and passed, or the Board of County Commissioners passed with the first application, and that troubles me because we just spent hours developing those standards.

But at the same time I have to admit that each parcel of property is unique. That's what makes real estate what it is.

In some cases I feel that maybe this parcel isn't suited for that particular use; however, having traveled Immokalee Road going out to Corkscrew or Ave Maria, that area is underserved in terms of opportunities to fill up.

And so if RaceTrac has the opportunity to build there and to do this plan as it chooses to do, word is going to get out quickly that there is a new fueling station there, and folks are going to fuel up, especially with all of those housing communities that are going in along Immokalee Road.

I don't think larger signs is necessarily the answer to get people's attention and to bypass all the work we did on the actual facilities with fuel pumps. I do see, because of the uniqueness of the property, some rationale that the staff has put forth in working with the petitioner on those buffers and those enhanced buffers.

But when I look at the amount of feet in terms of the setbacks, we're looking at over 50 feet that we're granting in setback relief. And I'm sure when you calculate that in square footage, that's a considerable amount of land. But those are my comments.

MR. YOVANOVICH: Can I -- are we allowed to respond? May I ask the chairman for permission to respond?

COMMISSIONER ASSAAD: Public hearing is closed.

COMMISSIONER EBERT: The public hearing is closed.

COMMISSIONER HOMIAK: Respond to the sign?

MR. YOVANOVICH: To the comment. I mean, I'd like to -- I mean, I'm assuming the reason the issue was raised was --

COMMISSIONER ASSAAD: Why don't you wait till you see if there is a second for the motion.

MR. YOVANOVICH: There was a second.

COMMISSIONER HOMIAK: There was a second.

COMMISSIONER ROMAN: That's why we're having discussion.

MS. ASHTON-CICKO: You can decide, or you can make, you know, a motion among the group to see whether you want to allow.

COMMISSIONER HOMIAK: Would you like to hear the comment from the petitioner? Yes?

COMMISSIONER SOLIS: Yes.

COMMISSIONER EBERT: Yeah.

COMMISSIONER HOMIAK: Go ahead.

MR. YOVANOVICH: I don't want to give up the sign deviations, but I don't want the project to go -- we don't want the project to go down over the size of the signs. So if it makes sense to the -- to Ms. Roman, if that will address the concerns you have with the petition -- and I'm trying to pare it back and make sure I understood the concerns, is that the variance for the distance, because of the canal, I didn't hear that as a concern for you. That was -- that was an acceptable deviation that we're requesting. It was just the signs that are a concern for you.

If that's the question -- if that's your only concern, we'll drop the deviation request regarding the size of the signs if that would address the concerns of the Planning Commission.

My question is, do you have an objection to the additional sign on the canopy as long as it meets the size requirements of your code? You know, the one for the sign on the west side of the canopy. I heard you talk about size, but I wasn't sure about that one deviation about the additional sign. I don't know if that was a

concern or not for you, Commissioner.

COMMISSIONER HOMIAK: Was is the monument signs?

COMMISSIONER ROMAN: I'm looking at the signs in general. My comment was in general.

COMMISSIONER ASSAAD: Are you dropping -- are you dropping your request for the height of the free-standing sign and the size of it?

MR. YOVANOVICH: My understanding is the size of the signs appear to be the concern, not the number. It was the size of the signs, as I understood it.

COMMISSIONER ASSAAD: And the height?

MR. YOVANOVICH: Well, that would -- to me that goes to size.

COMMISSIONER ASSAAD: The gentleman behind you is shaking his head.

MR. HOPKINS: Yes.

MR. YOVANOVICH: Yeah. That goes to the size, so yes.

COMMISSIONER ROMAN: Which deviation was that, staff, so we're sure we're talking about the same one?

MR. JOHNSON: Deviation No. 9 is the monument sign area.

MS. ASHTON-CICKO: And Deviation No. 5 is the canopy.

MR. YOVANOVICH: Correct.

MS. ASHTON-CICKO: So are you talking about both of those?

MR. YOVANOVICH: I'm trying to understand.

MS. ASHTON-CICKO: Okay.

MR. YOVANOVICH: I knew the size issues, but there was a request for additional canopy sign.

COMMISSIONER EBERT: Rich, I guess I'm going to ask you, are you saying that the setbacks on the property, it's the size of the signs and everything, if they went to code, would we be fine with that?

MR. YOVANOVICH: Would you be fine with my project if I dropped the size of the sign deviation?

COMMISSIONER EBERT: Deviations, yes.

MR. YOVANOVICH: Is that right? Did I get it right? That's what I'm -- that's what I --

COMMISSIONER SOLIS: But then the question was, does that include the additional canopy sign?

MR. YOVANOVICH: See, that was -- but that was -- nobody raised that as an issue regarding -- nobody said, hey, I don't like the fact that you're asking for an additional canopy sign. The focus seemed to be on the size of the signs.

COMMISSIONER ASSAAD: Speaking for myself, I'm objecting to all of the deviations, particularly those about the signage.

MR. YOVANOVICH: I understand.

COMMISSIONER ASSAAD: The height, the location, and the number. So if your understanding is that you didn't hear somebody objecting to the size or the location, I want to correct that understanding.

MR. YOVANOVICH: No, I heard you, Mr. Assaad, loud and clear. I was talking about what Ms. Roman was saying. She seemed to say she was okay with the development. She just didn't like the sign deviations. That's what I thought I heard.

COMMISSIONER ROMAN: What I'm saying is that went beyond what we had painstakingly --

MR. YOVANOVICH: Correct.

COMMISSIONER ROMAN: -- spent hours and hours on saying that we wanted in terms of the Land Development Code.

MR. YOVANOVICH: I understand.

COMMISSIONER SOLIS: And I'm a little concerned with the extra canopy sign.

MR. YOVANOVICH: Okay. That's what I'm asking. I'm asking the question.

COMMISSIONER SOLIS: I'm answering your question.

COMMISSIONER ROMAN: So that would be all signs, then.

MR. YOVANOVICH: I don't want to solve -- I didn't want to not solve the issues to move this forward.

MR. JOHNSON: So for the record, Deviation No. 5 is the canopy sign area, Deviation No. 6 is the

number of canopy signs, and Deviation No. 9 is monument sign area.

COMMISSIONER EBERT: Go ahead.

COMMISSIONER SOLIS: No. I was just -- I don't know if we're there yet, because there's a pending motion. We probably have to deal with the pending motion first.

COMMISSIONER HOMIAK: Yes.

COMMISSIONER SOLIS: Because I would make another motion, but I guess we need to deal with the first motion unless it's withdrawn?

MR. YOVANOVICH: Or the second.

MS. ASHTON-CICKO: What about the second? Is the second withdrawn?

COMMISSIONER EBERT: If Mr. Yovanovich will go back and take all the sign deviations out, I would be okay with this.

MS. ASHTON-CICKO: So you withdraw your second on the motion?

COMMISSIONER HOMIAK: Withdraw your second?

COMMISSIONER EBERT: Withdraw my second.

COMMISSIONER ROMAN: We've got a motion maker, though, right here.

MR. YOVANOVICH: But he doesn't have a second.

COMMISSIONER ASSAAD: Withdraw my motion. Let me make another motion.

I'd like to recommend approval with the application as presented except for all of the deviations regarding all signs.

MS. ASHTON-CICKO: So that would be No. 5, No. 6, and No. 9?

COMMISSIONER ASSAAD: Whatever the numbers are.

MS. ASHTON-CICKO: Is that correct, Scott?

COMMISSIONER EBERT: And I'll second that.

COMMISSIONER HOMIAK: Discussion? Nothing?

(No response.)

COMMISSIONER HOMIAK: All those in favor, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER SOLIS: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER ASSAAD: Aye.

COMMISSIONER ROMAN: Aye.

COMMISSIONER ASSAAD: Opposed, like sign?

(No response.)

COMMISSIONER HOMIAK: Okay.

MR. YOVANOVICH: Thank you.

COMMISSIONER ROMAN: Is it time for another break?

COMMISSIONER HOMIAK: Yeah. Well, here comes Mark.

(Chairman Strain returned to the dais.)

CHAIRMAN STRAIN: ***The next item up is Item 9B. It's PUDZ-PL20140002809.

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

If you want to -- if you're here, members of the public, to address this issue, you need to be sworn in.

So please stand.

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

CHAIRMAN STRAIN: Disclosures from the Planning Commission. We'll start with Tom on the -- my right.

MR. EASTMAN: None.

CHAIRMAN STRAIN: Stan?

COMMISSIONER CHRZANOWSKI: Nothing.

COMMISSIONER SOLIS: None.

COMMISSIONER EBERT: None.

CHAIRMAN STRAIN: And I've had numerous conversations with the applicant and yesterday with staff.

Karen?

COMMISSIONER HOMIAK: Nothing.

CHAIRMAN STRAIN: Mr. Assaad's gone, okay.

Charlette?

COMMISSIONER ROMAN: No contact.

CHAIRMAN STRAIN: Okay. There has been one issue that was discovered about a week ago. Had discussions yesterday with staff and had discussions this morning with the applicant, and I think that they are seeking a continuance.

MR. VANASSE: Correct.

CHAIRMAN STRAIN: Okay. With that in mind, does anybody here have any objections to the continuance?

(No response.)

CHAIRMAN STRAIN: Now, as far as -- before we vote on the continuance, the members of the public that are here, there were some issues discovered that were in error. They may or may not be issues you're here to discuss. If you cannot be here when this is continued to, which will be the next meeting, Patrick? It will be the May 5th meeting.

If you cannot be here for the May 5th meeting, we can hear your issues today. But I need to know that now. And one gentleman who was sworn in, would you be able to come back and talk to us on the next meeting?

MR. NAUGHTON: No, I won't.

CHAIRMAN STRAIN: Okay. Then if you'd like to address the issues today, they can be addressed and put on the record, and then when it does come back, we'll have that on the record to refer to. So we'll accommodate that.

Heidi, does it matter sequentially if we have the comment from the citizen before we continue it, or we go ahead and make the continuance? Because it's been requested by the applicant.

MS. ASHTON-CICKO: I'd go ahead and hear the speaker and then continue it.

CHAIRMAN STRAIN: Sir, if you'd like to address us, please come on up.

MR. NAUGHTON: My name is Patrick Naughton. I'm on the board of directors for Marco Shores Estates.

And, basically, our community is wondering why we have a mobile home park on one end, and we're a mobile home park. You want to change the designation from a mobile home area to residential where we are single-level homes on both sides, and you're going to put two-story homes with a height of up to 40 feet between us.

And that is our whole complaint, that it's zoned mobile home. Leave it zoned the way it is.

CHAIRMAN STRAIN: Now, your development is to the north or south?

MR. NAUGHTON: North.

CHAIRMAN STRAIN: But that's the development who provided the contract and has --

MR. NAUGHTON: No, no, no. That is our previous owner. He kept that name for his company. We bought him out in 2007 where we are, but that piece of land on the other side of the lake is his.

CHAIRMAN STRAIN: Well, the piece of land -- okay. So -- I thought -- there is an agreement and I'm -- where did Patrick go? Patrick, are you familiar with your applicant's agreement for this project? There is a -- there is some agreement for use or treatment of that lake that was provided by what entity; do you recall?

MR. VANASSE: For the record, Patrick Vanasse, certified planner and the representative for High View right now.

With regards to legal matters in that agreement, I'm not a legal expert; however, I do know that the entity -- there's a homeowners association with the Marco Shores name, and there's also a separate company with that, with a name very close to it. They're two separate entities.

MR. NAUGHTON: Yes, they are.

MR. VANASSE: The seller of the property is a separate entity and distinct from the HOA.

CHAIRMAN STRAIN: Yeah. And the seller of the property is Marco Shores Estates Homeowners Association.

MR. VANASSE: Correct.

CHAIRMAN STRAIN: They signed a proprietary lease on October 1, 2007, regarding the lake and other matters involving the property to the south.

So you don't represent that group. That group's a former owner?

MR. NAUGHTON: That's -- the former owner kept that piece of land.

CHAIRMAN STRAIN: Okay. Okay. And I appreciate the clarification. We'll certainly consider that when we come back on May 5th.

Is there anything else you'd like to add involving your -- I encourage you to, if you have any specific issues that you develop as the next week or two goes on, please send your comments to Nancy Gundlach, if you'd like, and she can make those part of the record at the meeting itself if you can't be there.

COMMISSIONER CHRZANOWSKI: Mark?

MR. NAUGHTON: See, one of the problems with this is we have a lot of snowbirds in our park. And everybody's going home now, and you guys are going to have the meetings in May, June, or whatever.

CHAIRMAN STRAIN: Well, we don't --

MR. NAUGHTON: There's no way of continuing this till September, October?

CHAIRMAN STRAIN: That's -- we -- yeah. That's just not part of the way the -- we're here 24 -- 12 months a year, and I -- we have to continue on.

So, Stan?

COMMISSIONER CHRZANOWSKI: There were a lot of people here. Were they all with you?

MR. NAUGHTON: Yes, but they had doctors' appointments. I've got one, too. I've got to go, too. That's why I wanted to speak and be done.

COMMISSIONER CHRZANOWSKI: Maybe if we put this first on the list.

CHAIRMAN STRAIN: Well, it will be first. It's a continued item. All continued items start at 9 o'clock on May 5th.

COMMISSIONER CHRZANOWSKI: Nine o'clock?

CHAIRMAN STRAIN: Yeah. It will be first so you won't have to go through another long period of waiting.

MR. NAUGHTON: Thank you.

MS. ASHTON-CICKO: If Ms. Gundlach receives written objections, she'll make that part of the record at the next hearing.

MR. NAUGHTON: Thank you.

CHAIRMAN STRAIN: Okay. Thank you, sir. Any other members of the public wish to speak on this matter, okay.

(No response.)

CHAIRMAN STRAIN: Okay. With that, there's been a motion to request a continuance to a date certain of May 5th. Any comments from the Planning Commission? If there isn't, is there a -- so moved.

COMMISSIONER HOMIAK: Motion to continue to May 5th.

COMMISSIONER EBERT: I'll second.

CHAIRMAN STRAIN: Made by Karen, seconded by Diane. 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. And with that, we'll move right into our next agenda item. There actually is two agenda items left.

***The first one is the Item 9C. It's for the 5.05.08, the architectural and site design standards. Now, these are elements that we have reviewed two or three times before. The architectural committee has been kind enough to spend additional time to review our concerns and then reply to us.

This has been boiled down to a table format that Jeremy has carefully put together that focuses on those items that are remaining and the differences between the two groups.

(Stan Chrzanowski left the boardroom for the remainder of the meeting.)

Now, the Board can approach this a couple of different ways. Some of the comments that we supplied, the architectural committee agreed to. Some of them they slightly modified, and three or four of them they could not agree to.

Since we have talked about these a couple of times before or more, those that we agreed to, I'm not sure if there's a need for us to get involved with them again if we've already agreed to them and they agree to what we previously sent them. It would seem to save time just to go forward.

The changes in the language, if no one has any objections to those -- and I have reviewed those -- most of them I don't have a problem with. In my review there were three, I think, maybe four elements that the architectural committee did not concur with our recommendations on, and they basically are saying, no, they don't agree, and this is where they want to go with them.

It's -- I'm content moving just to those, but I don't want to -- I don't want to bypass any concerns the rest of you have.

COMMISSIONER HOMIAK: That's fine with me.

CHAIRMAN STRAIN: Okay. Well, then, Jeremy, why don't you take us to the ones where the disagreements lie. I have them highlighted on my table, but I know you do, too, so let's just let you narrate it and go forward.

MR. FRANTZ: Sure. And if you do have any questions about any of the other sections, I'll be happy to answer those.

The first issue would be on the first page of the table. It's labeled Section B.1. The Planning Commission had requested that nonresidential PUD zoning districts be added to Section B.1. The committee's consensus was to keep that removed.

CHAIRMAN STRAIN: Okay. And in this particular one, if this applied, the architectural criteria would then apply to commercial zoning district and commercial components of PUDs business park zoning districts. But if there are other -- any other nonresidential elements that don't fit those two categories, that language was requested to be struck and would no longer be valid.

MR. FRANTZ: Correct.

CHAIRMAN STRAIN: Okay. And I think the committee, if you want to jump in -- I know that each time we've talked about these you've expressed your ideas, but we're certainly here and more than willing to listen to you if you want to jump in on these.

I do like Mr. Assaad's comments earlier that we have a character in this community that has been derived because of the various standards we have. And I look across this county and see the articulation of our architectural elements, and we're number one in the country or in the top 10 for numbers of various reasons, all which have to do with the character set by both our landscaping and our architecture. And this particular one would take too much out of the architecture, and I still would like to see us stick with our original recommendation, and that is to leave the -- put language in that adds nonresidential PUD zoning districts so it applies to everything that's nonresidential. And I don't know what the rest of you feel, but I'm -- it's certainly time to discuss it.

COMMISSIONER ROMAN: I concur and have voiced that position as well in our previous discussions of this.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Well, it looks like we would go forward with our -- with the No. C reading, nonresidential PUD zoning districts. And I don't -- after listening to the discussion that you-all had earlier this morning, I don't see the need to have an exemption after 300 feet. I mean, why? It doesn't make any sense.

And if a PUD wants to do something internally, they have the option to ask for a deviation to that, and I know some have. But I think for the most part, we're better off leaving it like it is.

Jim, did you have -- you look like you're about to jump out of your seat. More than welcome to participate, sir.

MR. BOUGHTON: Good morning. My name's Jim Boughton, and -- architect and member of the ad hoc committee.

And I guess my question would be, to the commission, is if we're listing commercial components of PUD zoning districts, what type of projects or zoning districts are we -- if there's a subdivision of nonresidential, what would that be that's not covered under PUD zoning districts?

CHAIRMAN STRAIN: Assisted living facilities, CCRCs, government facilities, churches. For example, we have some churches that went up in Golden Gate Estates that were metal buildings. If you leave up metal buildings, they're going to look really bad. When you have to do additional trimmings and detailing on them, I'd like to make sure they're caught in any web of detail that we can.

MR. BOUGHTON: But don't a lot of these type of projects go through a conditional use process?

CHAIRMAN STRAIN: Yes. But, I mean, we don't normally, in a conditional use, start articulating all the details of an architectural standard, especially when we have one already written. And there may not be an opportunity all the time to see that those are followed through because of the process they go through to get through a conditional use.

And it doesn't hurt. If you're saying we could do that during the conditional use, then why don't we just do it anyway? Why do we need to wait for that standard -- or that process to kick in?

And I know you're an architect, Jim, and you and I have worked together, and I know the detail you go into in your projects. This is just assuring that some of that detail gets there.

MR. BOUGHTON: Okay. I -- I thought we were covered by listing PUD zoning districts, basically all PUD zoning districts.

CHAIRMAN STRAIN: No, I don't think we are.

MS. CILEK: The language is commercial components of PUD zoning districts.

MR. BOUGHTON: Correct, I understand that. Okay. Thank you.

CHAIRMAN STRAIN: Thank you, sir.

Go ahead. Andy?

COMMISSIONER SOLIS: Were you saying that you would be in favor of removing the 300-foot provision?

CHAIRMAN STRAIN: Yes, just leaving it --

COMMISSIONER ROMAN: No.

COMMISSIONER SOLIS: Because that was something that we -- I think that was something that the Planning Commission brought up.

MS. CILEK: And we're looking at B.1.

COMMISSIONER ROMAN: B.1.

COMMISSIONER SOLIS: B.1, right.

CHAIRMAN STRAIN: Right. Yes, we did, but we did that as a compromise to the architectural group. They say, no, they don't -- so I'm not sure we need to put that carrot out. It's still better as a nonresidential PUD zoning district flat out.

COMMISSIONER SOLIS: Can I just refresh -- someone refresh my recollection as to what the issue was? Because it was -- had something to do with whether or not a portion of the PUD would be considered an interior portion that might be seen or something.

CHAIRMAN STRAIN: Yeah. This is for nonresidential PUD.

COMMISSIONER SOLIS: Right. I'm sorry. Nonresidential PUDs, but it would be interior or something. What was the -- what was the reasoning behind the 300 feet?

MR. FRANTZ: Yes.

COMMISSIONER SOLIS: That was our own idea?

MR. FRANTZ: The -- when this came to you last time, the committee had provided some additional discussion about why they had removed that portion, and I think that a part of that discussion was that the -- especially on the interior of a PUD, that it wasn't necessary and that it would be better to have the standards apply to the exterior of the PUD, if at all, and so I think that this was part -- that was part of that discussion, or that compromise came about as a part of that discussion.

COMMISSIONER SOLIS: Okay.

COMMISSIONER EBERT: So we're going to take out our own suggestion of the Planning Commission where -- the suggestion of the 300-foot used throughout the section determining when a building is interior to the project?

MS. CILEK: If I may, this provision has been discussed at every single meeting that you guys have had, and your initial recommendation was to keep it in as it existed today. And so you actually were referring back to that original recommendation.

You had sought to compromise. That didn't get fulfilled so, you know, perhaps looking at your original recommendation is where you want to go today.

COMMISSIONER EBERT: Okay. So we're going back to the original one completely?

MR. FRANTZ: And that language is on the visualizer now.

MS. CILEK: (Nods head.)

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: So the recommendation from this board would be to go back to the language that's on the visualizer. Is everybody content with that?

COMMISSIONER ASSAAD: Sure.

CHAIRMAN STRAIN: Okay. Heidi, on the remaining elements on this, can we make one -- since they're all under the same section of the code, at the end of this discussion can we make one motion to -- if we're all on the same page, to recommend approval as we discussed?

MS. ASHTON-CICKO: Yes, if it's unanimous.

CHAIRMAN STRAIN: Thank you.

Jeremy, let's go to the next one that is, you know, in disagreement. It looks like it's on Page 4.

MR. FRANTZ: Correct. So that takes us to what used to be old -- or what used to be Section C.3 dealing with facade and wall height transition elements.

The committee's original proposal was to remove this section completely. The Planning Commission had asked for it to be retained. And, again, the committee has just reaffirmed that they would like to remove this section.

CHAIRMAN STRAIN: I'll stand by my previous statements.

COMMISSIONER ROMAN: I would support that. I find this a highly important portion of the architectural code considering that we'll be transitioning for many years between older structures and newer structures, and I've stated that before, and I just want to go on the record again.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Then we're in agreement. We'll go -- we'll leave with the Planning Commission's suggestions to leave the language in.

COMMISSIONER HOMIAK: Yes.

CHAIRMAN STRAIN: Okay. Jeremy, the next one will be the following page, on Page 6, I believe.

MR. FRANTZ: That's correct. And in this section it's dealing with projections and recesses. The committee originally proposed removing several of these sections, everything below 20,000 square feet. Planning Commission requested that it be retained.

The committee brought back to you a revised proposal that only removed the 5,000-square-foot

section and had changed some of the depths of each of the projections and recesses. At your last meeting that you heard this, the Planning Commission recommended that the original language be retained, and the committee is now reaffirming again that revised recommendation of just removing the 5,000 square feet and changing the depths of the minimum projection and recesses.

CHAIRMAN STRAIN: And I would agree that the depths of the projections and recesses could be modified and still we wouldn't lose the articulation, because they are a little deeper in some cases need be. So for ii, iii, and iv, I don't have a problem with their suggestion to reduce those areas, but on v, which is what we originally requested to be left in, I don't see why we would want to take it out.

In fact, you have zoning districts where 5,000 is the biggest you can go. We have a lot of C3 zoning in Collier County with that kind of limitation, so that would mean we'd be off the books with this issue.

So I just as soon we kept that standard as well, but we modified the transition depths as they had suggested in the first three.

And I don't mean to speak for you-all. I'm just trying to summarize to move through it quickly. If you're all happy with that, then we can move to the next one. Is everybody okay with that?

COMMISSIONER ROMAN: Yeah, because I think that 5,000-square-foot building or smaller is just as important.

CHAIRMAN STRAIN: Well, we have the potential to have a lot of them.

COMMISSIONER HOMIAK: Yeah.

CHAIRMAN STRAIN: And -- then, Jeremy, where's the next one?

MR. FRANTZ: That would be the next page, Page 7, and we're looking at Section D.8.c. This one is -- was previously -- the section was -- excuse me. I'm trying to speak clearly.

This last sentence of this section was proposed to be removed. The Planning Commission asked for that to be retained, and the committee has agreed to retain this section but suggested changing the word from "adjacent" to "abutting" outparcels, so this would change -- would limit when this applies.

COMMISSIONER ROMAN: Didn't we start with the word "abutting" on this one before, and then --

COMMISSIONER HOMIAK: Different.

CHAIRMAN STRAIN: Well, ironically, one of your earlier codes, and I think it was 91-102, or maybe 82-2, I had to do some research on the words "adjacent" and "abutting." They were the same definition at one time, and when we switched codes, they split out into two separate definitions.

But they're almost so similar it may be a moot point, and that's -- I didn't -- I don't necessarily disagree with the committee to allow the word to be changed, but I'm certainly looking for your input. So I think with that --

COMMISSIONER HOMIAK: We did this same thing, I thought --

COMMISSIONER ROMAN: Yes. We had a lot of discussion about abutting.

CHAIRMAN STRAIN: Yes, we did.

COMMISSIONER ROMAN: Maybe we need to do adjacent slash abutting. I don't know what --

CHAIRMAN STRAIN: Well, that would mean two different things today, unfortunately. Our code has two separate definitions for each one of those, unlike the previous codes. We split them back out.

I don't see where it's harmed by using the word "abutting." I'm comfortable with that. Is the rest --

COMMISSIONER ROMAN: As long as we have the right word. That's the key to what we want to communicate.

CHAIRMAN STRAIN: Okay. Jeremy, the next one was on Page 9 where there's differences?

MR. FRANTZ: Yeah. I'll quickly go through on Page 8, though, on D.9.b. The committee is in agreement with this change to retain the roof edge and parapet treatments. You-all had suggested including the ability to do vertical and horizontal changes on roof lines, and so there's some new language there that gets to that recommendation. But, again, the committee was in agreement with that.

CHAIRMAN STRAIN: Okay.

MR. FRANTZ: The next actual disagreement -- actually, before we get to the next disagreement. On Page 9, F.2.b.i is a section that you-all had asked for some additional information specifically regarding how the additional landscaping is calculated or what exactly is required.

This section is -- currently refers to LDC Section 4.05.04. And just give me a moment.

So in Section 4.05.04, the requirement is that whenever a -- whenever parking is exceeded by 120 percent, that double the landscaping required for interior vehicular use areas is required.

And the landscaping requirements is then found in Section 4.06.03 where the current requirement is -- or the normal requirement is, at least 10 percent of the vehicular use area shall be devoted to landscaping, and one tree shall be provided for every 250 square feet.

So the doubling would apply to those two things. So it would become 20 percent of the -- of the vehicular use area and two trees for every 250 square feet of landscaping.

MS. CILEK: Jeremy, do you want to put that on the visualizer so they can follow. Yeah, we have some notes on it, but you can see the language.

MR. FRANTZ: So here is -- so this first one is the requirement in 5.05.08 that refers you to 4.05.04. And here you can see the requirement for double the landscaping as required in 4.06.00. That takes you to 4.06.03 where 10 percent of the vehicular use area and one tree for every 250 square feet.

MS. CILEK: And then those are doubled. We just wanted to share that with you.

CHAIRMAN STRAIN: Okay. So we recommended just a clarification. You have provided that. They didn't have to change anything in response to that.

MR. FRANTZ: Correct.

CHAIRMAN STRAIN: Okay. Anybody have any questions with the clarification other than the fact it's extremely confusing? Section on this runs a section on that, and a section on that runs to another section.

COMMISSIONER ROMAN: You've just got to hang in there and stay with it.

COMMISSIONER HOMIAK: We're taking out that sentence because all of this gets you there anyway?

CHAIRMAN STRAIN: That's correct. That's what was --

MR. FRANTZ: Right.

CHAIRMAN STRAIN: -- that's what we asked to have.

COMMISSIONER ROMAN: Bottom line.

COMMISSIONER HOMIAK: Okay.

MR. FRANTZ: Right. The standard that was -- that is currently in the architectural section applies to all parking lots that exceed 120 percent. The section that we showed you in 4.05.04 only applies to parking lots with over 80 spaces.

COMMISSIONER EBERT: Eighty.

CHAIRMAN STRAIN: Page 9 is the next one.

MS. CILEK: If I may, would it be easier if we just stated the requirement?

CHAIRMAN STRAIN: Well, I mean, it depends on --

COMMISSIONER HOMIAK: Yeah.

CHAIRMAN STRAIN: -- what you consider easier. If you think anybody's going to figure the line of reasoning we just saw to get from the three different sections to get an answer and then compute it on top of the way it's written in that section, that definitely is not simple. But yes --

MS. CILEK: We would propose language that would --

CHAIRMAN STRAIN: -- if you could succinctly mention it there, I think that would be an advantage to anybody reading this section of the code.

COMMISSIONER ROMAN: Because then they don't have to refer to the documents involved.

CHAIRMAN STRAIN: Yeah.

MS. CILEK: That's what I'm getting to, yeah, absolutely.

COMMISSIONER HOMIAK: Follow the yellow brick road.

CHAIRMAN STRAIN: It's Page 9, the bottom of that. The difference between the two was the percentage of what was wanting to be relocated to the -- allowed in the front; is that a fair statement, Jeremy?

MR. FRANTZ: Yeah. Originally, the committee had requested for this section to be removed entirely. You-all had asked for it to be retained. So they've retained this section but have changed the percentage of parking that can be located in front for interior lots. And so now the percentage for interior lots

and corner lots would be the same.

CHAIRMAN STRAIN: Now, the interior lot means exactly what? Interior lot to a planned unit development or to a commercial area where it doesn't have external exposure.

MR. FRANTZ: I see that it's a defined term, and so I don't want to say what I think it means, but maybe we could come back to that, and I could give you the actual definition.

CHAIRMAN STRAIN: Wafaa?

COMMISSIONER ASSAAD: Interior lots means lots fronting on one street. They're not corner lots, they're not cul-de-sac lots. It doesn't matter whether or not you're in a PUD or out on the street in Naples Park.

MR. FRANTZ: Yeah. I think that sounds like what I think it means. I'd like to have the opportunity to just read that definition --

COMMISSIONER ROMAN: I'd like to check the code.

MR. FRANTZ: -- to you just to be sure that it's clear.

MS. CILEK: And we're obtaining the definition right now.

CHAIRMAN STRAIN: So am I. Isn't that amazing? Integrated phased development, infiltration impervious -- must be lots interior, not interior lots. Lot interior. A lot -- other than a corner lot with only one frontage on a street.

So "interior lot" means interior to a block, not interior to a zoning district or interior to a PUD. That's what I was trying to find out.

COMMISSIONER ASSAAD: Yeah.

CHAIRMAN STRAIN: So it would only be, then, interior to a block, so it could still be a street with -- on a main arterial outside the PUD, so one of our main streets.

COMMISSIONER ASSAAD: Yes.

CHAIRMAN STRAIN: And the suggestion here is to reduce the amount of required parking to go to the back and leave more in front.

And we had suggested leaving it alone. They had come back and said, instead of striking it completely, leave it in. They had come back and said, instead of requiring 50 percent -- no more than 50 percent in the front, we could go up to 80 percent in the front. What's the feelings of the panel?

COMMISSIONER EBERT: I'll be honest, if you look at a lot of these parking lots, who parks in back is the employees. So having more up front, I feel, is good. I mean, there are situations here where there's no parking in front or back. So it's -- if we can keep mainly the employees at the back of the lot and the customers in the front. I like the 80 percent, Mark, I guess is what I'm saying.

CHAIRMAN STRAIN: Okay. Anybody else?

COMMISSIONER ROMAN: I think under the walkable streets, isn't there a provision where more parking is towards the back and around on the street versus in the front of the building, and the storefronts are moved forward.

CHAIRMAN STRAIN: And Dover-Kohl also strongly recommended that and -- Jeremy, and I believe you reviewed that.

MR. FRANTZ: Yes.

CHAIRMAN STRAIN: Okay.

COMMISSIONER ASSAAD: Why is parking in front not desirable?

CHAIRMAN STRAIN: I'm just reiterating what we -- the studies we've done. I'm not sure -- I can't -- I could pull up the Dover-Kohl study and we could probably hear their argument.

MR. FRANTZ: Yeah. I could go to that page. This is from one of our previous packets.

COMMISSIONER ROMAN: Because large parking lots in front of buildings is really an older approach.

COMMISSIONER ASSAAD: Not really. They are safer.

COMMISSIONER ROMAN: I don't know about that.

CHAIRMAN STRAIN: No. Wafaa, she's a lot younger than us. That could be the problem.

COMMISSIONER ASSAAD: Well.

COMMISSIONER ROMAN: You'll see that in smart growth models and --

COMMISSIONER ASSAAD: What have they done tastefully with landscaping and lighting and all of that?

MR. FRANTZ: So if you have your packet from February 4th, on Page 11 of that analysis of Dover-Kohl, the Dover-Kohl report talked about the visual impact of bringing buildings closer to the street and creating a more walkable, pedestrian-friendly street environment.

And so the goal was to move parking lots behind the buildings and not just -- not maintain those same setbacks for buildings on the street but bring them actually closer to the sidewalks.

CHAIRMAN STRAIN: You know, with our landscaping requirements -- because we do have more parking lot landscaping requirements than I know other communities. The only one I've seen similar to ours is West Palm Beach, because they do the same thing. They have a lot of islands and a lot of landscaping.

I think we soften the parking lots quite substantially when they're in front of buildings. So I don't necessarily disagree with -- in this case with the 80 percent, so...

COMMISSIONER ASSAAD: If you look at Tamiami Trail South closer to downtown Naples, the City of Naples has zero setbacks, so you can have your four-story office building right at the right-of-way line, and all of the parking is in the back.

What this does, it crowds the street. It gives you image that you're closed in. It doesn't give you the open vista.

When the parking is hidden in the back, you don't know if there are parking spaces available. In my view, they are not as safe as parking in front because of the lighting and the police patrol and the visibility. So I see a lot of advantage into parking in the front unless the owner wants to do maybe a limited amount for employees in the back.

CHAIRMAN STRAIN: I'm fine with the 80 percent recommendation from the committee. Is that all right --

COMMISSIONER ROMAN: I mean, I don't necessarily agree with everything Wafaa is saying, but I don't have a problem with the percentage.

CHAIRMAN STRAIN: Okay.

COMMISSIONER EBERT: I think he wanted to speak.

CHAIRMAN STRAIN: Did you want to snatch -- what do they call that -- snatch victory from the jaws of defeat.

MR. BOUGHTON: Well, you know what, I'm going to sit down. We felt like, whether it's 50 percent or 80 percent in front of the building, it's not going to make a substantial difference in how these buildings are set back, and that parking for employees is probably 10 percent so we bumped it to 20. And that was basically the rationale for why we thought this was a good compromise.

CHAIRMAN STRAIN: I think it works.

COMMISSIONER EBERT: I think it works.

CHAIRMAN STRAIN: Okay. I think we're all on the same page then, which takes to the next and last item, which is the number -- Page No. 10. It's talking about pedestrian pathways.

MR. FRANTZ: Yes. And, again, this section was recommended for removal. You-all -- the committee had -- or, sorry. The commission had recommended that it be retained, and the committee has again reaffirmed that they would like to remove this section.

CHAIRMAN STRAIN: And your response to the retention is the Attachment 1 that's on Page 11; is that --

MR. FRANTZ: Well, yes. Also at the last Planning Commission meeting you had asked about what is required by ADA, and so that attachment shows you the Florida Building Code which mirrors the ADA requirements requiring at least one route.

CHAIRMAN STRAIN: Okay.

COMMISSIONER ROMAN: This becomes more important when they're walking through larger parking lots.

CHAIRMAN STRAIN: Yes. I -- with its coverage in ADA, I think we're okay. I don't really have a big issue with it. Anybody else here?

(No response.)

CHAIRMAN STRAIN: Okay. So with that, that's the issues that remain for the third review or fourth review of this. Is there a motion to forward to the Board of County Commissioners with the go-ahead, Caroline?

MS. CILEK: We would like the opportunity to share with you an updated narrative. It is going to incorporate what the Planning Commission has discussed in the past couple of meetings and identify how the amendment would be presented to the Board. We're currently working on that narrative and we're hoping to get it to you on May 19th.

CHAIRMAN STRAIN: Okay. But for the approval of the -- for the narrative to go forward, we're going to be putting the motion on the language that's going to be struck through and changed in the LDC itself. So as your -- are you going to include that as a backup to your narrative?

MS. CILEK: The LDC text?

CHAIRMAN STRAIN: Yeah.

MS. CILEK: Yeah, of course. It will be included with the narrative.

CHAIRMAN STRAIN: Okay.

MS. CILEK: There are a couple of things I did want to just touch base on.

I believe when we were going back and in looking at the narrative and the LDC language, we wanted to, again, bring up some of the -- one of the exemptions to make sure that we had followed the direction of the Planning Commission a couple meetings ago, and that was dealing with the Immokalee over -- urban overlay and whether that was to be exempted or not.

Do you, perhaps, have your old copy of the full narrative? If not, I can put it up on the --

CHAIRMAN STRAIN: I have mine, and it said that it should -- that they won't be exempt until the CRA adopts a new code.

MS. CILEK: Okay.

CHAIRMAN STRAIN: Otherwise they'd be codeless. It would be like the Wild West for building out there. And I remember it was in my notes, and I made a comment.

MS. CILEK: That provides -- that provides clarification. Thank you very much.

I do have one additional question before we move to look at the -- make a motion on the language, and that is on Page 6. It was one of the last provisions on that page under A, D.3.a. a.v where you guys were seeking to retain No. 5; however, I wanted to make sure if you wanted to keep the minimum depth, the second to last line, the one above it has been changed to two feet, which you approved. So perhaps we want --

CHAIRMAN STRAIN: That's a good point. We wouldn't want it to be greater than the one above it. It's a smaller building. I would have to suggest the ratio compared to the one above would be probably appropriate, and that's between 5- and 10,000. The committee is -- the architectural committee committed -- or suggested two feet in lieu of four. That's half of what was there. And they did that consistently without the rest. It wouldn't seem unreasonable, then, that 5,000 would be half of what was previously required to match up what they had suggested for the ones that they compromised on.

MS. CILEK: So we're looking at one and a half.

CHAIRMAN STRAIN: Eighteen inches.

COMMISSIONER ROMAN: What is that; shutters? I mean, when you think about that, that's not very much.

CHAIRMAN STRAIN: Well, it's a small building, though, too, but 18 inches would be more than shutters, wouldn't it?

COMMISSIONER ROMAN: Oh, I thought half of two was what you were suggesting. One --

CHAIRMAN STRAIN: Half of three.

COMMISSIONER ROMAN: Okay.

CHAIRMAN STRAIN: Because -- and it would be -- it would be articulate -- a movement in the building's facade, so yeah.

COMMISSIONER ROMAN: Exactly, because, we -- you know, I've been focused on those 5,000-square-foot buildings or smaller because we don't want them to look like boxes.

CHAIRMAN STRAIN: This would give it enough, I think.

COMMISSIONER ROMAN: Okay.

CHAIRMAN STRAIN: Okay. Caroline, are you satisfied?

MS. CILEK: Yes, thank you.

CHAIRMAN STRAIN: Okay. So we will -- the formal vote on this will happen when you bring the narrative back with the attached strikethroughs.

MS. CILEK: Yes.

CHAIRMAN STRAIN: Okay. As long as we all remember what we did today. And what I would do is like to take a 10-minute break before we go into the final session because it's been almost an hour and 40 minutes since the court reporter had a break.

MS. CILEK: That's just fine.

COMMISSIONER ROMAN: Excuse me, Mr. Chairman. Were we doing a motion on this architectural --

CHAIRMAN STRAIN: I don't think we need to until the language actually comes back in strikethrough format with a narrative.

Heidi, do you see --

MS. ASHTON-CICKO: Is that what you're going to do is bring it back?

MS. CILEK: Yes, absolutely.

COMMISSIONER ROMAN: Okay.

CHAIRMAN STRAIN: Is that okay? Okay.

With that, let's just take a 10-minute break, and we'll go back to the remaining LDC amendments that are not the architectural ones but the next phase in 9D when we come back. Thank you. We'll come back at 12:22.

(A brief recess was had.)

CHAIRMAN STRAIN: ***The next item up is the Cycle 2 Land Development Code amendments, and there are a series of these. There's actually, I think, 10 of them.

I've read them all, and I'm sure all of you had. And I would normally go through these one at a time, but if there's no questions, maybe we can just -- Caroline can call them out, and the ones that we have questions on we can stop at; otherwise, we'll continue to move on to the next one.

Some of them are basically administrative corrections, and there's a few real simple ones here, so we may not need to spend a lot of time on them.

So, Caroline, why don't we approach it that way.

MS. CILEK: Absolutely. We'd like to start off with the agenda and looking at No. 1 and 2. Those are going to be presented by Steve Lenberger. So the first one is 3.05.04 and 3.05.07, which is to add flexibility to the preserve signage requirements.

COMMISSIONER ROMAN: I have a few questions.

MS. CILEK: Sure.

CHAIRMAN STRAIN: Okay. That's good, because otherwise Steve would have been here all day with nothing to say.

COMMISSIONER ROMAN: Hi, Steve.

MR. LENBERGER: Good morning.

COMMISSIONER ROMAN: I have questions on the changes. There are five different elements to --

CHAIRMAN STRAIN: What page are you on, Charlette?

COMMISSIONER ROMAN: I'm on Page 1.

CHAIRMAN STRAIN: Oh, okay.

COMMISSIONER ROMAN: Let's see, Page 1, and -- this wasn't the first one in my book, but 3.05.04.

CHAIRMAN STRAIN: Okay.

COMMISSIONER ROMAN: You're proposing five different changes in this Land Development Code amendment. And I can understand the first one and 4 and 5, but No. 2, you're asking to clarify when permanent installation of preserve signs are required. Could you elaborate on that on why you're proposing

that change?

MR. LENBERGER: For the record, Stephen Lenberger, engineering and natural resources department.

The installation of preserve signs is currently, as stated in the code, required at the time of construction. But the code also has safeguards for different types of construction activities. Mainly you're required to have some sort of protective barrier in place in areas that you're not going to have construction or adjacent to preserves.

And these types of barricades are sufficient. We've had -- I've had dialogue with several people since this code was written, and it's been quite a while. They said, why do we have to have preserve signs up initially when we have these construction barricades? Sometimes they get knocked down. Different cases may happen like that.

And so we thought about it and said, the protective measures for the barricading is sufficient and, really, you don't need your preserve sign to identify the preserve when the subdivision is complete until you have subdivision acceptance or your first CO on a development.

COMMISSIONER ROMAN: Well, I could understand that you don't want them to put the nice permanent signs up during construction, but it may be because those signs were there that the protective barrier is sufficient, so I'm not sure which precludes what. But I was surprised that you didn't recommend some kind of temporary designation of that area.

MR. LENBERGER: We spoke with our construction people who do inspections, and they haven't had issues with this. The only --

COMMISSIONER ROMAN: It could be because the permanent signs are up.

MR. LENBERGER: Well, I can't say they are.

COMMISSIONER ROMAN: Okay. That, too.

MR. LENBERGER: There really has been issues. They had one developer actually go in clearing without following protocol, but that was a totally unrelated thing. But as far as protective barricades, it's been sufficient, and they haven't had any issues.

COMMISSIONER ROMAN: Because that's -- you addressed my concern that with all of the subcontractors working on a particular project, you know, maybe it's because the signs were there, or if they weren't there, this protective barrier. If it's the barriers that I often see that are in disarray, I don't know how good those are either.

MR. LENBERGER: Well, we could put temporary signs there. I don't know if they're necessary. You know, I've had dialogue with a few people. Some people actually just said, you know, write it right on the silt fence or whatever the case may be. You have all kinds of suggestions. And, you know, that could be something we could add if you wish. Right now we haven't seen any issues with it, so I didn't include it.

COMMISSIONER ROMAN: Yeah. I support your recommendation to not have them put the nice permanent signs up during construction, for sure, but I thought that there was an intermediate step rather than just removing every designation. And maybe there weren't issues, but we don't know what reasons those issues didn't occur. You know, we don't want -- know why. It's just a thought for you to consider.

But I agree with the two inches in lettering. I thought that many of these recommendations were positive to the markings that you suggested. It was just, you know, doing away with any type of description of that area during the time of construction was a little bit of a concern.

CHAIRMAN STRAIN: And I -- without having had any instance where there's been a proven problem, I would hesitate to suggest we need to require the temporary signs that would actually increase the costs, which is probably something we're trying to avoid when we are requiring the permanent signs to be put in later, because we reduce the cost for them being destroyed and having to be replaced.

So, Charlette, unless we have some shown reason, would you be comfortable leaving it like it is, and if it doesn't warrant -- if it proves to be problematic in the future, we could always amend it with putting the temporary signs in as a requirement?

COMMISSIONER ROMAN: Well, you know, I'm open to that. My only comment to you would be that we might not have had a problem because permanent signs were required.

Now, whether or not the developer put those permanent signs adjacent to the preserve is another

matter. But what this amendment, as I understand it, is doing is removing the requirement for the developer to put the permanent preserve --

CHAIRMAN STRAIN: That's correct.

COMMISSIONER ROMAN: -- sites (sic) up during construction. And I think that's a little much, I would agree with you.

But I'd like to monitor this -- and I could support this, but I would like to monitor this to see if there --

COMMISSIONER ASSAAD: That doesn't prohibit somebody from putting signs?

COMMISSIONER ROMAN: No.

CHAIRMAN STRAIN: No. It would be to their advantage if they -- because they would be --

COMMISSIONER ASSAAD: Feel strongly about it.

COMMISSIONER ROMAN: Yes.

CHAIRMAN STRAIN: Well, they'd be protecting what they would have to replant if they didn't.

COMMISSIONER ASSAAD: And you don't have to ask for a deviation from that.

COMMISSIONER ROMAN: Well -- but here's the other thing that -- my only concern would be, Wafaa, that in some of these areas they may have some pristine habitat that is designated as their preserve, and I'd hate to see it destroyed and then after the fact we get new plantings than just protecting what we have there to begin with.

COMMISSIONER EBERT: Steve, I have a question for you, too. It's kind of along the lines of Charlette's.

And I have seen the barriers. They are -- those -- that black stuff is turned over. Nothing is done. I mean, I have seen where they just push dirt into the preserves. There is no barriers.

So the permanent signs, I don't have a problem with putting up right away, by any means. In fact, we didn't get our permanent signs until about four years ago. And it says -- it was absolutely crazy. We've been in existence since 2000. And for them to put them in, and all it just says is, "Preserve area. Do not enter." And the signs are so different.

I do like the one on Page 4 where it just says, "Conservation and preserve area." I think that is fabulous.

COMMISSIONER ROMAN: I think, you know, the intent, Steve, is to protect or preserve that from getting accidental damage. I guess that's the main thing. And what I saw when I read your recommended code change is I just saw removal. I didn't see an option to protect from accidental damage. And so that's what I question.

But I'm willing to support this provided that you accept the charge to monitor it to see what's going on out there.

CHAIRMAN STRAIN: Okay. So we're all on the -- we're all supportive, basically, of this -- the changes you're recommending at this point.

Okay. So what are the -- what's the next item up?

COMMISSIONER ROMAN: I didn't hear Steve say that he's going to monitor it. And if I could have -- see if that's a reasonable thing to ask.

CHAIRMAN STRAIN: You know what the answer will be if you don't say that?

COMMISSIONER ROMAN: No. I just -- I feel it's important, Mark.

CHAIRMAN STRAIN: Oh, no. I'm not saying it isn't. I'm just saying, he's -- it's almost a given that it's going to be monitored at this point.

COMMISSIONER ROMAN: Well, he may say he can't do it. He may say that it's too much to do.

MR. LENBERGER: No. Well, I don't do monitoring. I do permitting. And we have staff -- appropriate staff to do that and supervisors to handle that. But I understand the monitoring for the activity given that the signs are not going to be posted and also of the barriers that are in place to make sure that they stay up, and that is a concern of this commission, and I will bring that to the attention of the construction inspectors.

COMMISSIONER ROMAN: Thanks, Steve.

CHAIRMAN STRAIN: Thank you. Did you have any other item to discuss here today so we can

let you get back to your office?

MR. LENBERGER: The next amendment was identification of preserves. I didn't know if you had any questions on that.

COMMISSIONER ROMAN: I have a question.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER ROMAN: I was unclear, Steve, when I read the staff summary, what are we trying to fix here?

MR. LENBERGER: Right now the code requires that preserves be identified at time of first development order submittal. First development order -- well, development order includes a lot of things. It includes Comprehensive Plan amendments. It includes rezones. And we don't want site plans approved, generally speaking, for straight rezones. We don't want them in the Comprehensive Plan either.

We have Future Land Use map. Obviously, I'm not talking about that. I'm talking about individual site plans for particular sites.

So that was an issue. If we have a rezone come in, straight rezone or Comprehensive Plan amendment that says you have to identify preserves at time of first development order, technically it requires that a site plan be required and a preserve be identified, and that's really not what was meant by that provision.

It was meant where the site plan is required or a conceptual site plan in the case of a PUD is required, that at that time when you have your site plan, you show the preserve.

So this is to clarify what is meant by that provision, and that's why it says site plan or conceptual site plan in the amendment language itself.

COMMISSIONER ROMAN: So will the Planning Commission still be able to look at preserves when the PUDs come forward in the master plan?

MR. LENBERGER: That's correct. Nothing will change as far as the conditional use, the PUD zoning that you normally see. But when you receive most of your straight rezones, that's just a straight rezone. There won't be a site plan associated with that. That will be approved with the resolution unless it's required by the administrative code. There is one provision in there.

COMMISSIONER ROMAN: Thank you.

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

(No response.)

CHAIRMAN STRAIN: Hearing none, thank you, Steve.

MR. LENBERGER: Thank you.

CHAIRMAN STRAIN: Caroline, let's move to the next ones.

MS. CILEK: Great, thank you. The next amendment is 5.04.05 and 5.04.06, and this is looking to amend the temporary use section to address community markets on private property as well as some proposed sign -- temporary sign changes. And this is the bottom of your binder, one of the tabs down there. And Jeremy will be presenting this amendment.

CHAIRMAN STRAIN: Does anybody have any specific questions in this particular amendment? This is the temporary markets and flea markets/garage sales one.

COMMISSIONER SOLIS: Yeah, I have a couple.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SOLIS: And I was involved in the situation out at the Golden Gate Community Center when that came up.

So there's a provision now that says that the Board of County Commissioners can terminate the permit at any time for any reason. Is there any other provision in the Land Development Code that is like that?

MR. FRANTZ: I can't answer that off the top of my head.

COMMISSIONER SOLIS: I mean -- and is there -- if so, the next question of that is, how does that happen? Do they have to do that at a meeting, at a noticed public meeting, or -- I'm just trying to get a sense of --

MS. CILEK: Heidi, you can go.

COMMISSIONER SOLIS: -- how that would work for the Board of County Commissioners to get involved in revoking a permit.

MS. ASHTON-CICKO: Yeah. If the Board of County Commissioners is the one terminating it, then it would have to be done at a board meeting.

COMMISSIONER EBERT: Public.

MS. ASHTON-CICKO: And they're saying it doesn't have to be noticed, so it could go on either a regular agenda or consent agenda, but if someone wanted to speak on a consent item, it would be moved to regular. But it would have to be done at a board meeting, but they're saying it wouldn't be an advertised hearing. It would just be part of the agenda. That's what it says.

COMMISSIONER SOLIS: I mean, is there any other provision that you're aware of in the code that -- where that can happen without an advertised hearing?

MS. ASHTON-CICKO: I'm not aware of any.

COMMISSIONER SOLIS: That just seems like --

MR. STONE: I could provide a little additional insight into that.

COMMISSIONER SOLIS: Yeah.

MR. STONE: There -- I'm not aware of anything specific in the code, but there are several types of agreements brought before the Board for their approval that do contain that type of provision which allows for unilateral discretion by the Board to terminate.

COMMISSIONER SOLIS: But that's a specific -- that's not a permit. That's a specific agreement to do it that way.

MR. STONE: Sure. It's -- I was just referencing other agreements.

COMMISSIONER SOLIS: Yeah. No, I understand. I'm just trying, in my mind, figure out -- think of what the distinction would be.

And how would a request to terminate it be -- it would be brought by staff? It would be brought by -- do we have any idea how that would work? Would it be brought by code enforcement? I mean, who would be --

CHAIRMAN STRAIN: I think part of the concern would be -- and I like your reasoning, because if someone on the spur of the moment wanted to add something to the agenda --

COMMISSIONER SOLIS: Right.

CHAIRMAN STRAIN: -- you could have people whose livelihoods and operations are dependent upon that permit, and all of a sudden they're cut off. That's not a good idea.

COMMISSIONER SOLIS: Which is -- which was one of the concerns as to what happened with the Golden Gate one.

CHAIRMAN STRAIN: Yeah, I understand that.

COMMISSIONER SOLIS: I mean, there is some investment. The owners of the property probably have some commitments in that regard as well. It seems to me that there would at least have to be some notice provisions for revoking somebody's permit, unless they agree otherwise in a contract.

So, I mean, I wouldn't -- I'm not in favor of -- I'm not against, obviously, the Board of County Commissioners being able to revoke a permit, but there has to be some provision for notice of the -- you know, of the permittee and the landowner or whatever -- whoever's involved in it has to have some notice that that could happen. It's due process.

CHAIRMAN STRAIN: I would --

MS. CILEK: I appreciate your comments, and we can definitely take a look at this section. I am going to go back and look. I do believe staff received some direction to include a provision like this in the amendment probably maybe even a year ago when we were looking to bring this forward again.

I can see more over what they were specifically looking to do and perhaps there would -- would be okay to have a notice requirement in there.

I will say also that the section dealing specifically with Collier County property, so the community events on -- at the location you're speaking of --

COMMISSIONER SOLIS: Right.

MS. CILEK: -- would be addressed in a different provision than this one.

COMMISSIONER SOLIS: Well -- right, and that's my concern. And I think if it's the county's property, that's -- that's even a different thing. And I'm not sure how that's dealt with if it's county property, but I could understand if it's the county's property, if it wants to -- well, I'm not even sure that it makes that much difference. There just seems to be a due process issue with -- I mean, it could -- theoretically, it could be revoked in the middle of an actual market.

MS. CILEK: Well, we'd be happy to work with the County Attorney's Office to develop some language that would get to your concerns.

COMMISSIONER SOLIS: Okay. Thank you.

COMMISSIONER EBERT: I remember this one, too. I think the Golden Gate one was a little bit different. Most of them are farmers market, but these people wanted used things. They wanted -- and they wanted it all the time, if I remember; is that correct?

COMMISSIONER SOLIS: It wasn't all the time.

COMMISSIONER EBERT: I mean, they wanted it -- all year long, you know, every week.

MS. CILEK: And that very well may be. The provision addressing events on county property is later on in this section, and those are really between the county now and the market organizer, and they are creating a contract. So that conversation is really outside of the Growth Management Department at this time.

COMMISSIONER EBERT: Okay.

COMMISSIONER ASSAAD: Could we have an example of what would -- what would cause that to happen? What is it that they did that causes the county to shut them down?

MS. CILEK: You know, I personally did not follow that.

COMMISSIONER SOLIS: I mean, I'll tell you what happened was that, you know, one of the commissioners brought it to a County Commission hearing and that there was some objection to signage, which I think is what's being dealt with in this amendment; that it wasn't appropriate; that it was an eyesore and that sort of thing, and that's how it -- and I'm not saying whether it was or whether it wasn't.

But I think the issue was how does the county go about terminating something that people rely on in certain parts of town? Because that was the big issue in the Golden Gate community was that actually people relied on it for getting their food and other things.

COMMISSIONER ASSAAD: I would think if there is any violation, whether it's health reason, bad food, poisoning, a ride in the -- that went bad and somebody was injured, stuff like that, which is -- you know, they can shut those events down, but sign violation, they can ask them to remove the signs and continue with the events.

COMMISSIONER SOLIS: Right.

COMMISSIONER ASSAAD: Someone serving liquor when they shouldn't have, they can ask them to stop or remove that vendor out.

COMMISSIONER SOLIS: Right.

COMMISSIONER ASSAAD: There are plenty of remedies, but to shut it down is severe.

COMMISSIONER SOLIS: Right. And I think what you're getting to is most, if not all, of your examples are things that affect the health, public safety --

COMMISSIONER ASSAAD: Yeah. Safety and --

COMMISSIONER SOLIS: -- which is understandable. This says that it can be -- it can be terminated for any reason.

COMMISSIONER ASSAAD: No. That is not right.

COMMISSIONER SOLIS: Yeah. So that's only my concern is --

MS. CILEK: We'd be happy to bring that language back.

COMMISSIONER SOLIS: So there's really -- for me, there's a couple of issues. One is what's -- who brings it forward and then what's the process for the commission to terminate something.

CHAIRMAN STRAIN: Okay. That's a multiple -- quite a few pages of this one. Does anybody have any other issues on any of the pages? For example, No. 8 on Page 11, I wonder if we can just strike that whole section. It's coming up to an election period, and between the national and local, I'm sure that every corner, every open space in the county's going to be covered with a sign. It would be real nice if we had

none. But I know, freedom of speech. We can't do that. But it was worth just a thought.

Anybody have any other issues in that open -- well, the market --

MS. CILEK: We would like to bring one suggestion forward, and Jeremy can go through our conversation with some of the members of the public.

MR. FRANTZ: Sure. So we did invite stakeholders, some operators to some of our previous meetings, and we met one on one with others and got comments from some of those stakeholders, and we've tried to incorporate some of those recommendations, but we did just hear from one individual this week and, especially -- this was regarding Section A.2 on Page 5. And they were just asking to make it very clear exactly who is responsible for displaying licenses, obtaining business tax requirements.

And so I think that we can reword some of those sections to make it a little more clear that it's the responsibility of each vendor.

CHAIRMAN STRAIN: Well, I think that would be a good idea.

Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. What's the next one?

MS. CILEK: All right. Moving forward, I'm going to ask that we continue the next amendment, 9.04.04, which is addressing after-the-fact variance glitches. We have some issues that we want to address before we present it to you.

CHAIRMAN STRAIN: Okay.

MS. CILEK: All right. Next up is LDC Amendment 10.02.03, and here we are allowing for architectural improvements through a Site Development Plan insubstantial change.

CHAIRMAN STRAIN: Anybody have any questions from the Planning Commission?

COMMISSIONER EBERT: To be honest, I didn't read through it, but I'll be honest --

CHAIRMAN STRAIN: Well, if -- you didn't read through it, but you've got questions.

COMMISSIONER EBERT: Well, it's just only because of the insubstantial change that we just heard. I don't think that was insubstantial.

CHAIRMAN STRAIN: This is an SIP. It's not the same thing. The -- what you heard this morning was a PDI, and that's defined in the code.

This is an SIP. It's a different form of process completely. It's administrative. They can go SDPs, SDPAs, or SIPs. And they're just trying to clarify that the SIP and SDPI (sic) process is being -- some changes to that. It's not the same process.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: If you read it, you would --

COMMISSIONER EBERT: I didn't -- I told you I didn't.

CHAIRMAN STRAIN: I know. That's what I mean; if you read it, you would have figured that out.

COMMISSIONER EBERT: There was a couple that I did not get to.

MS. CILEK: We'd be happy to answer any other questions.

COMMISSIONER EBERT: I'll read it and talk to you later.

MS. CILEK: Okay.

CHAIRMAN STRAIN: And that takes us -- does that -- what else is -- that takes through the last one.

MS. CILEK: Oh, we have a couple engineering amendments on the agenda. The next one is an update to the NAVD/NGVD requirements. LDC Amendment 3.02.10 and 5.03.06. It's the first amendment in your binder.

COMMISSIONER SOLIS: Can you explain what the NGV -- no, I'm joking.

CHAIRMAN STRAIN: It's a really confusing system, I can tell you.

MS. CILEK: Ultimately, this amendment just seeks to bring us up to current standards.

CHAIRMAN STRAIN: Okay. Anything else, Caroline?

MS. CILEK: The next one is LDC Amendment 6.02.06 and 6.02.07, and here we're doing some cleanup items with our level of service sections. We are simply cross-referencing to appropriate standards. The ones in the LDC are very out of date.

CHAIRMAN STRAIN: Yep.

MS. CILEK: Any questions?

(No response.)

MS. CILEK: Okay. The next one is addressing a conflict with the streetlights being prepared by an engineer versus an electrical engineer, and we are seeking to bring it up to -- consistent with the Florida Administrative Code.

CHAIRMAN STRAIN: The only problem I have -- and I do have a master electrician's certification. There's a big difference between an engineer and an electrical engineer. And I wouldn't -- I mean, the guys that design water to flow downhill don't understand necessarily all the differences between amperages and wattages and voltages that occur. And I know that street-lighting is somewhat simpler, but it's also dealing with higher voltages and different power supplies than we would have other times. I'm not sure it's a good idea to change this.

In the end, I don't know if an engineer who is not understanding of the electrical components of it would want to put his seal on something electrical for the liability that's at stake. So they probably just sub it out anyway. And if they're doing that, why don't we just leave it like it is?

MS. CILEK: Well, I have a couple of things that we have identified in the amendment that I can relay, one being that according to Florida Statutes and the Florida Administrative Code, the professional engineer is responsible for ensuring that what he is doing he is -- he knows how to do, ultimately.

And in Florida, they are allowed, as an engineer, to sign and seal electrical plans. It is my understanding at the county that we're not running into any issues with engineers that are providing stuff that they are not knowledgeable about. And in Collier County there are few engineers who have become specialized in this arena, and they're the ones that are being utilized to provide their plan -- to provide the streetlight plans.

CHAIRMAN STRAIN: Right. So I mean --

COMMISSIONER SOLIS: What is the Florida Administrative Code? What's the provision that we're wanting to become consistent with?

MS. CILEK: Well, when we do our LDC amendment research, we do look into what other codes grant the permissions for engineers to do different types of work. And so we did look at both the Florida Statutes and the administrative code. If you'd like, we can pull those references for the next meeting and provide those to you so that you can review them.

CHAIRMAN STRAIN: That would be helpful.

MS. CILEK: Okay. We'd be happy to do that.

COMMISSIONER SOLIS: And I would just say that I think if it's an electrical engineering issue, I would be in favor of having an electrical engineer approve that. I mean, you know, there are engineers and then there are -- there are civil engineers and then there are civil engineers. And -- yeah, I would be in favor of that.

MS. CILEK: Well, we'd be happy to bring back materials that would support the change.

CHAIRMAN STRAIN: Thank you.

MS. CILEK: Not a problem.

Okay. The next one is to allow for a new section, 4.05.10, addressing neighborhood mail kiosks.

CHAIRMAN STRAIN: Now, this is as a result of a requirement from the U.S. Postal Service. This isn't something the county's trying to initiate on its own.

MS. CILEK: Correct. In 2013, we received a letter from USPS requesting that we work with developers to institute basically a central location for mail delivery and collection. And so we've put together a new section that we hope will help facilitate providing some parking and some lighting and making it accessible to people picking up their mail.

COMMISSIONER EBERT: This is so sad.

CHAIRMAN STRAIN: Did you read this?

COMMISSIONER EBERT: Oh, yes; oh, yes.

COMMISSIONER ASSAAD: Don't want to deliver the mail?

COMMISSIONER EBERT: That's right. They want to -- it's fine if -- this is fine --

CHAIRMAN STRAIN: One at a time.

COMMISSIONER EBERT: -- if you live in a condo, okay, where all the mailboxes are on the first floor and they slide stuff in, and you can put mail to go out, but when you have -- this is going to be interesting for some of the bigger communities. It was okay, I believe, if they already had been okayed and they haven't built, but there is a problem where you get 500 people in a community, and they don't want to deliver to your mailbox. They want you to pick it up at the clubhouse or somewhere else. And I just --

CHAIRMAN STRAIN: Would you give her the number of the Postmaster and let her have her discussion with the Postmaster. I mean, the county is kind of caught between a rock and a hard space.

COMMISSIONER EBERT: They are.

CHAIRMAN STRAIN: We didn't enforce this for a few years after the U.S. Postal Service notified everybody they're going to start doing this because it hadn't been put in hard format yet, and now it's become a reality. Go ahead.

COMMISSIONER ASSAAD: How did they put it? Did they ask you to consider it, or did they ask you to implement it?

MS. CILEK: I mean, at the end of the day, the USPS is most certainly requiring slash requesting slash -- you know, they are trying to work with developers to get this done, and it is happening. Larger -- communities are putting in, you know, central mail kiosk locations. And this amendment is trying to be proactive to make sure that you, going to go pick up your mail, have a place to park, and you can do it safely during the morning time or at night.

I think this will help facilitate a communication between the developer, the UPS (sic), and, you know, Collier County to make sure that it is an amenable place to go pick up your mail.

COMMISSIONER ASSAAD: It's different if you live in, like, a high-rise community in Pelican Bay. Then you can have a mailroom, and everybody goes down to the mailroom. In my building we have 140 units, and we have a nice mailroom, and I go pick up the mail every day.

But if you live in a single-family community, why would somebody drive two miles to get -- to pick up their mail? I think the post office people are lazy. They want more money. They want to do less. They're not providing a good service. And it's just unbelievable.

CHAIRMAN STRAIN: Tell us how you really feel.

COMMISSIONER EBERT: I did.

COMMISSIONER ASSAAD: Never mind.

CHAIRMAN STRAIN: Okay. There's a lot of -- I think there's some frustration in some of this issue.

MS. CILEK: Any questions on the meat of the amendment addressing -- or proposing standards, rather?

CHAIRMAN STRAIN: Anybody?

COMMISSIONER EBERT: It's going to be interesting for rural lands west.

CHAIRMAN STRAIN: Well, then the -- part of the process to get an approved SDP or permitting is to show you've got acceptable mail delivery. So the hook comes when they walk into the post office to ask for that letter and all of a sudden they don't have the resources that the post office is looking for. So we're trying to give everybody a headsup --

MS. CILEK: We are.

CHAIRMAN STRAIN: -- because it's been coming up slowly, and it's getting blindsiding to everybody.

COMMISSIONER ASSAAD: I would support that deviation anytime.

MS. CILEK: Many people take note of that. You may have to take that up with the USPS, though.

COMMISSIONER SOLIS: Just as a rule of thumb, right, across the board?

COMMISSIONER ROMAN: I can see the mail in a pile now at the front entrance.

COMMISSIONER HOMIAK: First time he's said that.

CHAIRMAN STRAIN: Okay. Is there anything else, Caroline?

MS. CILEK: We have one amendment that will be hopefully brought back to you at the next meeting or the following meeting relating to utilities.

CHAIRMAN STRAIN: Okay. Is this -- this is our first reading, so we're going to have a second reading on these?

MS. CILEK: Yes. We intend to come back at the next meeting on May 5th, and then should we need to continue any of these amendments, we will be back on the 19th as well.

You will be receiving additional amendments for this LDC amendment cycle on May 5th, and those amendments are -- many of which are changing permitted uses, conditional uses, prohibited uses, and so those will require two hearings, one of which will need to be a nighttime hearing, so we would like to talk to you about that today.

I know that Jeremy has been in contact with you regarding scheduling that night hearing, so perhaps we could kind of wrap that up and figure out what date and time works for you-all.

CHAIRMAN STRAIN: Okay. Well, give us some dates.

MS. CILEK: I believe Wednesday, May 25th worked for the majority of members.

CHAIRMAN STRAIN: Does everybody --

COMMISSIONER ASSAAD: Wednesday on?

MS. CILEK: Wednesday, May 25th.

COMMISSIONER EBERT: At 5:05.

MS. CILEK: At 5:05, yes, ma'am.

COMMISSIONER ASSAAD: Wednesday. I cannot be here on Wednesday. That's fine.

CHAIRMAN STRAIN: Put that deviation one on that night, will you?

MS. CILEK: I will say that all the amendments will be presented before that date -- all the amendments will be presented before that date so everyone will have an opportunity to weigh in on them.

CHAIRMAN STRAIN: Okay. And I -- there's going to be a point -- I might miss -- I'll miss a meeting at some point in May, but I'm not sure which one, so this one may not -- this one may be fine.

MS. CILEK: Okay. I would like to request that we continue this -- these amendments to the next meeting, a continuation of these amendments to the next meeting so I can bring them back. I don't have to readvertise.

CHAIRMAN STRAIN: Yes. Is there a motion to continue these to the next meeting?

COMMISSIONER ROMAN: So moved.

COMMISSIONER EBERT: I second.

CHAIRMAN STRAIN: Seconded by Diane.

All in favor, signify by saying 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 6-0. Make the record note, by the way, Stan's not here. He left -- had to leave early.

And is that it, Caroline?

MS. CILEK: Real quick. Do we have a continuance for 5.05.08 amendments?

CHAIRMAN STRAIN: That's to read the final narrative? Is there a motion to do that?

MS. CILEK: May 19th.

CHAIRMAN STRAIN: May 19th.

COMMISSIONER EBERT: Fine.

CHAIRMAN STRAIN: By Diane?

COMMISSIONER EBERT: Yes.

COMMISSIONER ROMAN: I'll second.

CHAIRMAN STRAIN: Seconded by Charlette.

Discussion?

(No response.)

CHAIRMAN STRAIN: All in favor, signify by saying 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 6-0.

And what we'll do on the 19th, we'll look at any cleanup issues we have and try to get everything put together in one package on that date.

MS. CILEK: That sounds great.

CHAIRMAN STRAIN: Because I think the 5th -- we've got a few things piling up for the 5th, so I'm trying not to keep Andy too long on these days.

MS. CILEK: All right.

COMMISSIONER EBERT: Caroline, was the 5.05.08 that you --

MS. CILEK: Yes, the architectural section. We would like to bring back the full narrative on May 19th. Does that work, Heidi, for advertising? We would not advertise it again. I think that meets the requirements.

And then one final note is that with the 5.05.08 amendment, in a previous packet we had cross-references that we are seeking to add in various locations to help coordination of meeting the requirements, and we would like to review that with you-all on May 5th, and we will make sure that's in your packet to discuss.

CHAIRMAN STRAIN: Okay. Well, that ends that particular item, and we're on to old business.

There is no old business scheduled for this meeting. There is going to be those same two items that we had talked about before. We'll fit those in either on the 5th or the 19th, whatever meetings looks like it's going to be least congested.

New business, there is none scheduled. Anybody?

(No response.)

CHAIRMAN STRAIN: If not, there's no public comment, or if anybody's here. Nobody here.

Motion to adjourn.

COMMISSIONER ASSAAD: So moved.

CHAIRMAN STRAIN: By Wafaa.

COMMISSIONER EBERT: I second.

CHAIRMAN STRAIN: Seconded by Diane.

All in favor, signify by saying 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: Okay. We're out of here.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 12:59 p.m.

COLLIER COUNTY PLANNING COMMISSION



MARK STRAIN, CHAIRMAN

ATTEST
DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 6-2-16, as presented or as corrected .

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