

October 6, 2016

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida, October 6, 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
Stan Chrzanowski
Diane Ebert
Karen Homiak
Joe Schmitt

ALSO PRESENT:

Raymond V. Bellows, Zoning Manager
Eric Johnson, Planner
Heidi Ashton-Cicko, Managing Assistant County Attorney
Tom Eastman, School District Representative

PROCEEDINGS

CHAIRMAN STRAIN: Good morning, everyone. Welcome to the October 6th meeting of the Collier County Planning Commission.

If everybody will please rise for Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

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

COMMISSIONER EBERT: Yes. Good morning.

Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER EBERT: Mr. Chrzanowski?

COMMISSIONER CHRZANOWSKI: Here.

COMMISSIONER EBERT: Ms. Ebert's here.

Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER EBERT: Ms. Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER EBERT: And, Mr. Schmitt?

COMMISSIONER SCHMITT: Here.

CHAIRMAN STRAIN: Okay. We have three items on the agenda today. Item 9C is the Annual Update and Inventory Report, or the AUIR. I asked staff if they had any objections to us continuing this until the next meeting, which is October 20th, due to the impacts we've had this week and documentation involving both the Tuesday meeting and today's meeting. They have no problem with that, so I just need a motion from this panel to continue CPSP-2016-1 to the meeting on October 20th.

COMMISSIONER EBERT: I make that motion.

COMMISSIONER CHRZANOWSKI: I'll second.

CHAIRMAN STRAIN: Second. Discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: The motion carries. That item will be moved to the 20th.

The other addenda to the agenda, it looks like Mr. Anderson has a request, and I'll need concurrence with the Wawa representative today or the party representing them if Mr. Anderson is to succeed.

MR. ANDERSON: Thank you. I also am here on the second petition.

CHAIRMAN STRAIN: Oh, are you? Okay.

MR. ANDERSON: Yes, thank you.

Mr. Chairman, my experts got caught in hurricane traffic coming down from Fort Myers. They're parking now. I was going to ask you if you could take the second item up first.

CHAIRMAN STRAIN: The only -- because the agenda was posted, I'm just concerned about anybody that may not have known the order of the agenda and was waiting a bit to show up for the second one.

The Wawa gas station location, is anybody here to discuss that item on the agenda?

COMMISSIONER EBERT: I see one.

CHAIRMAN STRAIN: One gentleman.

COMMISSIONER EBERT: Two.

CHAIRMAN STRAIN: Two, okay. Well, it looks like they did make it here, so I don't have any

objection then, as long as the rest of the panel doesn't. Anybody here care about the order?

(No response.)

CHAIRMAN STRAIN: Bruce, since you are the attorney for both, I think that will work out. So we're not there yet. Give me a minute.

MR. ANDERSON: Thank you.

CHAIRMAN STRAIN: So the addenda to the agenda, 9B will be first; 9A will be second.

Planning Commission absences. Our next meeting is October 20th. Does anybody know if they can't make it to that meeting?

(No response.)

CHAIRMAN STRAIN: Well, it looks like we're good.

Approval of minutes. There were none on record.

BCC report? Ray?

MR. BELLOWS: Yes. For the record, the September 27th BCC meeting, the Board of County Commissioners moved from their summary agenda to the regular agenda Vincent Acres, that was a PUD rezone, and that was approved 5-0 subject to the Planning Commission recommendations.

CHAIRMAN STRAIN: Okay. Thank you.

Chairman's report; I don't have anything new to report other than it was a long day on Tuesday.

***There's no consent-agenda items, and we'll move directly into our first item that's been moved to No. 1, which will be 9B. It's PUDZ-PL20150000342. It's the Price Street CPUD located at the southwest corner of U.S. 41 and Price Street. It's also known as the Wawa site location.

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

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

CHAIRMAN STRAIN: Thank you. We'll start down at Tom's end with disclosures.

MR. EASTMAN: None.

COMMISSIONER CHRZANOWSKI: None.

CHAIRMAN STRAIN: Diane?

COMMISSIONER CHRZANOWSKI: Oh, I talked to staff, but that's about it.

COMMISSIONER EBERT: Yes, staff, briefly.

CHAIRMAN STRAIN: And I had conversations with staff, at some point. I'm not sure just -- I'm just going to say that just in case I did or didn't. I had talked with the applicant's representatives, Mr. Anderson and Alexis, and I think that's about it.

Karen?

COMMISSIONER HOMIAK: Just Commissioner Fiala.

CHAIRMAN STRAIN: Okay. Joe?

COMMISSIONER SCHMITT: I have nothing. Spoke to no one about it, just --

CHAIRMAN STRAIN: That's because they didn't know about you.

COMMISSIONER SCHMITT: Yeah, they didn't know I was going to be a Planning Commissioner.

CHAIRMAN STRAIN: You have risen.

COMMISSIONER SCHMITT: I have risen.

CHAIRMAN STRAIN: Yes, you're here. It's good to see you back as always.

Okay. Let's move right into the discussion on this one. Bruce, it's yours for presentation.

MR. ANDERSON: Thank you, Commissioners. My name is Bruce Anderson from the Cheffy Passidomo Law Firm. And with me here today is Dan Hughes, one of the principals of Metro Price; and I also have with me Alexis Crespo, planner with Waldrop Engineering; and Norm Trebilcock, our transportation engineer.

This application is for a six-and-a-half acre property that is already zoned C3 and C4 and agricultural. The property's located at the intersection of U.S. 41 and Price Street. This property is next to the activity center at U.S. 41 and Collier Boulevard. More than two-thirds of the property is already zoned commercial.

There are three buildings proposed, one of which would be the upscale Wawa chain convenience store and deli with fuel pumps.

My client has worked closely with the closest neighbor to address any questions or concerns that they might have, and that homeowner supports this project.

We are in agreement with staff on most matters. There are, however, just a few issues that we have not reached closure on, and they're mainly deviations, and I will ask Alexis Crespo to come up and dive into those.

Thank you.

CHAIRMAN STRAIN: Thank you.

MS. CRESPO: Thank you. Good morning. For the record, Alexis Crespo with Waldrop Engineering representing the applicant.

I'm just going to start by introducing the proposed master concept plan and discuss the proposed uses, location of the Wawa convenience store and fuel pumps in relation to the surrounding properties.

CHAIRMAN STRAIN: Could you blow that up a little bit so we can follow it better, or is that just as big -- oh, I'm sorry. It's a PowerPoint. I didn't know if it was on the Elmo or not.

MS. CRESPO: I can put it on the Elmo as well if --

CHAIRMAN STRAIN: It's just we can't read it up here on these screens. And I know we've got a copy, but it's nice to follow you with that screen if we can. Now, if you could zoom in on that, Dan. Keep going. Okay. That gets us about where we can read it all. Thank you.

MS. CRESPO: Thank you.

The proposed fuel pumps are located closest to U.S. 41 with the approximate 6,000-square-foot Wawa food store directly to the south of that. There are not any fuel pumps within 500 feet of the subject property; therefore, we're not subject to those additional review criteria passed through the recent ordinance in 2015.

I've highlighted the perimeter buffers in green for ease of review. We are providing the 25-foot enhanced fuel station right-of-way buffer along U.S. 41, which includes berms, shrubs, as well as trees. We're also providing the required 15-foot Type B buffer where we abut the bank property to our east in this location.

In terms of the other uses on the site, we also have a commercial retail building also oriented towards the U.S. 41 frontage that is limited to 7,500 square feet, and we have limited uses in your Exhibit A of the PUD document to prohibit adult entertainment, pawn shops, and tattoo parlors, so that would not be allowed in any of the buildings you see on the master concept plan.

The last building I'll point out is the larger, 20,000-square-foot proposed commercial retail building. We have tried to orient that internally to the site, move it off of Price Street to the extent possible. We are providing the code required 15-foot right-of-way buffer along that property line, and we've also located our dry detention stormwater management areas in between the right-of-way and the building to further screen the rear of that structure.

I'll note that we did proffer on Page 4 of the PUD document to further limit auto repair services and more intensive auto services in that building due to compatibility with the neighborhood.

As Bruce noted, we have access from U.S. 41 and then a secondary access point from Price Street. We worked closely with your transportation planning staff to get that Price Street access as far away from the U.S. 41 intersection as possible in order to mitigate any impacts to that intersection, which is having some difficulty and is the subject of a current study.

With that, I'm going to get into the deviations. I might switch back over to my PowerPoint if that's possible.

CHAIRMAN STRAIN: Well, that took you a while to put that together.

MS. CRESPO: Do you see it?

CHAIRMAN STRAIN: No. That's what I'm saying. It's kind of blank.

MS. CRESPO: Kind of blank. Not good. Okay. We'll just go ahead and work off --

MR. BELLOWS: How's that?

MS. CRESPO: Oh, good.

CHAIRMAN STRAIN: There we go.

MS. CRESPO: The first deviation is for a request for a secondary primary facade on the side of the building shown in yellow on your slide. This is in relation solely to the Wawa building. The code requires for this specific parcel, due to the irregular shape and the view sheds from 41 and Price Street, that three of the four sides of the building are primary.

Wawa has no issue doing enhanced primary facades on three out of the four sides; they're simply requesting that the secondary facade be the side of that building shown in yellow; whereas, staff would like the secondary facade to be the west side of that building which we feel is very visible from the internal drive aisle of the site and could also be visible from U.S. 41.

Just to give you a little bit more detail and a zoomed-in look, we've got several intervening landscape buffers as well as a building that's going to prevent any view of the side of this building from Price Street, and that's really the concern in the situation is that the building looks good from all public right-of-ways.

So we've got the existing buffer on the Fifth Third Bank parcel that's going to screen views of the side of this building. We've also got their bank building and drive-through facilities that are going to further screen any view of this property looking in from Price Street to the east. And then, lastly, we've have the 15-foot code-required buffer on our property, which I've already discussed, which is going to further provide plant materials to screen the side of the building.

So we feel when you couple all these site conditions together, that this is the appropriate side to treat as the secondary facade, and certainly having views from 41, the south of the building and the west would be of benefit to the public.

The next deviation is Deviation 2, and it's in relation to this buffer area which is adjacent to a 70-foot-wide drainage canal on the west side of the property. Because the fuel pump property line is within 200 feet of the adjacent residential property, we do trigger the new code-required buffer per the 2015 ordinance.

We feel there's some specific site conditions that would merit an alternative buffer that we're proposing through the application. We are proposing plant enhancements in lieu of the 8-foot-tall required wall.

I don't know if you can see those dimensions, but the point of this exhibit is to demonstrate that the fuel pumps are 700 feet from the adjacent residence to the west. That property owner is here today. That property owner has submitted a letter of support for our enhanced alternative buffer and has stated in that letter that he prefers not to have the wall.

The buffer we're proposing is really double the required plant materials from that 2015 ordinance. That ordinance requires shrubs and three trees per hundred linear feet on either side of the wall.

We're proposing four canopy trees as well as six mid-story trees per hundred linear feet in addition to shrubs and ground cover, and we believe that will provide the opacity intended by the code, will screen the uses and, as the neighbor has indicated, they are in support of that request.

And we've submitted that letter. I believe it made its way into the packet. I'll just read. I have no objection to the alternative buffer they are proposing and support this project. In fact, I prefer the proposed plantings instead of the masonry wall.

The last deviation to touch on is for an internal buffer requirement. This is only triggered because we're proposing internal property line so that the applicant can sell off properties in the future.

And what the code would require is a 15-foot-wide buffer strip through the middle of the site. We believe this will prohibit good pedestrian flow. We've worked hard to create good sidewalk connections, crosswalks to the parking areas, and when you put a 15-foot-wide strip of plantings in the middle of the site, we could create situations that really prohibit good pedestrian movement.

We are going to meet all the general tree requirements, all the building perimeter planting requirements, the parking island planting requirements. So this will be a green and lush site as intended by the code. We're just simply not looking to install internal buffers within this really unified commercial project.

That concludes our direct presentation. We're happy to answer any questions you may have.

CHAIRMAN STRAIN: Okay. We'll start with the Planning Commission's questions.

Anybody on the Planning Commission have any questions they'd like to ask?

COMMISSIONER HOMIAK: What justification do you have for adding commercial square footage?

MS. CRESPO: We --

COMMISSIONER HOMIAK: Where's the need?

MS. CRESPO: The need to add commercial? We are permitted on the C3 and the C4 to develop those portions of the site with commercial uses. And by adding the agricultural property into the PUD, it will just allow for a unified commercial development and bring that ag piece into the commercial use that really exists along 41 in this area.

COMMISSIONER HOMIAK: You can build a gas -- the fueling -- fuel facility, or whatever we call it now --

CHAIRMAN STRAIN: Facility with fuel pumps.

COMMISSIONER HOMIAK: Yeah, facility with fuel pumps. You can do that on the C4 portion.

MS. CRESPO: Today we could do that, yes.

COMMISSIONER HOMIAK: You don't need the rest of it?

MS. CRESPO: They're looking to expand the commercial use in this area. There's certainly a demand with all the rooftops coming in.

COMMISSIONER HOMIAK: We have a lot of empty commercial in East Naples all over. There's no need for it here in this congested area. It's -- I don't understand it. It's hard to get into. It's hard to get into that area to begin with. Off of 41, it's just -- in season, you've got to start getting over to the right lane of 41 pretty much after the facility with fuel pumps Racetrac with the 16 fuel pumps just before that. You have to get over into that lane to even get into Fresh Market or go to Marco before you hit the light at Price Street. I don't under -- this is unnecessary, and I see no justification for --

CHAIRMAN STRAIN: Okay. Are there any -- do you have any specific questions you want to ask, or -- I understand you made your statement.

COMMISSIONER HOMIAK: I see no justification for the extra square footage.

CHAIRMAN STRAIN: I guess that stems back from -- you've got a piece of C3 and a piece of C4. If you were to maximum those two to the uses that were allowed, have you configured or considered what square footage you could fit on those? And is the square footage you're asking for on the one additional ag piece creating a greater square footage that could be there if it was just left -- if you just addressed it on the C3 and C4? That might be one way to consider approaching an answer to the question, if you've looked at that at all.

MS. CRESPO: We haven't done a full analysis on that. I can say that the C4 and C3 parcels are approximately 4.5 acres. You can roughly do 10,000 square feet of commercial per acre, so the site really could accommodate approximately 45,000 square foot of commercial today. It would leave a remnant ag piece immediately adjacent to it. And by bringing it in, we can, I think, do a better job with buffering and having a unified design on the property through the PUD process.

So -- and with the site plan we're proposing here, you've got a Wawa station and 27,500 square feet of commercial uses. So I guess to more directly answer your question, I believe you could develop more commercial uses today than we're proposing through this PUD.

CHAIRMAN STRAIN: That's kind of what I was trying to understand --

MS. CRESPO: Thank you.

CHAIRMAN STRAIN: -- in relationship to Karen's questions.

In your NIM, was anybody objecting to the commercial use of the property?

MS. CRESPO: My recollection of the NIM is there was some questions regarding how the water management would work was really a big focus of the group with the canal adjacent to the property. The most folks were excited about the Wawa, as I think the NIM minutes indicated.

And we're -- of course, with any commercial coming into a site like this, the buffers are important. So we spent a lot of time working through that.

CHAIRMAN STRAIN: Okay. Anybody else have any questions? Joe?

COMMISSIONER SCHMITT: I have several questions regarding both the staff report and the

ordinance, because I want to go through the permitted uses. But before we get to that, I do want to hear the staff report.

My only question I have right now is why on the -- I have to refer to it as your Page 3. I'm looking at the staff report. Why do you refer to it as an auto service station when, in fact, it's a convenience store with fuel pumps?

MS. CRESPO: That is a label that should likely change and be -- food store would be a more appropriate label.

COMMISSIONER SCHMITT: Yes. That needs to change on the plan.

CHAIRMAN STRAIN: That's an issue that we addressed yesterday. They were going to actually modify the references to all the structures on that plan. There's a couple others there that need to be changed.

COMMISSIONER SCHMITT: Yeah. And it's in the staff report as well, and I'll point it out in the staff report when we go through that, but that is not a service station. It is a convenience store.

I'm just sort of surprised it's made it this far with that, what I would call, rather obvious error. I do want to go through the ordinance, but I'm going to wait, if I could, Mr. Chairman, for the staff report.

CHAIRMAN STRAIN: Sure. You can wait -- anytime -- we're not going to have staff report until we get done with our questions of the applicant first.

COMMISSIONER SCHMITT: Okay. Go ahead. That's all I have of the applicant right now. I do want to reserve the right to ask additional questions, though, when we get through the staff report.

CHAIRMAN STRAIN: Well, you're new on the panel. No, you can't ask any additional questions. I mean, since you asked, we'll just put it that way.

COMMISSIONER SCHMITT: All right. Thank you.

CHAIRMAN STRAIN: Stan, did you have anything?

COMMISSIONER CHRZANOWSKI: No, nothing.

CHAIRMAN STRAIN: Diane, you looked like you were going to say something previously.

COMMISSIONER EBERT: The facade, are you telling me that you don't want to -- if you could go back, Alexis -- are you telling me you will not be able to see that from the street?

MS. CRESPO: The east side of the building?

COMMISSIONER EBERT: Yes.

MS. CRESPO: I would say less than 10 percent of that facade would be in any way visible from Price Street because of the location of the Fifth Third Bank and the two buffers in between the building and the right-of-way.

COMMISSIONER EBERT: Do we have anybody here who could answer that?

CHAIRMAN STRAIN: Well, you can look at the plan.

COMMISSIONER EBERT: Well, I know, but sometimes --

CHAIRMAN STRAIN: I mean, how do you see the backside of -- the east side of that building? I mean, what did you think the objective was in regards to your question?

COMMISSIONER EBERT: Well, I don't know how high -- I don't know how high the other banking stuff -- if it's a drive-through or what. Okay.

MS. CRESPO: That's a photo of the bank from Price Street, and you can see they have --

COMMISSIONER EBERT: Okay.

MS. CRESPO: Their building goes very close to their southern property line.

COMMISSIONER EBERT: Okay. It's better to have a visual like this. Thank you.

CHAIRMAN STRAIN: Any other question?

(No response.)

CHAIRMAN STRAIN: Well, Alexis, let's start on -- on your master plan, if you could put that back up, there are some things there that need to be addressed.

In your standards table you referenced the heights of the building. They're not referenced in the storage. They're just referenced in foot -- footage. So could you strike the references to stories and footage and height on this master plan? That's not the appropriate place for it. It's in the development standards table, the PUD. It would be better there.

Certainly, in your square footage, it doesn't hurt to leave it, but there's no reason to put that there,

because if you go to any -- say you do -- what's that first one? I can't read it, but it looks like, say it's 1,500 feet and you go 1,501, you've got a PUD amendment to deal with. There's no reason to put that on the master plan.

And also the reference that Joe made, he's 100 percent right. There's no reason to put an automobile service station reference, because that's not what you're functioning as, really. More of a convenience store with fuel pumps, which is how we commonly refer to it. So I think if those corrections are made, that will help.

And then I'll move into the other few things I have that are relative to your discussion. A lot of my questions may be of staff, so let's just see what I've got here.

The issues that involves the recommendations by staff, I understand their points on the deviations and now yours. Number 4 that staff brought up in the recommendations says, remove automotive services 5541. That has had a correction issued this morning. Are you familiar with the correction, Alexis?

MS. CRESPO: Yes.

CHAIRMAN STRAIN: Okay. Did you have any objection to the correction?

MS. CRESPO: The only item we'd like to put on the record is Tire Kingdom has a letter of intent to be a tenant in this building closest to U.S. 41. We believe that that use will fall under 5531, auto supply store, so we would just like to put that on the record. We wouldn't want that use to be under the 7549 and then have an issue with that.

We're certainly comfortable with 4 applying to the southern commercial building closest to Price Street as an alternative.

CHAIRMAN STRAIN: Okay. Maybe that's the simplest way to address it then. Okay. And then the -- I noticed the No. 5, staff recommendation No. 5, remove Note No. 2 in the commercial development standards regarding facility with fuel pumps. If Deviations 2 and 3 are approved, this note will contradict the PUD. And I think I mentioned that note to you. Did you have any problem with that?

MS. CRESPO: No.

CHAIRMAN STRAIN: Okay. I'm just running through the -- and, you know, on your list of uses, I'm not sure why we have to worry too much about a stipulation or a recommendation from staff in regards to -- well, I guess now that the number's changed, maybe. Number 60 in your uses, it says, gasoline service stations, 5541, except auto service and repairs, and that's not changing, so that's still there. Doesn't -- that seems to kind of meet the intent of prohibiting auto repairs. I'll wait till we get to staff to see why we need that further clarification.

On your master plan, you also show locations of dumpster enclosure. The one that is up against the buffer along Price Street, is there a way to move that somewhere else?

MS. CRESPO: Yes. We did look at that after our meeting yesterday, and we can locate that farther away from Price Street.

CHAIRMAN STRAIN: Okay. Is there a distance you can provide us with so we can stipulate dumpster will be no -- dumpster enclosures will be no closer to X number of feet to Price Street? And for the reason, for those in the audience that are here for this one, the dumpster enclosure or dumpster emptying happens usually -- unfortunately -- I know they work all day long, but they only seem to get to the neighborhood where you don't want them to be at 6 o'clock in the morning, and it's real noisy. So hopefully those trucks and the lifting of the dumpsters don't have to be done as close -- a little bit further away from the residential.

MS. CRESPO: I think we can get another 10 to 15 feet off the property line. So we could locate it with 40 feet -- minimum of 40 feet within the subject property.

CHAIRMAN STRAIN: Well, if you were to go over to that building along Price Street, the bigger one there, the commercial building, if you would go to the northwest corner, there's an indentation there. Why couldn't it be put somewhere like that, which is considerably farther away, or maybe you even could jointly use the dumpster that's on the fuel facility property. I don't know if even the code allows that, but...

MS. CRESPO: I'll have to defer to the engineer on the project for --

MR. SLOAN: Brendon Sloan, Waldrop Engineering, civil engineer on the project.

As far as relocating the dumpster to the north a little bit, I mean, I concur with Alexis. We could go

up to 40 feet as of now without re-site planning it. That's --

CHAIRMAN STRAIN: Well, where would you place it in regards to the relationship to Price Street and based on what you just said? What were you thinking?

You've got to switch it over, Ray or Dan.

MR. SLOAN: So as you can see here, we've shown the dumpster at this location now. We still have a dumpster at this location. This is the current SDP plan set that we are under review for today. If we remove this dumpster here and let this dumpster here --

CHAIRMAN STRAIN: By the way, I'm sorry. I knew something was different when you were speaking. You're not using the microphone. Can you grab the walk-around.

MR. SLOAN: Our current site plan that is under SDP -- can you hear me? Okay. There we go. We currently have the site plan under SDP review. We have shown a dumpster at this location, which has a dry detention area in between it, and then the buffer along Price Street here and the buffer that will be along the residential community to the west, so...

CHAIRMAN STRAIN: Well, that's a lot further than 40 feet, isn't it?

MR. SLOAN: Yes.

CHAIRMAN STRAIN: Have you scaled that?

MR. SLOAN: Yes, it is.

CHAIRMAN STRAIN: Well, then why are you asking for 40 feet?

MR. SLOAN: Because as it currently stands, we do still show a dumpster at this location for --

CHAIRMAN STRAIN: Right.

MR. SLOAN: -- future users. So as we talked yesterday, maybe we could move it a little further to this location and maybe be even with this dumpster. So I say 40 feet now, maybe 50. I'm just --

CHAIRMAN STRAIN: By the time we get done talking about this today, if you could let Alexis know or come back up, and in the meantime have someone take a look at that.

MR. SLOAN: Sure.

CHAIRMAN STRAIN: Either yourself or call your office, and they can call you back.

MR. SLOAN: Sure.

CHAIRMAN STRAIN: Okay?

MR. SLOAN: No problem.

CHAIRMAN STRAIN: Thank you.

I've just got a couple more pages to check, Alexis, and then -- that's the only questions I have at this time.

MS. CRESPO: Thank you.

CHAIRMAN STRAIN: Thank you. Anybody else have anything of the applicant before we go to staff report? Karen?

COMMISSIONER HOMIAK: Permitted use.

CHAIRMAN STRAIN: Oh, she's got some more questions.

COMMISSIONER SCHMITT: Do we want to do that now, or do we want to wait for staff report? Because I want to go through the permitted uses as well.

CHAIRMAN STRAIN: Well, the applicant is the one who's requested the permitted uses, not staff. Staff's already recommended approval of them, so we basically should ask that of the applicant if we have any changes that we've got to make.

COMMISSIONER HOMIAK: I have a long list here.

COMMISSIONER SCHMITT: I do as well.

COMMISSIONER HOMIAK: So...

CHAIRMAN STRAIN: Okay.

COMMISSIONER HOMIAK: I'll wait till she gets there. Are you there?

MS. CRESPO: Oh, yes, ma'am.

COMMISSIONER HOMIAK: Okay. I'd like to suggest or I'd like to see some of these things removed or changed.

MS. CRESPO: Okay.

COMMISSIONER HOMIAK: Okay. And No. 9, animal specialty services, that includes boarding horses and breeding and all those things, I don't see that you'd be doing that there or...

MS. CRESPO: I think what would be best is if you-all indicate the uses you'd like removed, and then we can confer with the applicant and come back up and agree or say we may need this one from that list.

COMMISSIONER HOMIAK: Okay. Number 9 be removed. And on No. 27, there will be a few other places, so I'd like to see a prohibited use on the list on page -- on the last page where you have tattoo and piercing parlors. Number 4 be added for no communication towers.

COMMISSIONER SCHMITT: I have a question on that as well. I just don't understand why you would ask --

CHAIRMAN STRAIN: Joe, we usually let her finish hers, then you can jump in, if you don't mind.

COMMISSIONER HOMIAK: Number 28, to add "on customer's premises only," and remove No. 31, churches, and remove No. 34, coin-operated amusement devices, and 46, just dry-cleaning plants, and No. 49 and 50 and 76, because that's already in No. 33, that's laundry, coin-operated laundries.

Number 77, and 80, which is libraries, and 110, which is public or private parks and playgrounds, and 117, religious organizations, and 127.

Then I'm back on No. 66, just to have the -- to remove the SIC Code 8093, so it just reads 8092, 8099. And then on 101 to read just, "employee leasing only" after 7363 so there's no labor pools or manpower pools.

And 119, to remove the 8734 code so it just reads 8731, 8733, and No. 120, to add "except gravestones, monuments, and tombstones." And 132, I'm not really understanding what the -- why you'd need bands and orchestras in the 7929.

And then 135, to remove the Code 0741, because that's veterinary services for livestock. And I guess that's it.

MS. CRESPO: Okay.

COMMISSIONER HOMIAK: Yeah, but I'd like to see just the -- I've got one more.

CHAIRMAN STRAIN: Okay.

COMMISSIONER HOMIAK: At the bottom of prohibited uses where -- maybe you could remove the codes for those things, because the adult entertainment and sexual oriented businesses, that's the wrong number, 799, and there's a few other numbers that would go with it. So just that overall -- same with the communication towers. So if you just removed all the codes, it would just apply.

MS. CRESPO: We can do that.

CHAIRMAN STRAIN: Just a real quick question before -- I know Joe's got some issues, but what's wrong with libraries? I mean, libraries are pretty quiet.

COMMISSIONER HOMIAK: Do you really think there's going to be a library there?

CHAIRMAN STRAIN: Well, I don't think most of the uses they asked for are going to be able to fit there, but I didn't see what's wrong with it if they could figure out a way to do it. A library's probably pretty neat. Neighborhoods usually like them. Do you know why you don't?

COMMISSIONER HOMIAK: No, I just didn't think that it's a possibility that it would even be there anyway.

CHAIRMAN STRAIN: Well, they can't fit a bowling alley there either. I mean, they've got bowling alley as one of the uses, but they certainly can't fit one. I just -- I thought if a library was there, what would it hurt? And the same with the parks or a playground. Are those bad things for the neighborhood?

COMMISSIONER HOMIAK: Private parks or playgrounds? I don't know why --

CHAIRMAN STRAIN: I mean, what would -- I'm just wondering what they would hurt. I'm not saying you're wrong.

COMMISSIONER HOMIAK: Well, there's a lot of traffic there.

CHAIRMAN STRAIN: I'm just trying to understand it.

COMMISSIONER HOMIAK: It's a lot of traffic in there. I don't know why you'd have kids -- more kids riding around in a private park.

CHAIRMAN STRAIN: Well, 110 of those other uses will have more traffic than a park. I mean, you've got a lot of uses there. And if that's the basis, then we want to strike quite a few of them. I'm just

wondering why a park would be a concern. But anyway. I mean, I understand --

COMMISSIONER HOMIAK: I thought it was just supposed to be for commercial. I don't see why you'd put kids in the way of all that gas station and everything.

CHAIRMAN STRAIN: I didn't think that the gas station was going to have a park in it. I thought they'd use one of the other parcels.

COMMISSIONER HOMIAK: Well, it's in the area. Whatever. It doesn't matter.

CHAIRMAN STRAIN: Okay. No. I just was trying to understand the reasoning, so...
Joe?

COMMISSIONER SCHMITT: Yeah. I'm going to go through my list.

Number 15 -- and I know there's some errors in the staff report in regards to 7549, but you said everything will be prohibited except car washes. A car wash is a pretty noisy operation when you're considering the mechanical equipment, the dryers and blowers. I do not believe this is a site suitable for a car wash.

Number 26, business services, you list -- extensive list of everything that's excluded. What's left -- I didn't go through and look and see what's left. Has staff reviewed that?

And to assure -- when it says business services, miscellaneous, and then you have a large list of exceptions, well, what is remaining? Are we talking simple businesses of accountant services and other type of things?

MS. CRESPO: Correct, insurance companies.

COMMISSIONER SCHMITT: Okay, okay. I also circled 27. I see no space for any type of communication tower, and that would be related to 131 and 132 as well. I mean, you would have to have a lay-down area, a safety perimeter for any type of communication tower. There is absolutely no room on this site for that unless you eliminate one of these major principal buildings. So, eliminate that.

Thirty-one, churches. You could leave church as possibility a conditional use, but I don't think it should be a permitted use.

Thirty-seven, printing. Are we talking full offset type printing production plants when we talk about 2752? That's a pretty intensive use. I know a small commercial printing shop, but I believe that's covered when you talk about on-site photocopying, which is 102. I know you could do something like that or -- but I don't know. What was your intent for 37?

MS. CRESPO: To a large extent, this list is the C4 list out of the code, and we did work to remove some of those more intensive C4 uses as part of the process. So this is thrown in there because it's permitted on two-thirds of the site right now. But we'll look at that SIC code while staff is presenting and see if we can't eliminate that.

COMMISSIONER SCHMITT: Okay. Forty-two, detective guard and armored car service. Forty-three, department stores. What are we talking about there? I mean, are you looking for a large department store in case one of these others are not -- you don't sell these other lots?

MS. CRESPO: The intent is to have multiple smaller tenants in these buildings, and so it wouldn't -- the intent right now is not to do a department store in any of these buildings, though he doesn't have end-users locked in for the entire site.

COMMISSIONER SCHMITT: Number 45, disinfecting and pest control. We're talking about chemicals and storage, storage areas. I don't believe this site is suitable for that.

The issue I have is with No. 60, gasoline stations except auto service and repair. I do not believe that there should be any auto service repair on this site. You talked about a Tire Kingdom or some other type of tire service. Again, that's -- I know that's allowed in C4, but now this is PUD. I just do not believe that this site will then be suitable.

If you're looking for businesses and you also want to put in some kind of heavy, intense use like an auto -- tire service center.

MS. CRESPO: I believe when it notes "except," it means the same as excluding.

COMMISSIONER SCHMITT: Right, I understand. But you are excluding 5541, except for auto service and repair. So you want to allow auto service and repair, the way I read this.

MS. CRESPO: Yeah. We're allowing the gasoline fuel station but excepting out the auto

services --

COMMISSIONER SCHMITT: But this is not a gasoline service station. It's a convenience store with fuel pumps. I mean, let's call it what it is. It's not a service station. If it's a service station, we're in an entirely different realm of issues here as far as what can be done on site, oil changes and other type of things.

CHAIRMAN STRAIN: Well -- but, see, we haven't -- we don't have a -- our service stations are considered facilities with fuel pumps.

COMMISSIONER SCHMITT: Okay.

CHAIRMAN STRAIN: It includes a whole array -- anything with a fuel pump, we have a new -- we just enacted the definition by the Board about six -- what, four months ago, six months ago, something like that. And I'm not -- and, Joe, I understand what you're saying, and by the way they've -- like, for example, the Racetracs, I believe, are 5541 as well. Is that -- Ray, do you recall that?

MR. BELLOWS: It's my recollection. We're checking on it right now.

CHAIRMAN STRAIN: Yeah. Mostly what's happened --

COMMISSIONER SCHMITT: I'm fine if that's the way we describe it now.

CHAIRMAN STRAIN: Yeah. We've modified it; just this year the modification came in. So there's been a new definition, and it does include automobile service stations, but that's when they kick in the higher buffers and standards that we put in place for those with less than 16 pumps.

COMMISSIONER SCHMITT: Okay.

COMMISSIONER EBERT: Excuse me. Joe, I just want to let you know, you're old-fashioned. We're now facilities with fuel pumps. Stan and I had a problem when we changed the name of it also. We no longer have gas stations.

CHAIRMAN STRAIN: But the purpose for changing the name was that if you didn't -- if it was just gas stations as defined here and you wanted to apply an automobile station waiver, it would end up limiting it to just those items, and it would eliminate the convenience store options and the other things that include fuel pumps. So by going to facilities with fuel pumps, we've broadened the application, further protecting the public to any facility that has fuel pumps. So that's why we did it. Even though you and Stan may have disagreed, that's why we did it.

MR. BELLOWS: And for the record, Ray Bellows. That is the reason why. There are many types of businesses now that offer fuel facilities, so we wanted to ensure the distance waiver would apply to all, and that is the SIC code as you have cited.

COMMISSIONER SCHMITT: Yeah. I mean, if that's the way Racetrac is defined; I mean, if anybody's been through Texas, Buc-ee's is another huge firm, and Buc-ee's is seven times the size of Wawa. It's unbelievable. They're -- but then again --

MR. EASTMAN: I believe part of the change had to do something with the emissions from the air and a heightened concern that was raised on some other projects before, and it was residents that were concerned with these fumes coming over and that's -- that was part of discussion.

CHAIRMAN STRAIN: Yeah.

COMMISSIONER SCHMITT: Again, I have no problem with the convenience store and fuel pumps. But when we talk service stations, it's an intensity of use and I -- all right. Well, we beat that to death.

I think -- I already talked about 130 and 131. Again, you're talking about towers.

And I think that's it for me from the standpoint of uses. So the only one I think that may be of concern is the car wash. And I looked at this site, if there were going to be a -- if you had looked at the car wash, it would be in that most, I guess, southeast corner where you now have this large commercial building. And if that's the intent of a car wash, it's a pretty intense use for a car wash and traffic, and I just don't believe that this is a site for a car wash.

MS. CRESPO: And our intent was Line Item 15 was to except out or exclude car washes.

COMMISSIONER SCHMITT: Okay.

MS. CRESPO: So we can clarify that as listing it as prohibited use.

COMMISSIONER SCHMITT: All right.

MS. CRESPO: Wawa does not intend to do that with their facility.

CHAIRMAN STRAIN: Stan?

COMMISSIONER CHRZANOWSKI: Just curious about something. Do any firms still use radios with their own little towers, or does everybody use cell phones now?

CHAIRMAN STRAIN: I don't know.

COMMISSIONER CHRZANOWSKI: Used to be they had radios in trucks, and these guys would have the small tower mounted on their building and communicate with their own people. But now with cell phones, you know, when you're banning towers, I assume that's all towers, even the little ones. I don't know if people still use those or not.

CHAIRMAN STRAIN: I don't know either. I'm not in that business.

COMMISSIONER CHRZANOWSKI: Okay. Well, I assume if they can't -- if they want to, they'll have to come in for some kind of change; otherwise, they use cell phones like normal people.

MR. BELLOWS: Yeah. It would require an amendment to the PUD.

COMMISSIONER CHRZANOWSKI: Everybody but me.

CHAIRMAN STRAIN: Alexis, so there's no confusion, you've had several comments about restricted uses. I'm going to read the list off. I tried to keep it as complete when both Karen and Joe were talking about them.

Remove Use 9 and Use 27. There will be no communication towers. On 28, no customer -- on customer premises. No to No. 31, 34, 37, 42, 45, 46, 49, 50.

On No. 66, it would be no to Use 8093. Then back to no to No. 76, No. 77, No. 80. On 101 it would be employee leasing only. No to Use No. 110 117, and on 119 it would be no to 8734. And on No. 120, it would except gravestones, tombstones, et cetera.

No to No. 127, No. 130, 131, and on 132 it would no to No. 7929. On 135 it will be no to No. 0741.

And then you would remove the SIC code references to the prohibited uses, so it would stand on the language -- the text language. There will be no car washes.

And then there's one other thing I wanted to discuss, because anytime you have these kind of uses in neighborhood areas, it becomes problematic. And we're experiencing it at Heritage Bay, we're experiencing it in a lot of different places, and that is outside dining and amplified sound.

So even though no one brought up the issue of eating facilities and drinking facilities, it would be extremely problematic most likely if that southern commercial building, or the northern one, started doing what some of the louder outside restaurants are doing in Collier County. They do a lot of outside dining. Then they have their -- either live performances or amplified sound with the speakers blaring to the outside diners. That would not work in this location, and so that needs to be addressed. You have to come back and acknowledge these other uses. I'd like you to address that as a way to clean it up.

MS. CRESPO: And the concern being the amplified sound specifically?

CHAIRMAN STRAIN: Outside amplified sound. I mean, the outside dining isn't as much of a concern as the outside amplified sound. At the gas station level, generally they have sound that is not -- in fact, the way I think one of your competitors worded it is that the sound at the fuel pumps would not be heard past the pump area. So it would be low volume, let's say, announces or music. They would limit anything but emergency needed communications from the hours of seven -- I think it was 7 a.m. to 7 p.m. That's the only hours that you could have general sound, but after that it would be emergency required devices only. Like at a fuel pump, if there was an emergency, you've got to be able to contact the monitor.

I looked that over as --

COMMISSIONER HOMIAK: I think there's no amplified -- from the facilities of fuel pumps from 10 p.m. to 7 a.m. I think that's the way it reads.

CHAIRMAN STRAIN: Well, that's less restrictive. That's fine. I was just trying to suggest, being in a neighborhood, you might want to make it more, but that's fine. I think that the Racetrac -- and the reason it's pretty relevant to me, it's the one on Palm Street and 41, I think they agreed, I think it was seven to seven. But you know, if Karen -- it's her area.

COMMISSIONER HOMIAK: Well, it's the code. I was just --

CHAIRMAN STRAIN: No, that's fine. But this is a PUD, so as we are going through amending things, we can suggest different times if it warrants it, so...

So that's the list. I think you need to work on that a little bit while we're going through other things. And what we could do, since your other part of your representation is Mr. Anderson, and he's going to be here anyway, we could give you more time by working into the Orange Blossom Ranch one, then coming back to you afterwards if that helps. But let's get through everything else first, and then we'll make a decision on that.

COMMISSIONER SCHMITT: Mr. Chairman?

CHAIRMAN STRAIN: Yes.

COMMISSIONER SCHMITT: Again, I'm open to the discussion if there's any objections to any of the ones we proposed, if you want to come back and -- we can discuss those, so -- before we -- certainly before we vote.

MS. CRESPO: We'd appreciate that. Thank you.

CHAIRMAN STRAIN: You know, another thing that would make it easier, we have, what, five commercial zoning districts and one industrial, C5 being the most intense. C4 is pretty intense uses. This property is rather small. It's not all initially commercial uses.

I don't know if you were suggested or it was discussed within your group, but if you were to look at just the C1 and C2 uses, which the kind of buildings you laid out here would probably warrant that, with the exception I understand you've got a concern over a client for Tire Kingdom, and that might be separately discussed, but the C1 and C2 uses are pretty benign. And that might clean this whole thing up rather quickly. Something to consider in your discussions when you have time today. Okay.

MS. CRESPO: Thank you.

CHAIRMAN STRAIN: Anything else of the applicant while we've --

COMMISSIONER SCHMITT: Again, if it's Tire -- I'm not -- I mean, commercial, if it's a tire-changing facility, if it's that type of facility strictly tires and batteries, I mean, we'll talking about that. I just was looking for something if it was more intense where we're talking about engine repair and other type of heavy automotive repair type facilities, and I just don't believe this site is suitable for that.

CHAIRMAN STRAIN: Okay. Next we'll move to staff report. Dan?

MR. SMITH: Thank you, Chairman Strain.

Daniel Smith, principal planner. Zoning services staff recommends Collier County Planning Commission forward Petition PUDZ-PL20150000342 to the Board of County Commissioners with a recommendation of approval with the following conditions:

Remove Deviation 1 regarding a deviation from LDC Section 5.05.08 C2, which requires primary facade standards to be applied to all sides of building facades facing a public or private street. Staff believes that even with the additional landscaping, the facade will still be viewed from Price Street;

Two, remove Deviation 2 which requires facility with fuel pumps within 250 feet of residential property provide a 30-foot-wide landscape buffer and an architecturally designed masonry wall on top of a three-foot berm. The deviation will allow for an -- the deviation will allow for an alternative 15-foot-wide landscape buffer with no masonry wall or berm -- and berm. Staff believes the new standards for this use should be applied;

Three, approve Deviation 3 conditionally that only a 15-foot Type A buffer with a single row of shrubs 24 inches high at planting and maintained at 36 inches high be required between the internal uses abutting the facilities with fuel pumps;

Four, remove automotive services, SIC Code 7549, and repair services, SIC Code 7699, as applied uses in the PUD. Some of these uses may be considered incompatible next to residential uses;

Five, remove Note 5 -- remove Note 2 in the commercial development standards regarding facilities with fuel pumps. If Deviation 2 and 3 are approved, this note would contradict the PUD. If not approved, this note would be redundant; and,

Six, update the Development Standards Table to include building height restrictions shown on the master plan.

This ends my staff report. Thank you.

CHAIRMAN STRAIN: Okay. Questions of staff based on the staff report? Joe, did you still have some you wanted to ask?

COMMISSIONER SCHMITT: No, I believe, since Mr. Smith handed out the correction, and we talked basically how we interpret automotive service station, I believe that clarifies the report, because in several places I had "what about SIC Code 5541." Now that I read through it again with the correction that was made to Page 19, I believe that solves -- answered my question. So that clarifies it, remove automotive services and repair services; 7549 and 7699 clarifies.

I don't know if we want to discuss the issue with the wall versus the buffer.

CHAIRMAN STRAIN: Sure. I mean, everything is up for discussion.

COMMISSIONER SCHMITT: I'm waiting to hear from any of the residents before making a final decision on that. But I would ask since, again, I've been away from this a while, the other Planning Commissioners -- I don't know where we are in the county in regards to -- I know that was an addition that was added, I believe, when service stations went in. It's now required to have a wall?

CHAIRMAN STRAIN: Yes. Well, actually the wall was not as, let's say, intense as it is now. About several months ago the Board redid the service station section of the code to increase higher compatibility standards for service stations with less than 16 pumps.

COMMISSIONER SCHMITT: Okay.

CHAIRMAN STRAIN: And then they were going to come back in at some point, which will probably be the new board now, to consider what kind of standards will be applied to stations with 16 or greater pumps, which this one is 16 pumps, but it's parceled out, so it meets that 250-foot distance on the southern side, and the only side it doesn't is the side where they're asking for the waiver for the wall. And the consideration for that more probably lies with the input from the public than anything else. So I'm hoping to hear their comments on that.

Anybody else from the staff?

(No response.)

CHAIRMAN STRAIN: Okay. With that, we'll go to registered public speakers first, Ray.

MR. BELLOWS: The first speaker, William Owen, Jr.

MR. OWEN: I'm William Owen, and I'm a board member of the community association of Eagle Creek Golf and Country Club.

There are approximately about a thousand residents that live in Eagle Creek. And we have property that sets back approximately 50 yards from Price Street. And this --

CHAIRMAN STRAIN: I'm trying to understand where your property's located. Is there an aerial that we could put up that the gentleman can kind of show us or point to us?

MR. OWEN: Let's see. I suppose --

CHAIRMAN STRAIN: Sir, they'll find something. Hopefully there's a -- Alexis, do you have an aerial? You did have one up in your PowerPoint.

MR. OWEN: We're on the other side of Price Street.

CHAIRMAN STRAIN: Right, yeah. And there's some properties down there. I didn't know they were -- Eagle Creek went that far up. That's why I wanted to understand it better from an aerial.

MR. OWEN: We have a rear entrance that goes through Talon (phonetic) Street.

CHAIRMAN STRAIN: So you're not adjacent, contiguous, or abutting the property?

MR. OWEN: No.

CHAIRMAN STRAIN: Actually, the property's separated from you by a rather large residential lot?

MR. OWEN: There is the so-called llama farm.

CHAIRMAN STRAIN: Okay. Now I understand. That's fine.

MR. OWEN: Llama farm here.

CHAIRMAN STRAIN: And, sir, you've got to use the mike. I'm sorry. You'll have to always stay by the mike. And I understand where you're at now.

MR. OWEN: Okay. You see where I am?

CHAIRMAN STRAIN: Yes, sir.

MR. OWEN: Actually, many of the questions that we had earlier, the aesthetics issues, it sounds to me like they were properly addressed, so that's a good thing out there.

The other issue is that we take a look at any light pollution. We have four-story condominium units out there. And let's look at what's being replaced here, which we've had a forested area with no lighting out there, and now we're talking about a larger area out there that should be or will be significantly lit, certainly at night. And I don't know what restrictions or what considerations you can lend us on that, but certainly we want people to be able to feel like they don't have lights coming in through their living room or bedroom windows at night.

Another -- just a point of -- comment. The canal that is being mentioned -- that's actually Henderson Creek.

CHAIRMAN STRAIN: Sir, you'll need to direct your attention to us.

MR. OWEN: I see.

CHAIRMAN STRAIN: Yeah. They can't respond to you, but we can.

MR. OWEN: Oh, okay. Well, that's a good thing, then.

The canal is actually Henderson Creek. It originates up in Lely, and it migrates down through this property and through Eagle Creek where it snakes around, and then through into the reserve to the south side of Eagle Creek. Any contamination of that would obviously have an effect not only on our community, but on protected lands. That's not to say that there's -- there can't be an accommodation for this type of facility, but certainly in terms of any safety or precautions over and beyond that, that that's being followed or enforced in this particular situation.

And other than that, the last thing I want to bring up is Price Street -- I don't know how many of you-all have driven out there. I would say half the residents of Eagle Creek have had a near-death experience out there just going around the corner and, actually, where this entrancing is working from that parcel.

I'm not necessarily saying that we're opposed to anything like that as long as there's been a thorough study of that and that we're not exacerbating a difficult situation already.

There is a sharp curve there, and it's not -- it's marked with broken yellow lines, but a lot of people coming from Barefoot Williams are barreling along out there, they're turning up there. It's by the backside of Fresh Market, and they veer into the opposing lane. It happens all the time.

So with that said, thank you for your time.

CHAIRMAN STRAIN: Thank you, sir. We're going to have staff talk to us a little bit about both the issues you raised, so...

Next public speaker, Ray?

MR. BELLOWS: Jere Hurt.

MR. HUNT: Jere Hunt.

CHAIRMAN STRAIN: Well, he's just giving those slips to the young lady here, sir. You can go ahead and speak.

MR. HUNT: I'm one of the few here that I own property.

CHAIRMAN STRAIN: Could you identify -- spell your last name for the record, please.

MR. HUNT: Jere Hunt, H-u-n-t.

CHAIRMAN STRAIN: Okay. Thank you.

MR. HUNT: And we're -- the site for the development that we're here for is marked in yellow. To the immediate left of that is the canal, and my property, right there -- whose finger is that?

MR. SMITH: That's mine.

MR. HUNT: Get that finger on it. That was magic.

Anyway, my property is as close as anybody's to this site, and I have no problem with it. What they're doing I think is fine. I certainly have no complaints.

And -- one more thing I was trying to think of. I'm at that age where thoughts go out of my head like a shot. Oh, the wall. I would rather not have a wall as a buffer between my property, between the canal and the subject property, because it just -- I'd rather see a hedge or shrubbery or something like that. And it's a growing area, I think we're -- this last gentleman here, I think we're further away from Eagle Creek. And than he said 150 yards. I think we're more than that.

So that's all I have to say.

CHAIRMAN STRAIN: Thank you, sir.

Ray, are there any more public speakers?

MR. BELLOWS: No others have registered.

CHAIRMAN STRAIN: Is there any member of the public who has not spoken that would like to speak?

(No response.)

CHAIRMAN STRAIN: Okay. Thank you. We'll go back to -- first of all, is there any further questions from the Planning Commission?

COMMISSIONER SCHMITT: One question. The house that's on the currently zoned ag property now, is that -- that will be razed and become part of the entire site?

MS. CRESPO: Yes. They are co-applicants with Metro 41, LLC, and that will be demolished.

COMMISSIONER SCHMITT: So that house will be gone. All right.

CHAIRMAN STRAIN: In order to respond to the first speaker, is Transportation prepared to explain the safety precautions with the way this project accesses Price Street? Forty-one's kind of self-explanatory, so it's Price?

MR. SAWYER: Good morning, for the record, Mike Sawyer, principal planner for Transportation Planning.

We are currently conducting and actually just getting done with the design for what we are terming the triangle study which is primarily a study of Triangle Boulevard as it goes through the Lely development.

CHAIRMAN STRAIN: Could you put a site plan on the overhead so that as Mike's talking we can see how it impacts the area that we're actually looking at today. Triangle's across 41, so it's the intersection, I guess, that you're working towards.

MR. SAWYER: That should work fine. Again, that's primarily where the study is, but it also includes Price Street up to the intersection that we're looking at for the access for this petition.

So the location of this access has been coordinated to this point as much as we can, with the eventual solution that we're going to have for this entire area. We're looking at a number of things as far as improving traffic flow. We're seriously looking at visibility triangles, specifically for this access, keeping in mind that we want to make sure that Price Street still is free-flowing as best we can and also all of the other conflict points, if you will.

CHAIRMAN STRAIN: But, Mike, what we're trying to understand is the benefits or the protections that would help prevent problems with that entrance on Price Street being right on that corner, the corner that the gentleman noted was having problems with traffic and people sliding over the line.

For example, why wouldn't the Transportation Department have asked, since this applicant's coming in and wanting accesses, to get some additional right-of-way to take the bend out of Price Street so it's not so sharp and widen it into their property at this location?

MR. SAWYER: Actually, we've got -- we are getting additional right-of-way currently with what is being proposed right now, and we will also be able to get additional right-of-way if we need to if it's required as part of the study.

CHAIRMAN STRAIN: Okay. But let me back up. We're looking at this entrance here at Price Street at the bend. Are you getting additional right-of-way at that location?

MR. SAWYER: Yes.

CHAIRMAN STRAIN: Okay. Can you show me on this map where it is? Because right now I don't see any additional right-of-way. You can write on Dan's plan.

MR. SAWYER: If you look at that area that I just marked, basically we are getting additional right-of-way width to accommodate the turn lanes that are happening in there as well as pulling back the actual entrance itself a little bit further back into the site --

CHAIRMAN STRAIN: Okay.

MR. SAWYER: -- instead of having that real sharp corner there. We're trying to blunt it.

CHAIRMAN STRAIN: And that's kind of where I'm trying to head since that was the point that the gentleman made.

Now, I see the dotted line that represents the CPUD boundary. The right-of-way line seems to be

just a little bit -- the next line to the right of that line. Where is that right-of-way line moving to based on what you just told us?

MR. SMITH: From here to here.

COMMISSIONER SCHMITT: I guess the next question, is it reflected on the current SDP that's been submitted?

CHAIRMAN STRAIN: Well, that's where I was going next. If this is -- if the staff has gotten the right-of-way but it's not showing up on this plan, then where is it? And why wouldn't the applicant wanted to have provided that as natural clarification anyway? Why wouldn't we have insisted on it?

MR. TREBILCOCK: Can I -- Norm Trebilcock, for the record, transportation.

CHAIRMAN STRAIN: What kind of traffic-calming devices have they asked you to study here, Norm?

MR. TREBILCOCK: They did. Actually, we --

CHAIRMAN STRAIN: I'm just teasing you. Recollection of Tuesday, huh?

MR. TREBILCOCK: I haven't been sworn in.

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

MR. TREBILCOCK: I do.

CHAIRMAN STRAIN: Okay. Now, we need -- as you heard then, we need some clarification on this overall traffic program.

MR. TREBILCOCK: Okay, yes. One thing -- actually, at this location, one of the things that was looked at here was a study from Transportation to look at the potential of a roundabout for this location. And so with that in mind, there's additional right-of-way needed for that, and then it addresses what Michael had mentioned as well. So I've got that exhibit that shows that right-of-way.

CHAIRMAN STRAIN: Okay. But study and potential whatever doesn't do us any good. We're trying to discover what is it that's going to be done to improve that corner, and if it hasn't gone far enough, what do we need to do with the -- consistent with the approval or lack thereof of this project to insist some improvements get made?

MR. TREBILCOCK: Perfect, absolutely.

CHAIRMAN STRAIN: Okay.

MR. TREBILCOCK: The key thing, really, that's occurring on this property, if you look at it, the existing vegetation comes right up to that sharp corner, and with this development what's going to occur is actually you're going to clear up the lines of sight with access point where it is. And that's, you know, part of the reason why it was coordinated where it is.

So you'll actually clear up your lines of sight with how it's being proposed. In addition, we're providing what they call the compensating right-of-way for the right turn lane that's going to come into the site, and then in addition we're providing a right-of-way reservation for if the staff in their study of this area determines that a roundabout is the appropriate traffic-calming device or operating device.

So we really clear that up, is to the point. And that's consistent with our Site Development Plan. Our Site Development Plan is reflective of this as well. And as part of the site plan review, they'll look to make sure that we have clear lines of sight. And, again, we're really fixing that area up as a result.

So I think they'll find the existing conditions will be much improved with what we're doing here.

CHAIRMAN STRAIN: The dark lines that are on both sides of this entrance, are those supposed to represent sidewalks; do you know? It looks like they are. There's a crosswalk.

MR. TREBILCOCK: Oh, yes, I'm sorry. I was looking at the wrong exhibit. Sorry about that.

CHAIRMAN STRAIN: The landscape buffers that are on both sides of that entry, especially the one on the south side, if you take a 15-foot right-of-way buffer all the way up to the edge of that sidewalk going towards the northeast, wouldn't you just be creating another sight triangle problem? And where is the right-of-way moved as a result of the request by the applicant today in Mike's statements from where it sits today?

I mean, I know you're saying we are preparing to ask for things if they do a roundabout and everything like that, but how is this intersection changing as a result of this entrance on this PUD, and what right-of-way have we gained to make it change that way?

MR. TREBILCOCK: Okay. Let me show you -- I have an exhibit that shows a roundabout --

CHAIRMAN STRAIN: Sure, that's great.

MR. TREBILCOCK: -- the additional right-of-way.

MS. ASHTON-CICKO: Mr. Chair, if there's additional right-of-way --

CHAIRMAN STRAIN: You're not being -- the mike's not working, Heidi.

MS. ASHTON-CICKO: If there's additional right-of-way requirement --

CHAIRMAN STRAIN: It's still not working, Heidi.

MS. ASHTON-CICKO: If there's additional right-of-way required beyond the compensating right-of-way, then the landscape buffer would likely be eliminated at the Site Development Plan stage because of 9.03.07 of the Land Development Code.

CHAIRMAN STRAIN: Well, I mean, that's fine because it seems like the landscaping is causing some of the concerns for the sight triangle with people coming around that corner. So maybe that's what needs to happen. That's kind of where I was heading in making sure that -- if we could move it back, that might be a solution, so I'll just explore a little bit.

MR. TREBILCOCK: Right. This exhibit here gives you the area in orange. It shows you that additional right-of-way that's anticipated to be needed there in the area.

CHAIRMAN STRAIN: So this PUD -- and, again, I can't remember everything that I read at 11 o'clock last night, but this PUD has language in it committing to the issue of the 252 square feet of right-of-way from Wawa?

MR. TREBILCOCK: Yes, sir. We had -- there's a transportation commitment to provide that right-of-way.

CHAIRMAN STRAIN: Okay.

MR. TREBILCOCK: And in addition -- again, in the part of the site plan review where we are providing that buffer, one of the issues would be to make sure that we have clear lines of sight. That's what your staff really looks at to make sure that, you know, we're meeting buffer and landscaping but, more importantly, we're addressing to make sure we have clear lines of sight, to your point.

CHAIRMAN STRAIN: Okay. If the intention is to do something like this, why would we want them to build the entrance like it's shown on the PUD anticipating that this happens? Even if it doesn't happen, to build the entrance to accommodate this in the future, whether it happens or not, would still provide a better entrance for sight visibility coming around that corner.

MR. TREBILCOCK: Actually, what we're proposing does dovetail right into this here. The only thing in the interim basis, there would be the right turn lane that we have for the project, and that would go away when you build this. But it's actually all been, you know, coordinated with staff, and it would dovetail right in in the future.

CHAIRMAN STRAIN: Is there any reason this can't be added as a conceptual exhibit?

MR. TREBILCOCK: No.

CHAIRMAN STRAIN: To the PUD? I mean, do you have any objection to that, or do you think -- well, Alexis, that's another question for you, your client, and whoever's analyzing this.

COMMISSIONER EBERT: Alexis is gone.

COMMISSIONER SCHMITT: She went out to speak with her client.

CHAIRMAN STRAIN: Okay. Well, Bruce is here, and he's heard that. But we don't need to answer that now. When you come back with the uses, we can discuss that to --

MR. TREBILCOCK: Sure.

CHAIRMAN STRAIN: I'd like to see something put on the record that shows the intention so that when it happens in the future it's much easier to make it happen rather than say -- you know, because we change personnel pretty rapidly in Developmental Services, and new people coming in may not even know this was discussed.

MR. TREBILCOCK: Right. And this was provided for the folks that are doing the triangle study, so this was given to them for their analysis. Because the only real issue here, too, is there's some -- there's some right-of-way acquisition that's needed that the county doesn't have, so that's the reason why it's a two-step process here.

CHAIRMAN STRAIN: And the acquisition the county doesn't have is where?

MR. TREBILCOCK: It would be the purple pieces there. It would be to the -- if we're kind of -- it would be the southwest and the southeast corners there, those little purples areas there.

CHAIRMAN STRAIN: But the right for the county to obtain that is included in the language in the Transportation comments in the PUD, correct?

MR. TREBILCOCK: Well, I'm sorry. That's offsite. It's not within our property. So that's -- it's been -- the county has a, you know --

CHAIRMAN STRAIN: Oh, you're talking about the south purple line?

MR. TREBILCOCK: Exactly. Yep.

CHAIRMAN STRAIN: When you said purple, I --

MR. TREBILCOCK: No, I'm sorry. Anything that we can provide we've provided, and it's taken care of you. And, again, it does help with the overall sightlines and stuff by having that as clear right-of-way as well, to your other point; I'm sorry.

CHAIRMAN STRAIN: And we're on the path to getting this resolved as we move down the road. That's what I wanted to make sure.

MR. TREBILCOCK: Yes, sir. Absolutely.

CHAIRMAN STRAIN: Thank you.

MR. TREBILCOCK: Absolutely; thank you.

CHAIRMAN STRAIN: Any questions, more, of Transportation?

(No response.)

CHAIRMAN STRAIN: And the other gentleman brought up an issue of site drainage. I see -- is someone here who can address the site drainage? It's my understanding -- maybe it's the applicant's.

You have -- primary quality control is all in your dry detention, and at some point you've probably got overflows that at that point, once it's reached that dry detention quality, it will overflow into the canal wherever the discharge position is; is that correct? And it's all pursuant to Southwest Florida Water Management District's -- and, Norm, this isn't yours, I know.

MR. TREBILCOCK: Exactly, thank you.

CHAIRMAN STRAIN: I know. He was already coming up, and I figured I'll talk while he's walking up to save time.

MR. SLOAN: Brendan Sloan, Waldrop Engineering, again, civil engineer.

You're correct, Mr. Chairman. We will permit this with the Water Management District. We'll get a formal environmental resource permit for drainage discharge into the canal. It will be required water quality treatment end stage storage volumes and calculations on site. We'll meet all the permit criteria that the Water Management District requires.

CHAIRMAN STRAIN: Okay. Thank you.

MR. SLOAN: Sure.

CHAIRMAN STRAIN: Any other questions of anybody at this time?

Alexis, have you had -- oh, Norm.

MR. TREBILCOCK: Excuse me. I'm sorry. Just one item that was brought up by one of the comments there was regarding the site lighting, and my firm prepared the site lighting for the Site Development Plan. So I just wanted to let you know there that the lighting does meet the newer code standards in terms of having the full cutoff fixtures and light limitations on the property line, so I just wanted to let you know that. It's not, you know, the intensive glow, that it's meeting the current -- the newer standards for lighting for gas stations -- or convenience stores with fuel pumps.

COMMISSIONER CHRZANOWSKI: Norm, for the benefit of the audience, do you want to explain what a full cutoff fixture is?

MR. TREBILCOCK: Yes, will do. A full cutoff, what it means is, under other fixtures, a full cutoff establishes and it holds the light to go down, you know, vertically and not go above like what we call horizontal plane, so that it doesn't glow beyond the site. It puts the light directly where it needs to go.

And, in addition, that the -- like I said, there's a foot-candle limitation around the property line in addition to that for anything. This light will go down vertically but, obviously, it starts to spread a little bit,

and that limitation will hold it -- hold it as well. Did I explain that okay?

COMMISSIONER CHRZANOWSKI: Yep.

CHAIRMAN STRAIN: Oh, Karen.

COMMISSIONER HOMIAK: So there'll be no deceleration lane to -- off of 41 into that parcel?

MR. TREBILCOCK: No. There is a deceleration lane off of 41 for the parcel there. There's an access point proposed. There's actually an existing driveway connection there on the property, and so that would still be there, yes.

COMMISSIONER HOMIAK: You're going to add the -- there's no deceleration lane there now.

MR. TREBILCOCK: Oh, on Price Street, right.

COMMISSIONER HOMIAK: On 41.

MR. TREBILCOCK: No. There will be a deceleration lane into the property. There's currently -- there's a turn lane there now, and there's a driveway connection there as well.

COMMISSIONER SCHMITT: But that will be just a right-in, right-out, not a full opening?

MR. TREBILCOCK: Correct, absolutely, yes.

CHAIRMAN STRAIN: Okay. Any other questions?

(No response.)

CHAIRMAN STRAIN: Norm, I have a couple. The full cutoff lights that Stan started asking about --

MR. TREBILCOCK: Yes.

CHAIRMAN STRAIN: -- do you have any problem doing those as directional LEDs?

MR. TREBILCOCK: LED is exactly what our design is, yes, sir.

CHAIRMAN STRAIN: Okay. The height of the poles, do you have any problem limiting them to 15 feet?

MR. TREBILCOCK: I -- we had it at -- I believe the code allows 20 feet.

CHAIRMAN STRAIN: Yes, it does. That's why I'm asking you if you have any problem limiting it to 15 feet. I know what the code allows, and I didn't -- that just -- that just puts them up higher so they can be seen more. The fence or the wall that was going to be there isn't going to be there. The landscaping will be the only thing blocking them. Directional LEDs with full cutoffs at 15 feet would make that lighting stay more on the site just from its visibility, not necessarily from its glare that you can measure at the threshold.

It's kind of like our sound ordinance. You all can hear noise, but if it doesn't hit 65 decibels, we don't consider it problematic when it is, and depending on the area, and this is a pretty -- it's a pretty quiet area down there. So it's like the sound, the light doesn't need to penetrate any more than it has to. So is that an issue that is a concern? I know what that means to you.

MR. TREBILCOCK: Right.

CHAIRMAN STRAIN: You've got to put more lights in.

MR. TREBILCOCK: Correct.

CHAIRMAN STRAIN: But I'm not sure that's a problem.

MR. TREBILCOCK: I can touch base if that's okay. I just need -- because we hadn't designed it at this point. I just need to touch base with them real quick and make sure, if that's okay.

CHAIRMAN STRAIN: Sure.

MR. TREBILCOCK: Thank you.

CHAIRMAN STRAIN: We're going to have Alexis possibly come back anyway.

Alexis, if you -- your choice on how you want to handle all the questions we had. We can hear the next case up and then come back to you or not. It's whatever you prefer.

MS. CRESPO: Well, thank you. For the record, Alexis Crespo.

I was able to speak with Dan Hughes, who's the applicant, and he was in agreement with striking the majority of uses. There's, like, three that I'd like to discuss, but other than that we can just make it simple and agree to strike the uses that you-all had listed as being prohibited, and then we do have response on the outdoor amplification.

CHAIRMAN STRAIN: Well, let's start with the three that you have some questions about that you not necessarily totally agree to completely strike. What are those?

MS. CRESPO: Twenty-seven is related to the cable pay television services, including communications towers. By striking that, we want to ensure that we could still do a satellite dish that's accessory to a principal use or principal business. There's no intent to do a communication tower as a principal use, but we just want to put on the record that that would be something for -- our tenants could have on the building.

CHAIRMAN STRAIN: Well, I think if we're -- I think the question was the communication towers. So if we said 27 except communication towers, that would take it out of the use. Does that work for whoever -- I don't know which one of you brought it up, but --

COMMISSIONER SCHMITT: Yes. I just don't think there's enough room for a communication tower, the type that we're talking, like over on Tower Street or -- there's already towers out that way, so...

COMMISSIONER HOMIAK: But that was added to the prohibited uses, just communication towers for overall, so it doesn't -- you don't have to take the 27 out.

CHAIRMAN STRAIN: Oh, you mean --

MS. CRESPO: That's a good point.

CHAIRMAN STRAIN: Well, we could just add it -- yeah, that would work.

COMMISSIONER HOMIAK: I mean, that's what I asked.

CHAIRMAN STRAIN: You're going to need to use your mike, Karen.

COMMISSIONER HOMIAK: That's what I asked, and I believe you --

CHAIRMAN STRAIN: I made a note. I thought -- someone said 27, then no communication towers, so that's how I wrote it down, but it doesn't matter to me what way it goes in.

COMMISSIONER HOMIAK: Oh, I meant under prohibited uses to exclude --

CHAIRMAN STRAIN: Okay.

COMMISSIONER HOMIAK: -- no communication towers.

COMMISSIONER CHRZANOWSKI: You want no cell towers, guide, or monopole?

COMMISSIONER HOMIAK: Right.

COMMISSIONER CHRZANOWSKI: But little appertinent --

COMMISSIONER HOMIAK: Well, satellite dishes.

COMMISSIONER EBERT: Satellite dishes.

MR. SMITH: Chairman Strain?

CHAIRMAN STRAIN: Yes.

MR. SMITH: A suggestion. Because I had talked to Alexis previously. It might be easier as opposed to just putting the SIC codes, just adding the use that they would allow and leave the list that we have, and whatever use they're looking at, just add that to it. It may be a better solution, because if you add the SIC code, there's a lot of things that -- you'll have to go through them again to see what you like or you don't like, and that's kind of what the problem is. So if Alexis would just --

CHAIRMAN STRAIN: You mean you want to eliminate all the references to SIC codes in the --

MR. SMITH: No, no, just on that -- in particular uses that she's talking about, maybe just add the use --

MR. BELLOWS: To include.

MR. SMITH: -- to include, yes. That might be an easier way to do it if they're looking for cable TV or whatever.

CHAIRMAN STRAIN: I think both of you are okay just by adding, under the prohibited uses, no communication towers, right?

MR. SMITH: Okay.

CHAIRMAN STRAIN: And, Stan, did you have a cleanup on that language?

COMMISSIONER CHRZANOWSKI: No.

CHAIRMAN STRAIN: Well, if that works, that gets us there pretty simply.

MS. CRESPO: Great.

CHAIRMAN STRAIN: Okay.

MS. CRESPO: On churches, we're looking for a recommendation that we could potentially have a church within a multi-tenant structure limited to no more than 5,000 square feet.

COMMISSIONER HOMIAK: That's exactly what I'm trying to avoid.

MS. CRESPO: Oh.

COMMISSIONER HOMIAK: We have a lot of storefront churches in East Naples, and we don't need any more.

CHAIRMAN STRAIN: And churches have gone from facilities that quietly practice their religious beliefs to rock bands and booming noises and all kinds of disruptive sounds. So they're not like the churches -- just like gas stations aren't gas station anymore. So I think that's a well thought-out concern.

MS. CRESPO: Okay. I got the nod that we will remove that then.

We wanted to verify that by removing 46, dry-cleaning plants, that that would not preclude a dry-cleaning business.

CHAIRMAN STRAIN: Is that a different SIC?

COMMISSIONER HOMIAK: That's -- on No. 59 you have dry-cleaners.

MR. SMITH: Correct.

MS. CRESPO: Thank you. So we can remove 46 then?

COMMISSIONER SCHMITT: It would allow for the front-door service, but not the large dry-cleaning plant.

MS. CRESPO: Industrial style, yeah, that's fine, thank you.

And then the last item we just want to clarify would be with the Tire Kingdom use. We feel more comfortable being able to keep in the Item 15, automotive services, excluding car washes. We could potentially add to that "limited to one automotive service use within the building closest to U.S. 41," so its location would be very limited. We just want to make sure we don't have an issue down the road if we remove that and rely on the auto-supply-store use.

CHAIRMAN STRAIN: Okay. What -- we're on -- that would be No. 13?

COMMISSIONER EBERT: Fifteen.

CHAIRMAN STRAIN: Fifteen.

MS. CRESPO: Fifteen.

CHAIRMAN STRAIN: Automotive services except car washes. Why don't we just say if you are intending to put a new tire sales and whatever that SIC code is for that, why don't we just list that SIC code saying new tire sales only or something to that effect so that we understand what you're trying to do there and that --

MR. SMITH: That will work.

COMMISSIONER SCHMITT: That's why -- again, between the staff report, again, on Page 10, that's where we have some confusion, because it's allowed under both SIC codes, but 5541, then staff says, these uses aren't compatible, automotive and marine repair, tire repair, auto -- oil service, and minor repair and car washes. I mean, that was under 5541. But if you do it under 7549, again, you're talking about automotive services. I'm confused because --

CHAIRMAN STRAIN: But it wouldn't be 75 -- what is the SIC -- I haven't got my SIC book with me. What is the SIC --

COMMISSIONER SCHMITT: That's basically what I'm asking. What SIC code are we looking at? I don't have mine.

CHAIRMAN STRAIN: I didn't know we --

MR. SMITH: 7549, I think, is what you're talking about.

MS. CRESPO: If the installation of tires that occurs at a Tire Kingdom creates that use to be a 7549 instead of 5531 --

COMMISSIONER SCHMITT: 5541, or is it -31?

MR. SMITH: 5541; no, it's 5541.

CHAIRMAN STRAIN: 5531 is tire dealers automotive.

COMMISSIONER SCHMITT: Okay.

CHAIRMAN STRAIN: Retail. Is that what you are?

MS. CRESPO: That is our question to staff.

MR. SMITH: I don't think it is, because I think the Tire Kingdom, under -- I thought they did other

repairs that was -- I really didn't have a problem with the tire sales. It was the repair portion of it that tends to generate the noise.

CHAIRMAN STRAIN: Well, there's two -- there's tire automobile dealers/retail, which is 5531, then there's tire dealers/automotive which, to me, is the same thing, but they're listed twice. Retail, 5531 again. You believe they're under what number, Dan?

MR. SMITH: It was 7549.

COMMISSIONER SCHMITT: Or is it -- but, Dan, you had 5541 in the report, too.

MR. SMITH: I changed that because that was the --

CHAIRMAN STRAIN: 7541 does not list anything to do with tires. Automotive emission testing, diagnostic centers -- 7549, emission testing, garages, do it yourself, inspection services, lubricating service, road service, rust --

MR. SMITH: It might have been the other one then. It was one of them I looked at.

CHAIRMAN STRAIN: Well --

MR. SMITH: I'll have to --

COMMISSIONER SCHMITT: So in the staff report, for clarity, everywhere where you have 5541, it should be 5531, if I'm looking at Page 10 --

CHAIRMAN STRAIN: 5531 is --

MR. SMITH: Could have been, yes.

COMMISSIONER SCHMITT: I'm just saying for the record, because this becomes part of the public record --

MR. SMITH: Right.

COMMISSIONER SCHMITT: -- and these errors need to be corrected.

MR. SMITH: Right.

CHAIRMAN STRAIN: Under 5531, it's tire dealers and tire battery accessory dealers and retail. So 5531 would get you the tire facility that you're looking for.

MR. SMITH: Correct.

MS. CRESPO: Excellent.

COMMISSIONER SCHMITT: Alexis, just for clarity now, you stated it would be the site closest to 41; it wouldn't be the building --

MS. CRESPO: Correct.

COMMISSIONER SCHMITT: I'm fine with that.

CHAIRMAN STRAIN: So that would be -- No. 5531 is what number on your list? I want to make sure.

COMMISSIONER SCHMITT: It would be 13.

COMMISSIONER EBERT: Thirteen.

CHAIRMAN STRAIN: Okay. So No. 13 would be restricted to the building along U.S. 41.

COMMISSIONER SCHMITT: It would be far more appropriate than the building in the southeast portion.

CHAIRMAN STRAIN: Okay. I think that gets to the concerns you had about the ones you may not now. What you didn't address are some of the other things. So let's talk about the -- first of all, no car washes. I'm assuming that's -- you're in agreement with that.

MS. CRESPO: Correct. No car wash. That will be added to the prohibited uses on Page 4, as well as communication towers.

CHAIRMAN STRAIN: Okay. What about the outside amplified sound and dining?

MS. CRESPO: In the two commercial buildings we can add either a commitment or add to Exhibit A no amplified outdoor sound associated with the -- any outdoor dining.

Wawa does have a small patio where they have light music that's comparable to what is played inside the station or the food store. And so we'd like the ability to have that music on their patio from 7 a.m. to 10 p.m. and then it be prohibited -- any music associated with that area or the pumps be prohibited from 10 p.m. to 7 a.m.

CHAIRMAN STRAIN: Okay. So if we say no outside dining or amplified sound on nonfuel

facility parcels, and on the fuel facility parcel the amplified sound and outdoor dining sound will be allowed 7 a.m. to 10 p.m. but prohibited otherwise.

MS. CRESPO: We would like the ability to do outdoor dining without amplified music in the commercial buildings.

CHAIRMAN STRAIN: So just no amplified sound.

MS. CRESPO: Correct.

CHAIRMAN STRAIN: So now outside amplified sound on the nonfuel facility parcels; is that right?

MS. CRESPO: Correct.

CHAIRMAN STRAIN: And then on fuel -- on the fuel facility parcels, the sound be allowed 7 a.m. to 10 p.m. only and prohibited after that?

MS. CRESPO: Correct.

CHAIRMAN STRAIN: Okay. What about the height of the lights?

MS. CRESPO: They're asking about the height of the lights.

MR. TREBILCOCK: Thank you. Again, Norm Trebilcock, for the record. And what I'll do is I'll put an exhibit up that may be helpful for us to look at this.

CHAIRMAN STRAIN: Okay.

MR. TREBILCOCK: What we're proposing is sometimes we'll do this on projects where you interface with residential is, say, within 50 feet of the property line go with a 50-foot -- 15-foot mounting height on the lights.

And so what I was going to suggest here is along the west property line and the south property line, along Price Street, within 50 feet of that, have 15-foot mounting height, and then elsewhere it would be to the standard per the code.

CHAIRMAN STRAIN: Well, that makes it better.

MR. TREBILCOCK: Okay, thank you. And, also, I just wanted to follow up on the right-of-way exhibit. We're okay having that as an exhibit like you had mentioned as well, so I can --

CHAIRMAN STRAIN: It would be as conceptual, but --

MR. TREBILCOCK: Yes; yes, sir, yeah. Because it's really based on their final study, but we're comfortable with that. And it's specified, too, in the PUD. I double-checked with Mike, and it's called out there as well.

CHAIRMAN STRAIN: Okay, thank you.

MR. TREBILCOCK: You're welcome.

COMMISSIONER HOMIAK: Does that show the entrance from 41?

MR. TREBILCOCK: This does not, no, no. It shows in the -- it should show on the PUD master plan there our 41 access point.

COMMISSIONER HOMIAK: Well, I see the access point, but I don't see a deceleration lane.

CHAIRMAN STRAIN: You've got use the mike if you -- there you go.

MR. TREBILCOCK: You can see -- perfect.

Right there, this sliver along here, that's a right turn lane, right there.

COMMISSIONER HOMIAK: That sliver?

MR. TREBILCOCK: You see that?

COMMISSIONER HOMIAK: No.

MR. TREBILCOCK: I'm sorry. Right here -- do you see this right here? This is the right turn lane. I'll put it on there. Right there.

COMMISSIONER HOMIAK: That's not Price Street. That's 41.

MR. TREBILCOCK: Right.

COMMISSIONER HOMIAK: Into the property. There's no deceleration lane there. It's just right off --

MR. TREBILCOCK: No, no there is.

CHAIRMAN STRAIN: He just pointed at it. See where the arrows are? That starts your deceleration lane, then it goes all the way down to Price Street, so it goes right past that entrance. So you

decel into that lane, and you pick up their entrance, and you go past it and pick up Price Street. I think that's what he's trying to say.

COMMISSIONER HOMIAK: Okay. Well, there isn't one there now.

MR. TREBILCOCK: No. There is a dedicated right turn lane there. There is now. There is.

CHAIRMAN STRAIN: I went down there yesterday.

MR. TREBILCOCK: Yeah, there is.

CHAIRMAN STRAIN: It just looks like it's another lane on 41 it's so long.

MR. TREBILCOCK: Right, it's so long, absolutely.

CHAIRMAN STRAIN: It goes all the way back past their entrance.

MR. TREBILCOCK: Yeah. And there's a physical driveway connection to the property today, and so there's a right turn lane. It may appear to be -- like right now it appears to be a continuous right turn lane. And between the county and the DOT, they're looking at the appropriate treatment for that, you know, how to, you know, gore (sic) it or island or something like that.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHMITT: I just want to correct. Norm, we're done. I'm just making sure. The comment he made to Mr. Smith about 5541 on Page 10 again, I believe that should be 5541, not 5531, as I -- because it is an automotive service. But I want to get clarity on the other prohibited uses or at least what staff has said, and that had to do with automotive marine repair and oil services and minor repair. Where do those fall under? You wrote the report, and you're saying those are not compatible.

MR. SMITH: Correct. Those are the uses that I thought would possibly be incompatible next to residential, that's a correct statement.

COMMISSIONER EBERT: Within that SIC code.

COMMISSIONER SCHMITT: Was that with -- but the report says not within 250 feet of Price Street, staff believes that -- of course, you went on. And although staff can support some of the uses under 5541 and 7699 category, the following uses may be determined a detriment considering these uses sometimes have obnoxious (sic) noise and fumes, and you list them.

MR. SMITH: That's correct.

COMMISSIONER SCHMITT: Does the applicant agree with these? Because I have difficulty, again, looking at her list versus your recommendation in the staff report.

CHAIRMAN STRAIN: Are you listening, Alexis? Joe just asked you a question.

MS. CRESPO: Okay.

CHAIRMAN STRAIN: Maybe you'll have to ask it again, Joe.

COMMISSIONER SCHMITT: In the staff report, Alexis, Page 10 -- and we were batting around whether it was 5541 or 5531. I believe the 5541 in the staff report is, in fact, correct. And then there's a list, gasoline service stations, and then it lists the uses that they do not believe are compatible.

Now, we've already talked about tire repair, so we're good with that, but what about automotive and marine repair and oil services and minor repair? We're talking -- we've already discussed car washes, so that's not an issue.

So the oil services, is there still an intent for some kind of minor oil change Jiffy Lube or some other type of service?

MS. CRESPO: Tire Kingdom does offer oil changes --

COMMISSIONER SCHMITT: Okay.

MS. CRESPO: -- so as long as we can have that one user in the building closest to 41 --

COMMISSIONER SCHMITT: I just want to make that clear then. Okay, fine. That's clear, because if we just tire -- because they do oil service.

What about marine repair?

MS. CRESPO: (Shakes head.)

COMMISSIONER SCHMITT: I'm good.

CHAIRMAN STRAIN: And this is going to be --

COMMISSIONER SCHMITT: Sorry to beat that horse to death.

CHAIRMAN STRAIN: That's okay. This is going to take longer than I had anticipated. I was

hoping to wrap it up before break. I think we're going to be better off giving the court reporter a break. She already looks like she's got --

UNIDENTIFIED SPEAKER: Could I ask a question?

CHAIRMAN STRAIN: We're going to wait. We're going to take a break, first. We'll be back at 10:55. Thank you.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay. If everybody will please take their seats. And, Alexis, I think we left off discussing some cleanup items with you or Norm. I think it was one of you. I still have questions of you, Alexis, so don't worry. You're not going to get out of it that easy.

The one thing you haven't answered yet is the dumpster locations. I know you thought I'd forget, but -- I might; the computer won't.

MS. CRESPO: Brendan Sloan will --

MR. SLOAN: Hello, Brendan Sloan, Waldrop Engineering, civil engineer, again.

In discussion with the applicant, 80 feet from the Price Street right-of-way, we're okay with that separation.

CHAIRMAN STRAIN: Thank you.

COMMISSIONER EBERT: Thank you.

CHAIRMAN STRAIN: Okay. It looks like we've cleaned up everything that I can see that I -- I'm just looking at it all right now, and I think we've got all the questions that I had made a note of that weren't answered.

Does anybody else on the Planning Commission have any other issues?

(No response.)

CHAIRMAN STRAIN: Nope. Okay. Thank you, Alexis.

We've had staff report. We've had a public discussion. I'm assuming there's a rebuttal. Do you need a rebuttal, Mr. Anderson?

MR. ANDERSON: No. We have had a request from one of the Planning Commissioners to have a representative of Wawa come up and explain the history of the company, very brief.

CHAIRMAN STRAIN: What has that got to do with the LDC?

COMMISSIONER EBERT: I just asked if he would, as a courtesy.

CHAIRMAN STRAIN: I would rather not spend time on things outside of the Land Development Code if we don't need to. What does the Board want -- did you -- it's your district, Karen. Did you have a need to know what Wawa does or history of the Wawa?

COMMISSIONER HOMIAK: Sell gas.

CHAIRMAN STRAIN: We've got another case we've got to get to, and I'd rather not -- if it's Ms. Ebert, please, would one of you get together with her after the meeting and explain to her what Wawa does.

COMMISSIONER EBERT: I already looked it up.

CHAIRMAN STRAIN: Okay. Well, if you already looked it up, then why do we need to do that? Okay.

COMMISSIONER EBERT: Sometimes it's just nice to be nice.

CHAIRMAN STRAIN: We have plenty of time to be nice within the confines of the Land Development Code.

With that, we'll close the public hearing and we'll go into discussion and then motion. I don't know what the preference --

COMMISSIONER HOMIAK: I'd like to see the --

COMMISSIONER CHRZANOWSKI: Staff reports.

COMMISSIONER HOMIAK: -- not see the wall.

CHAIRMAN STRAIN: We went through already.

COMMISSIONER CHRZANOWSKI: We did?

COMMISSIONER SCHMITT: Yes.

CHAIRMAN STRAIN: That was when you were sleeping over there.

COMMISSIONER CHRZANOWSKI: I thought -- I thought I was going to get something from

water, but no, okay.

CHAIRMAN STRAIN: Well, you didn't ask for anything. We had Dan and then --

COMMISSIONER CHRZANOWSKI: Never mind. Never mind. I already talked to Jerry.

CHAIRMAN STRAIN: Okay.

I'm sorry. Karen, did you have something else?

COMMISSIONER HOMIAK: Yeah. I'd like to -- I don't want to see the wall going away or a deviation.

CHAIRMAN STRAIN: Well, then we can vote on it accordingly.

COMMISSIONER HOMIAK: I think it's -- I mean, there's plantings on the other side of it, so I don't see why -- it's going to be there for a long time. It's going to be a lot of noise.

CHAIRMAN STRAIN: Okay. The party that is affected by it and the neighborhood at the NIM didn't want the wall. They wanted vegetation instead.

COMMISSIONER HOMIAK: That was just one man.

CHAIRMAN STRAIN: Well, he's the only guy that's affected by it.

COMMISSIONER HOMIAK: Well, the noise is going to carry. It's not just to his property.

CHAIRMAN STRAIN: Okay. Well, let's -- okay. So anybody else?

(No response.)

CHAIRMAN STRAIN: I've got a list of things that we need to decide on how we want to incorporate them or not into a stipulation. And I'll -- the first one was the Deviation 1, which is secondary facade. They asked for a deviation for that. I mean, I don't know if there's any -- I don't see any issues with it, but somebody else might. The Deviation No. 2 was the west buffer requesting enhance the buffer with the material and not have the wall consistent with the letter that was received in the NIM. I mean, if -- I don't have a problem with it; I know that Karen does. So we probably will vote on that one separately.

Deviation 3, remove the internal buffers between the two buildings. That certainly seems to make sense. I don't know if -- and as I go along, if you guys object, just say something.

Remove the references to the stories and the height that are on the master plan because it's in the Development Standards Table. Remove the automotive service station reference and note that it's a convenience store with fuel pumps or however, but it's not an automobile service station as we tend to know them.

Apply the Staff Note No. 4 to the building at Price Street only, and that's the one with the restrictions. The dumpster locations -- I mean, that's the one -- the restrictions would have -- would apply to the one along Price Street, but not the one on 41.

The dumpster locations will be a minimum of 80 feet from the Price Street right-of-way.

We're going to change the staff restriction on auto repair, and I'll read that as we move into the next one. That had -- we're going to -- we're going to use auto repair at 7549; was that the number we decided on? Dan?

MR. SMITH: I'm sorry.

CHAIRMAN STRAIN: Auto repair, the restrictive one is 7549?

MR. SMITH: Correct, 7549 is the -- yep, that's the restricted one.

CHAIRMAN STRAIN: That was the request. Okay. And then 7699.

So that -- Item No. 4, we are accepting as a recommendation, but it will be restricted to the Price Street building, not the building on 41.

Then the following change is to the overall uses allowed in the project. Remove Use 9; remove Use 13 along U.S. 41 only; remove Use 27; remove 28 for on-customer premises only; remove 31, 34, 37, 42, 45, 46, 49, 50, 66 -- and 66 meaning no No. 8093. The rest of it's okay -- 76, 77, 80, 101 for employee leasing only, 110, 117, 119 for no 8734; 120, except no gravestones, tombstones, et cetera; 127, 130, 131, 132 for no 7929; 135 for no 0741; remove the SIC code references on the prohibited uses; prohibit car washes and communication towers.

There will be no outside amplified sound on non-fuel facility parcels, and on the fuel facility parcel, the outside amplified sound will be allowed from 7 a.m. to 10 p.m. only. It's prohibited after that.

We'll restrict the parking lots to a maximum height of 15 -- parking lot lighting to a maximum height

of 15 feet within -- when within 50 feet of the property line on the west and south, and we're going to add the exhibit for the additional right-of-way conceptual plan that was discussed here at this meeting to the PUD. That's the notes I made.

And I think the only one that any of us have any disagreement on is the Deviation No. 2 on the west buffer, so what I'd like to do is we can discuss that or vote on that separately and then go to the rest of it. Joe?

COMMISSIONER SCHMITT: I just would like to talk about the design standards deviation in the plan that is provided in our packet and that shows the east elevation. That is the intent of the final design that included the deviation; is that correct?

MS. CRESPO: That's correct.

COMMISSIONER SCHMITT: And how do you see that changing if, in fact, you did not have the deviation? You would have to put -- create that as a similar facade to the other -- to the front -- with full windows of some sort or some other type of design?

MR. SMITH: If I may, I have -- Peter, our architect, can answer.

COMMISSIONER SCHMITT: Okay.

MS. CRESPO: The real issue is it wouldn't be -- we couldn't have our loading. The secondary facade allows you to have your loading area on that side of the building, and so it would force us to put our loading on the west side of the building which is oriented more towards U.S. 41. So that would be the ultimate effect of that.

COMMISSIONER SCHMITT: Yeah, if I remember the architectural standards, it would -- and I'll wait for Peter to discuss it.

CHAIRMAN STRAIN: They were updated radically.

COMMISSIONER SCHMITT: Radically.

CHAIRMAN STRAIN: And it's not even incorporated into MUNI code yet.

MR. SHAWINSKY: For the record, Peter Shawinsky, architect with development review.

I'd just like to address this for clarification for the Board, if I may. In a PUD the code states that a building is to have four primary facades. One is allowed to be secondary, and that's typically to internal of the site. This particular facade does face Price Street, and that was the reason for our objection.

The facade, as you know, is this one right here. And the exhibit, which I believe you may have in your packet --

COMMISSIONER SCHMITT: Yes.

MR. SHAWINSKY: -- is this facade. The SDP, when it was submitted for review, it was under the previous LDC. And a primary facade requires two design elements. Those design elements are covered entry and tower element. This particular facade, when we review it, has those two elements with the exception of the glazing requirement for those elements.

So if they were to increase the glazing on this facade -- or the code also allows planted trellises to take the place of glazing. If planted trellises were added to this facade, this particular facade would meet the primary standards of the code.

In speaking to the view of that particular facade, if I may, currently here's the site. As the gentleman earlier mentioned, it's heavily vegetated. Our concern is that once this site has been cleared, you're going to have views from this intersection as well as all along Price Street.

And in talking about the possible rotary on Price Street, that further opens that part of the parcel to view of that facade.

Another view, looking at the current front of the property from that intersection, the general location of the building is going to be right here.

Moving on down Price Street, again, this is a view just as you turn onto Price Street. There's your bank building. This is the area for the fuel pumps and the building beyond that.

So it was our opinion that the building is close to meeting the current primary standards as it is now. The proposed site, from looking at the plantings around the building, this facade here is void of any foundation plantings, building foundation plantings.

I cannot 100 percent speak to that section of the code. But if additional plantings were required

there, the addition of the trellis, that would bring that elevation to primary facade standards.

In one other picture I'd like to share with you, Wawa does have a very nice building. All their buildings are identical. This particular facility is in Fort Myers in a similar situation. This facade here is the one in question on Price Street. I cannot speak to the landscaping or the buffering requirements to Lee County, but you can see based on the size of the building and the orientation, it is visual.

And one last, if I may, this particular facility is also in Fort Myers. It's on Colonial Boulevard. It's approximately the same distance back looking at the facility. Again, I cannot speak to the landscaping requirements, but this facade right here, with that little notch that you see, is the access to the roof, and that's the facade in question.

So the determination that that facade cannot be seen and would not be considered a primary facade is the reason for our decision.

COMMISSIONER SCHMITT: Thank you. That was a lot more detail than I really asked for, but that was a good review.

My only concern is, why -- and I guess that would have to be the applicant. Why do we have an ice storage located on that side of the building? I don't understand what the purpose of that is other than it's an ice storage. Is that for shop -- for folks who are buying large quantities of ice, and that's where it's going to be stored?

MS. CRESPO: I believe that's for the employees -- employees of the food store to get supplies. So it's not for the public to access.

Scott Gerald is here with Wawa, and he can speak to some of the issues with those features and having loading area on that side of the building.

MR. GERALD: So the exterior ice storage is only for storage of ice. No retail use.

COMMISSIONER SCHMITT: No retail.

MR. GERALD: So the vendor delivers directly into that box, and then ice is sold out of our freezers inside, but there's simply not enough freezer space to store the ice inside, so...

COMMISSIONER SCHMITT: Again, I have no problem with the request for the deviation. I think it would be screened well enough by the bank building. I would just -- I think it may be appropriate to just add a little bit more planting or whatever just to cover some of that what I would call the -- well, at least the ice storage and the ladder and such to maybe just some kind of plantings around there. But other than that, I have no problem with that. I think it's going to be blocked by the existing bank site.

CHAIRMAN STRAIN: Well, that's not what the deviation is suggesting. So either we except the deviation or we look at what you're proposing, one or the other. Because what you're proposing would be contrary to the deviation. So I don't know which way you want to go, but...

COMMISSIONER SCHMITT: I'm fine with the deviation.

CHAIRMAN STRAIN: Okay. And I just have a comment. I mean, the idea of having primary facades around every business side is really detrimental to the business viewpoint of things. You've got to have some part of building more utilitarian than every fluffy facade.

So I don't know how or why the code insists on it. I mean, I know it does. Somehow that's just not common sense, and you've got to have access to buildings. Not all the time will they be able to meet their primary facade standards. And in this particular case, I think they've done a good job in trying to do it the best they could.

So with that, if there's no other questions or comments, we need a motion. If there's still --

COMMISSIONER CHRZANOWSKI: I have a question.

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER CHRZANOWSKI: I just want some clarification from Jerry Kurtz that he's satisfied with the canal bank treatment that they're going to use. And you can just say from back there "yes."

CHAIRMAN STRAIN: No, he can't. He's got to be on record. And we need to ask these kind of things prior to closing the public hearing, so we definitely --

COMMISSIONER CHRZANOWSKI: I missed that. I'm sorry. I was asleep.

CHAIRMAN STRAIN: No problem.

MR. KURTZ: Good morning, Jerry Kurtz, for the record, Stormwater Planning manager.

The -- we're looking at the canal bank treatment, and there's a couple options. Both will be fine and adequate; there should be no issues with either option being discussed. So we're fine.

COMMISSIONER CHRZANOWSKI: Good, thanks.

MR. KURTZ: You're welcome.

CHAIRMAN STRAIN: Okay. Are there any other questions? Then we will close the public hearing again, and we will -- we had discussion and issues were read off.

I want to ask -- before we take the vote I read off about 12 or so different stipulations. The three -- I don't know -- I haven't heard any objections to them except for Deviation 3, which I think we've resolved. Deviation -- or Deviation 1, which I thought -- I think we resolved, which is the secondary facade. The Deviation 2, is there still an objection to that one? Because if there is, we'll have to separately vote on it. I don't want to lump it together with the whole project.

COMMISSIONER HOMIAK: I do have an objection. I think it's part of our new code, and I think it should be there.

CHAIRMAN STRAIN: Okay. So with that, let's start with the vote on Deviation No. 2 first, and then we'll vote on the rest of it as part of the PUD.

COMMISSIONER EBERT: So Deviation 2 is the wall?

CHAIRMAN STRAIN: Deviation 2 is the west buffer facing the residential parcel off -- across the canal. And the applicant is asking for a deviation not to put a wall in. He is going to add the enhancements to the landscaping in lieu of that.

So with that in mind, does anybody have any further discussion on Deviation No. 2?

COMMISSIONER EBERT: Yes, because the gentleman was here that faces that and he didn't want it. We've made exception before when the person that is affected -- he has left now. But the person affected has agreed to the buffer zone.

COMMISSIONER HOMIAK: This is going to be there for a long time.

COMMISSIONER SCHMITT: And I support the deviation as well. I think the deviation with the enhanced -- the buffer and with the distance between the residential community plus the fact that it borders the Henderson Creek, I'm fine with the deviation as requested.

CHAIRMAN STRAIN: Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. All those in favor of Deviation No. 2, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN STRAIN: Anybody opposed?

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Motion carries 4-1. So Deviation No. 2 was supported by the majority as one opposition, so when you go to the board, you'll have to deal with it now.

As far as the overall PUD, the rest of the elements that were read on record previously, Deviation 1, Deviation 3, and all the other limitations and use references and all that, is there any further discussion on those?

(No response.)

COMMISSIONER SCHMITT: No. I make a motion to approve Deviations 1 and 3 and to include the list as presented by the chair in regards to the amendments and adjustments to the ordinance as discussed.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER EBERT: Second. I'll second.

CHAIRMAN STRAIN: Seconded by Diane. Discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 5-0.

So that cleans that one up. We'll see you at the Board. Good luck at the board level.

MR. SMITH: Thank you.

CHAIRMAN STRAIN: Thank you.

Okay. We are going to take a lunch break depending on where we are with this one. If we look close -- to finish it, maybe we'll decide to just take a regular break and work through lunch. But in the meantime, we'll move on to the next item up for today.

***9A is the next item up. It's PUDA-PL20160000787. It's the Orange Blossom Ranch Planned Unit Development. It's on the north side of Oil Well Road.

All those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter. (The speakers were duly sworn and indicated in the affirmative.)

CHAIRMAN STRAIN: Thank you.

Disclosures on the part of the Planning Commission. We'll start on the end with Tom.

MR. EASTMAN: None.

CHAIRMAN STRAIN: Okay. Stan?

COMMISSIONER CHRZANOWSKI: I talked to staff, and I don't think I talked to anybody else.

CHAIRMAN STRAIN: Okay. Diane?

COMMISSIONER EBERT: None.

CHAIRMAN STRAIN: I've talked with staff. I've also talked with the applicant a couple times on the phone and once in a meeting yesterday, various representatives of the applicant as well.

Karen?

COMMISSIONER HOMIAK: Nothing.

CHAIRMAN STRAIN: Joe?

COMMISSIONER SCHMITT: None.

CHAIRMAN STRAIN: Okay. With that, we'll need a presentation by whoever would like to make the presentation.

MR. ANDERSON: Good morning, Mr. Chairman, Commissioners. My name is Bruce Anderson from the Cheffy Passidomo Law Firm. And this PUD amendment is to explicitly recognize and authorize an activity that has occurred on this property under a prior owner, and that is scraping down the property solely for the purpose of residential development and having the dirt that was scraped hauled offsite and sold to others.

This operation, the scraping down, is limited to a four-year period after it commences. And there is also a modification of a landscape buffer that is proposed. And I will ask -- I was remiss. I failed to introduce Carl Barraco and Steve Coleman from Barraco Engineering.

And I'll turn this over to Steve Coleman to go into some more detail.

CHAIRMAN STRAIN: Nothing against Mr. Coleman, but it was Mr. Barraco who delayed us all this morning, correct?

MR. COLEMAN: Correct.

CHAIRMAN STRAIN: Couldn't let you get away with that.

MR. ANDERSON: That's why he's not testifying.

COMMISSIONER SCHMITT: Based on that, do we make a motion --

CHAIRMAN STRAIN: It would fit right in.

MR. COLEMAN: Good morning. For the record, Steven Coleman, Barraco & Associates representing the applicant.

Just to give everybody an idea of our project location, the PUD is off of Oil Well Road. It covers both the north and south side. It is east of the Palmetto Ridge High School and west of the Golden Gate

Canal.

The proposed master plan really has been -- it's not really a change to what the existing master plan was. There were some updates that we did to reflect current conditions on the project as well as approvals that we've received from Collier County. And, actually, let me use your monitor here.

So the updates are to these areas here, which are existing single-family residence, same as this over here, and the lake configurations have also been updated to reflect the approvals that we have currently through Collier County on the PPL approvals.

The first change that we're proposing is not really a change. It's more of a clarification to the landscape buffers. The previous plan had Type B landscape buffers surrounding the entire perimeter, and through coordination with staff it was discovered that the reason why those Type Bs were shown was because there was a multifamily use associated with the PUD.

So we really clarified the buffers to be just a 15-foot buffer, and whether it's going to be single-family or multifamily use that's going to be adjacent to the perimeter, the Land Development Code will control.

So, for example, the buffers that are along the existing portions of the PUD, those have been updated to reflect what was currently -- or what was previously approved and what is installed as part of the first phase of Orange Blossom. The additional perimeter buffers are noted around, and they're just called buffer types, and Note 5 is included to specify the type of landscape buffer material will be determined at the time of Site Development Plan or plat review on the LDC at the time of such application.

The next item as part of the amendment is the removal of the excess soil from the site. There is approximately 1.3 million cubic yards of soil removal that will need to occur from the site, and the reason for that is twofold: One, the existing development had previously been authorized to remove material from the site. So in order for the newer parts of the development to comply -- not comply, but to really aesthetically look the same, we're going to have to do the same thing on this site.

There's about two feet of overburden on the site that will have to be scraped as well as the excavation of the water management lakes.

The haul site, or the haul access to and from the site will be from the southwest -- will be from the southwest corner of the north parcel. There is an existing stabilized access road that is utilized -- was utilized as part of the previous orange groves operation, and it's also a construction access for Collier County to maintain their canal.

And then on the south side of Oil Well Road, it's essentially a few hundred feet north of where the north side would be. So both access points are away from the existing residential development. That was one item that got brought up at the NIM meeting was where are the trucks going to be accessing the site. So we did clarify that it will be away from the existing residents and also will not utilize the main entrances to each project.

The next item is the work area on the -- the working drawing worked out really well. We were able to show a crosshatch of the areas that are to be scraped and also the lake areas that will be dug.

As I previously said, there's plus-or-minus two feet of overburden on the site that has to be removed and also the lake excavation for water management criteria.

The hauling activities will be limited Monday through Saturday, 7 a.m. to 5 p.m. We do have truck limits during peak hours. I believe it's 11 trucks during the peak hour.

And the time frame that we have is -- I believe it's two years for the north side, two years for the south side with those two years starting when each respective phase or parcel removes the first bit of material from the site.

And with that, I will answer any questions that you have.

CHAIRMAN STRAIN: Okay. Questions of the Planning Commission? Looks like I'll start it out then. What is the -- well, what is the depth you're digging these lakes to?

MR. COLEMAN: The water management permit has the approval to go to 20, and I believe our excavation permits have the ability to go to 20. The majority of these lakes cannot physically be dug to 20 lakes -- or 20-foot deep, though.

CHAIRMAN STRAIN: Okay. Could you -- there's a couple details you had concerning a typical

perimeter berm. Can you take a -- do you have that somewhere you can put on the overhead, or do you have a slide for it or something?

Ray, could you switch -- oh, okay. Someone will do it.

Over on the right -- left side of that page, I think you have a couple -- actually, you have it as a -- well, there they are, but you have it as a separate sheet in the staff report.

It's on Page 21 of the staff report, but we can see it here. See the control elevation lower left side? That's at 13 feet? Yep.

MR. COLEMAN: Correct.

CHAIRMAN STRAIN: See the bottom of the lake; it's at one foot. So that's 12 feet, right?

MR. COLEMAN: Yes, it is.

CHAIRMAN STRAIN: Okay. See where it says typical lake cross-section, design depth, maximum allow -- maximum allowable bottom elevation five feet. So that means you can go to eight feet. But the diagram's contradictory so it says one foot.

So you can go 12 feet total. How do you get to 20 feet regardless of what South Florida wants when you have a PUD that restricts you to 12 feet?

MR. COLEMAN: That could be a typographical error.

CHAIRMAN STRAIN: No, it's not. It's repeated a couple of times. That's why I'm wondering -- and you repeated it in the new documents that you gave us that are attached to the staff report.

So why are you -- why is it -- why are you guys -- well, first of all, you dug a lot of material and took it off this inconsistent with the PUD.

MR. ANDERSON: We did not.

CHAIRMAN STRAIN: Yes, you did. And now you've got a control elevation of 13 feet on the lake bottom that tells you you've got about 12-foot of depth. But you're telling me you're digging to 20 feet. How do you get there?

MR. COLEMAN: Like I said, we can look at it, but I'm fairly confident that the original PUD had lake depths going to 20 feet.

CHAIRMAN STRAIN: Well, can you show them to me? I'm just going by the diagram I'm looking at here. If you're trying to see a clear copy of that, I went to the records department and got a clear copy, and it says exactly the same thing the other one said.

MR. COLEMAN: Okay.

CHAIRMAN STRAIN: So I'm just trying to understand -- yes, you acknowledge you had other permits that allowed you to go deeper. Why is the PUD being violated in that regard then?

MR. COLEMAN: To be honest with you, I'm not sure the PUD got violated. I was always under the impression that it was at 20 feet, and I thought we had PUD documents that showed that. But if we need to amend our documents to go to 20 feet, we can certainly do that.

CHAIRMAN STRAIN: It's -- I don't know what to tell you. I just know that if the PUD says 20 feet, you should -- I mean, this dimension here, I don't know why you would dig deeper and get a permit from Collier County at a deeper depth. Is there any county personnel here who would have any knowledge of this?

Matt, you're in charge of the engineering department.

MR. COLEMAN: There is a nutrient-loading criteria that we have to meet as well that is dependent on lake-depth volume.

CHAIRMAN STRAIN: Well, I'm more concerned about being consistent with the PUD. I already know that we haven't been in other regards, and I'd like to understand why this one doesn't seem to have been met. And maybe there's an explanation. I just would like it.

MR. McLEAN: Matt McLean for the record. I'm not certain, Mark. I haven't analyzed all of that information directly. A lot of these permits we're talking about were permitted and approved back in 2005 and '6 prior to my time at the county.

CHAIRMAN STRAIN: Okay. And, Matt, the other thing I noticed in the staff report is that the buffers on the PUD had required Type B buffers, but one of the staff comments says that we've been allowing by plat Type A buffers, which is -- how did we do that when the PUD says Type B? Do you know? I

mean, that's before your time, but these things I would have expected answers to today, and I don't know if I'm going to get them or not. If you don't know them, I don't know who might. But we've got two consistent errors here.

MR. McLEAN: Again, Mark, you know, I don't have an answer for you on those two particular questions. It was prior to my time here at the county.

CHAIRMAN STRAIN: Okay. Is it something you'll be able to research and figure out?

MR. McLEAN: Absolutely.

CHAIRMAN STRAIN: Okay. Thank you. I don't know what to do about this change in depth because, first of all, I understand you are blasting out there.

MR. COLEMAN: Correct.

CHAIRMAN STRAIN: Do you have any soil borings to show me why you're blasting?

MR. COLEMAN: Not on me, we do not.

CHAIRMAN STRAIN: Do you know what layer you're hitting, the depth of the layer is that you're blasting through?

MR. COLEMAN: The rock, it's sporadic throughout the site, but on average it's about 10 feet below the existing grade of the site.

CHAIRMAN STRAIN: Existing grade being 14?

MR. COLEMAN: The existing grade being around 16 or 17.

CHAIRMAN STRAIN: So you've got -- you've got borings -- and it's not a confining layer? It's just rock?

MR. COLEMAN: I do not know that off the top of my head what it is.

CHAIRMAN STRAIN: Okay. You're prohibited from going through a confining layer by Section 2.5 of the PUD, I believe. So if you don't know that, then that poses another problem. But let me get to that section of the PUD and check it out.

MR. BARRACO: Mr. Chairman --

CHAIRMAN STRAIN: Yes.

MR. BARRACO: -- Carl Barraco, if you'd like for me to answer the confining layer --

CHAIRMAN STRAIN: Sure.

MR. BARRACO: -- I'd be happy to do that. It's rock, but it's fractured rock. It's not a confining layer.

CHAIRMAN STRAIN: Okay. That's what I was looking for. There was a reference to -- not penetrating a confining layer somewhere in your documents, I just don't know where offhand.

I'm a bit concerned, and maybe it's a question of the County Attorney's Office. If the PUD has the details showing a depth but we've got testimony showing that they've got permits to go to a deeper depth, what's supposed to control?

MS. ASHTON-CICKO: Well, the PUD should be reconciled to reflect their request to go to 20. That should be part of the request.

CHAIRMAN STRAIN: Okay. And is that something that would have to be advertised?

MS. ASHTON-CICKO: We didn't include the depths in the advertising, so I would say no.

CHAIRMAN STRAIN: Somebody else have a question? Oh, Tom?

MR. EASTMAN: Thank you, Mr. Chairman. With respect to the traffic coming off of this site and its potential impact on the school district, we have a very busy time for arrival and dismissal. And I was just wondering if you'd be willing to coordinate those times so that you're not in conflict with that traffic.

And then also with respect to the blasting, I know of no complaints if you've been doing blasting, but there's the potential for conflict with students learning at the high school site and blasting going on next door. And, again, that would merely mean coordination of the timing as to when those activities take place.

So are you willing to work with the school district to discuss the timing of those activities, both the traffic and the blasting?

MR. COLEMAN: Yes, I believe we are.

To answer your question regarding the blasting, blasting has been ongoing for several months now. It occurs towards the end of the day, usually between 2:45 and 3:00, and I believe high schools might have let

out by those times. So to answer your question on the timing of the blasting, it's usually between 2:45 and 3:00 o'clock every day.

COMMISSIONER CHRZANOWSKI: Yeah, because they're not allowed to leave the stuff in the hole overnight, and they start drilling in the morning, they fill the holes during the day, and they blast them at night.

MR. COLEMAN: Correct. And there is a blasting buffer zone around the school as well, so we're not allowed to blast I believe it's within a thousand feet of the school.

CHAIRMAN STRAIN: Is someone from staff knowledgeable enough to tell me what the minimum depth that's needed for a lake in Collier County?

COMMISSIONER CHRZANOWSKI: Could I say something?

CHAIRMAN STRAIN: Sure.

COMMISSIONER CHRZANOWSKI: In the Water Management District criteria they recommend that a portion or substantial portion of your lake be deeper than 12 feet. It's always been a point of contention, because there were factions in the county that liked shallow lakes, but the district wanted a portion of the -- a large portion of the lake deeper than 12 feet up to 20 feet.

So when we were doing this, 20 feet was a generally-accepted depth, and if you wanted to go deeper than that, you had to prove that you weren't going to cause any damage. That's why you have these sand mines like the one we looked at. They go 80 feet deep. Willow Run goes 50 feet deep. All these lakes out here at Orange Blossom are blasted in -- the lakes to the west of you are all blasted into rock.

There -- like Carl said, there are no -- confining layers -- the rock around here is so fractured, it's one of the jokes about sea level rise. If you built a wall along the coast, it wouldn't matter because the sea would just come in under the wall and up through the ground.

So the rock here is so fractured that there's a tie between the surface water table and a succession of groundwater tables that are below. They're all -- you have a term called an aquiclude which -- an aquitard retards flow between the aquifers, and an aquiclude prevents flow between the aquifers.

Well, a true aquiclude would be like a clay layer where nothing penetrates, but the stuff around here, it's all fractured rock, and stuff penetrates between the layers. When the rain falls, it goes down and keeps going down through the semi-confining layers.

So, you know, I'm not all that concerned about them penetrating anything. I wouldn't be all that concerned about them going 20 feet, 30 feet, whatever. But, you know, the deeper you go, you start running into problems with the code about lake banks, slopes, so -- and it gets a little harder to bring the material up.

I'm just curious about something. You said you had two feet of overburden that you're pulling out, and one square mile 1-foot deep is a million cubic yards. And I'm looking at a map that shows roughly a square mile, and -- you know, between all the area you say has to be scalped, whatever, cleared. And at 2-foot deep, to me that would be like two million cubic yards right off the top. So is -- and then you've got the lakes on top of that.

Have you done your numbers correctly?

MR. COLEMAN: Yes. It's a plus or minus 2-foot. It could be two feet over the roads. It could be one foot over the lots.

COMMISSIONER CHRZANOWSKI: Oh, okay.

MR. COLEMAN: It's -- the elevations vary.

COMMISSIONER CHRZANOWSKI: Okay. So it's a maximum of a 2-foot, but it might be down to zero in some places.

MR. COLEMAN: It could be, and there are some areas that require fill. It was an existing orange grove. There's ag ditches.

COMMISSIONER CHRZANOWSKI: Yeah, that's right. Jerry and I were looking at the LiDAR, and it shows a lot of furrows up and down.

MR. COLEMAN: Correct.

COMMISSIONER CHRZANOWSKI: So you might be 2-foot max and half a foot at the bottom. Okay. That's starting to make sense now.

CHAIRMAN STRAIN: Let me address your first statements. I am not concerned about the depth

from the perspective that you spoke. I am concerned about the depth in relationship to what was approved by the PUD, and that's all.

COMMISSIONER CHRZANOWSKI: Okay.

CHAIRMAN STRAIN: Now, if they want to go deeper, that's fine. I need to see the boring logs and other things to understand why it's necessary to go deeper, but I am concerned that the PUD had a certain statement in it. It was approved that way back when it was first approved. It was -- not only that, it was refreshed when they rewrote it and just resubmitted it with this document, and now they're saying they're not doing that.

COMMISSIONER CHRZANOWSKI: Okay. You're approaching from legal point of view, and I'm telling you from the engineering point of view I don't have a lot of concern with this, but if the legal point of view has been violated, then that's a problem.

CHAIRMAN STRAIN: And who knows -- and, you know, Stan, from my history, there isn't -- I rarely would ever have dug a lake that shallow. I would have dug it deeper. But the point is, if this was a PUD that I had been involved in, I wouldn't have allowed that detail to be there. And the fact that they have -- and not only that, they rewrote it on a new submittal. I'm just wondering why, then, are they telling us they're going to 20 feet? It's not consistent, and it's bothersome, and that's my piece. And the reason it's bothersome --

COMMISSIONER CHRZANOWSKI: And it's a legal part, so I'm staying out of that.

CHAIRMAN STRAIN: Well, it piles -- it dovetails into another issue. You're asking for what was stated to be scraping off the property necessary for bringing it down to whatever level you want to take it but, yet, you're digging these lakes deeper than are needed.

Where are you digging more material if you're not using it on site? The original intent of this PUD was clear. You were allowed to take material from these lakes and move it across Oil Well Road to the south side and fill your site normally with what's called development lakes. They weren't considered commercial lakes.

You are now asking for a commercial excavation, which is a different threshold. But why are we asking for it when it's not needed to clear the depth needed for minimum depth on these lakes? I mean, I'm just -- I don't understand. You're creating excess material purposely for what? To sell? I mean, is that what you're doing? Then let's just get that on the record.

MR. COLEMAN: The depth issue is a nutrient-loading question. And I think Carl can speak more to the engineering sides of the nutrient loading and the depths of the lakes.

CHAIRMAN STRAIN: And I'll need staff to verify that our minimum lake depth, then, is insufficient to meet nutrient loading. And if that's the case, then we've got a problem with our code. So either we're right or you're right, and I'm curious to get to the bottom of it.

MR. BARRACO: Mr. Chairman, may I address? Carl Barraco, for the record.

CHAIRMAN STRAIN: Yeah, of course.

MR. BARRACO: There is -- the resonance time of water entering a management lake is related to nutrient removal. That is not to say that a 12-foot lake can -- you can achieve minimum nutrient-loading removal with 12 feet. You may or not be. It's on a case-by-case basis.

What I can tell you is -- so that your code may be just fine. There may be instances where you can meet nutrient loading with a 12-foot lake, and particularly if you add other management practices such as dry retention.

But the other thing that I can tell you is that in general, when you have deeper lakes, when you can achieve that, you have a longer resonance time, and you have better nutrient removal. And I think we can all agree, with the water-quality issues we're seeing in Southwest Florida, that even if we can achieve a nutrient loading above and beyond the minimum required, that that benefits us all, and that goes back to TMDLs and trying to balance the nutrients that are leaving our communities.

So the answer is, in general, when we can increase the depth to a certain point and increase resonance time in water management systems, there is a direct benefit to everyone. The other part of that answer is, it is not always necessary to go deeper to achieve the minimum required nutrient loading. And I hope that answered your question.

CHAIRMAN STRAIN: Well, it does and it doesn't. I think, like Stan, you're missing the point of my question.

The PUD says you can go from down to one. You're going down to 20, which is a negative something. That's not what the PUD allows. You're not asking for that to be changed in the PUD, so that poses a dilemma for me. And if I was a reviewer in this county, I would certainly consider that as a concern in my review of these plans that you submit for your excavation. I'm not sure why it wasn't done previously. Matt will probably take a look at it, and we'll get an answer.

MR. BARRACO: And I think I can give you that answer from my perspective, anyway. As Matt said, he wasn't involved with the initial construction within this PUD, and we were not involved with that; however, when the previous engineer and the previous developer began construction, I think that's when that typical lake depth maximum of 20 feet may have been started.

We probably just picked that up since it's been approved before in this PUD. So that may not be the answer you want to hear, but I think, in reality, that's probably what happened. Somehow when this first started, before my time, before Steve's time, before Matt's time, the 20 feet was approved, and they started constructing that way. We simply kept using those same construction permits, and that's where we are today. So I don't disagree that it appears there's a difference between the 12-foot in the PUD and what's been done.

CHAIRMAN STRAIN: But I think what I'm trying to say is we're in a point where you've come in to clean up, what, the -- one of the mistakes we found, which is the landscaping buffers. You're asking for an excavation permit which involves these cross-sections. If they're not being done correctly or they haven't been, like this plan shows, why don't we just clean it all up at one time? I don't see the need for anybody to go forward with errors on these documents. They need to be fixed.

And, yes, we talked yesterday, honestly -- and after you left, in our discussion, I stayed up until 11 or 12 o'clock rereading everything based on the comments you made yesterday, and some of these things starting ringing home because of our discussion, because prior to that we had to focus on Arthrex. And so I really didn't get a lot of time with this till last night; otherwise, I would have given you a heads-up earlier.

MR. BARRACO: And I appreciate that. I don't know if a way to clean that up is just simply through the process we're in now, clarify that 20-foot depth based upon --

CHAIRMAN STRAIN: I don't know either, and we'll get -- there's some other issues that in my reading I've highlighted I want to walk through and understand better. We have a gentleman on the panel now who has also been involved in a lot of excavations and nutrient loading and other things, and we've got Stan, former county engineer. So between everybody on here, maybe we can find a solution of it, so...

MR. BARRACO: Thank you.

COMMISSIONER SCHMITT: Well, Mark, I would agree. I think we have to correct these exhibits before this -- either we do it now or they come back. I mean, that's --

CHAIRMAN STRAIN: Well, and I -- my concern is the intent and purpose versus what was stated.

COMMISSIONER SCHMITT: Well, I agree as well. I really did not catch that in my review. I kind of don't understand now why we're taking two feet of overburden off, why we're now excavating. It has the ring of more of a commercial mining operation than it does a land development operation.

CHAIRMAN STRAIN: And that's what I was trying to understand. And normally when we get into something of that magnitude, there's got to be justification for it. For example, I didn't see -- I looked hard for soil borings. I found nothing. I know you told me there's rock there, but that doesn't tell me why we're going to this depth if you've got a rock layer and it's six feet thick, and you're breaking through it, and when you pull the rock out, you have a deeper depth just because it's one big mass of rock, that would help to understand why we've got to go to 20 feet. But if it's going to 20 feet just to create a monetary source for the developer, that's not what -- this is supposed to be a development excavation, not a commercial excavation. That's why it was questioned as a -- on how it was to be excavated by the original Board of County Commissioners when it first got approved and Jim Mudd at the time, too.

MR. BARRACO: For the record, Carl Barraco. I understand, and I agree, and it is our intent to go through this process to deliver a community -- to finish this community as it was started. The two feet is required to scrape to get those finished floors down and the roads down to similar elevations that were constructed.

The lake depth from -- varying from 12 to 20 is -- the sole purpose of that is to provide a water management system to serve the community. There is no intent to over-excavate to generate a revenue source.

CHAIRMAN STRAIN: Okay. Well, let's move through this and see what we've got. By the time we get done with it, we'll see what we've got to do with it.

COMMISSIONER EBERT: Mr. Anderson went in the hallway.

CHAIRMAN STRAIN: No. Bruce had another -- he had to leave. I know he's got an appointment he's got to take care of, so...

I'm going to move on -- oh, in your -- in the narrative under the zoning services review -- and I just want the applicant to tell me if this is true -- the drawing shows that excavation would occur only in the areas designated R/G; is that correct?

MR. COLEMAN: That's correct.

CHAIRMAN STRAIN: Then why are you adding it to a use to the general area and not the R/G area?

MR. COLEMAN: That would be a better question for Mr. Anderson.

CHAIRMAN STRAIN: Well, he just left.

MR. COLEMAN: I understand.

CHAIRMAN STRAIN: Okay.

MR. COLEMAN: I didn't rewrite the uses. Bruce did.

CHAIRMAN STRAIN: Okay. Well, maybe staff can answer that question, then. Because in the R/G -- or the general area, which applies to everywhere on this site, you've added, basically, this use, but you've stated and it clearly seems to be what your intention is, that it's supposed to be in the R/G area because you're scraping off overburden. So why don't -- that use get added -- moved to the R/G area and take it out of the general area? I don't understand why that -- we even got it there to begin with.

MR. JOHNSON: Mr. Chair, Eric Johnson, principal planner, zoning.

It's my understanding that the excavation activities would only occur in the -- I guess the R/G, and that's probably where it should be in the PUD document.

CHAIRMAN STRAIN: Okay. Then we'll -- one of the things we would do is move that, then, to the -- to that area. I'll move down my list of questions until I --

MR. JOHNSON: Mr. Chair?

CHAIRMAN STRAIN: Yes.

MR. JOHNSON: Sorry to interrupt. Eric Johnson, again.

The existing PUD document, Section 3 is residential/golf, R/G, so the -- any proposed uses such as excavation should occur under 3.4 A, as in alpha.

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

MR. JOHNSON: Okay. Very good.

CHAIRMAN STRAIN: I don't disagree with you. That's where it should move to, so...

On your master plan, and in a statement made in the beginning of the meeting, you indicated that the buffers are really supposed to be consistent with the Land Development Code, even though the -- even though the PUD had more intense buffers or buffers built on possibly a multifamily use. There's a new footnote added. And if you could blow those up, it might be helpful. Not a footnote. It's those notes in the lower right-hand corner of the master plan.

Number 5, the type of landscape buffer material will be determined at the time of site development plan or plat review based on the LDC at the time of site application. That is a totally unneeded note. You've got to do that anyway, so we don't normally add those notes because it's redundant to what the law already requires.

But even a step further, the problem to make you change this came about because the master plan had a more restrictive buffer on it than the LDC required, although it was apparently ignored in the past at some point.

If we're now saying we're going to default to the LDC, we do not want to put the buffers on the master plan because then the master plan becomes more dominant than the LDC for any changes, and why

mess with it? If you're going to go by what the LDC says, why don't we just take them off the master plan completely? Eric?

MR. JOHNSON: Mr. Chair, allow me to explain. The applicant was motivated to put that note in there per staff recommendation, because the PUD currently allows for both single-family uses as well as multifamily uses. If the project is a multifamily use, then a Type B landscape buffer would be required, and that would be 15 feet wide.

The Type A landscape buffer is only 10 feet wide, and that would be required in areas where single-family would abut single-family.

It's my understanding, and the applicant can confirm today, that they were voluntarily going to have a 15-foot-wide buffer regardless. So if they were going to have a single-family abut single-family, instead of having a 10-foot-wide Type A buffer, they would voluntarily put in a 15-foot Type A buffer, and --

CHAIRMAN STRAIN: Okay. Well, then, basically we would default to the LDC except where there's a Type A buffer, and it will be 15 feet.

MR. COLEMAN: Correct.

CHAIRMAN STRAIN: Okay. Well, that might be a little easier, because what I was concerned about is if we don't -- if we put the Type A on here and we don't clean the language up so that if it's not single-family and it's multifamily, it has to be a different buffer, why don't we just simply say either all the buffers will be 15 feet wide in the type allocated by the code for the uses in place, or if we use a Type A buffer, it will still be 15 feet wide. It's just a little cleaner way to look at it.

That particular note on No. 5 should not be there because it's going to default to that anyway, which takes us to Note No. 6 and No. 4. Number 4 says potable water well locations are shown conceptually and are subject to the PUD Section 6.4.

Then on No. 6 we kind of say a little bit more than that, and I'm suggesting eliminate 6, just say, are subject to PUD Section 6.4 and are represented by Nos. 1 through 5 on the plan, and then we don't have anything that refers to the 2004 PUD approval or anything else. It's by whatever the PUD has in it. Any problems with that?

MR. COLEMAN: We have no objection to that.

MS. ASHTON-CICKO: Yeah. I just had concerns because on the master plan they had the numbers 1, 2, 3, 4, and 5, and I didn't know what those were, so I asked them to identify what those were.

CHAIRMAN STRAIN: Do you mind if we just add it to 4 like I suggested so that it's cleaner?

MS. ASHTON-CICKO: Yeah, that's fine.

CHAIRMAN STRAIN: Okay. Well, then that works.

I'm going through my various notes to try to finish this up.

Recommendation to staff, is there any objection from your side on that recommendation of the haul road access location?

MR. COLEMAN: No objection.

CHAIRMAN STRAIN: Okay. In the added use you talk about the 11 trucks per hour leaving the site during a.m. and peak (sic) hours. That's not what your traffic report says. Let me pull that up. I know your traffic engineer's not here.

Okay. In your traffic report -- and I think it's on -- and I'll tell you the page here in just a minute. On Page 1 -- well, it's my Page 137, it's your Traffic Generation Computation. Total material to be removed, and it's 1.3 million cubic yards. Four-year life span; that's 325,000 cubic yards per year, 50 weeks per year. That's 6,500 cubic yards per week; six days per week, that's 1,083 cubic yards per day; 10 cubic yards per truck -- which the trucks are usually bigger than that, but 10 cubic yards per truck is 108 trucks per day one way; 10 hours per day; 11 trucks per hour one way. It doesn't say peak hour in that analysis. I mean -- so why are you concerned about limiting 11 trucks per hour only during the peak hour?

I had thought, through our conversation yesterday -- by the way, you insinuated, I thought -- was that when you said, we're going to limit it to 11 trucks during the peak hour, I thought that was the limitation. That's the standard.

So what is it you were going to do for peak hour to make the traffic congestion any less problematic than it is any other time the mine's in operation? Because that seemed to be the intent of what you said to me

yesterday.

MR. BARRACO: Again, for the record, Carl Barraco.

The traffic analysis does come to that conclusion. We were just trying to put a absolute maximum on for a.m./p.m. peak hours. In other words, there's nothing to say that in the morning there may be eight trucks leaving and then 15 trucks leaving the next hour. So we were just trying to provide some comfort to say that, we will guarantee that a.m. and p.m. peak hours it will not exceed 11. In any other hour it may. It may be lower, it may be higher. And on the average, it would probably be 11. But we wanted to provide a guarantee that during the peak hours, it would not exceed 11.

CHAIRMAN STRAIN: Do you know what the a.m. and p.m. peak hours are?

MR. BARRACO: I do not.

CHAIRMAN STRAIN: Okay. Because I don't know what they are.

MR. BARRACO: Oh, you mean what do they mean?

CHAIRMAN STRAIN: No, I mean, is it from five to six, five to seven, six to seven, seven to eight? What hours are they?

MR. BARRACO: I don't know specifically in this area. We did have that -- again, that discussion at the neighborhood informational meeting, but they can be quantified. We did tell the -- those present at the neighborhood informational meeting that, in general, Monday through Fridays it is a set and established hour in the morning and in the evening, and generally on Saturdays it is a different hour.

We did not discuss exactly what those hours are in this particular case, but we do know that that could be quantified by the transportation engineer and would be quantified through -- I assume through the excavation permit we would establish the exact p.m. -- a.m. and p.m. peak hours for both weekdays and weekends.

CHAIRMAN STRAIN: Okay. But for the benefit of the public and those of us that aren't traffic engineers and, obviously, I think now you're not, I'm not, and I don't know if anybody on this panel is. Can we get the exact hours that you're suggesting you would limit your trucks to 11 trucks per hour and at the same time address the issue that Tom brought up with coordination with the school. Has anybody looked at those hours? So we know if the school's got an issue from three to five and then we have peak hours from five to seven, there may be a need from this panel to suggest you limit your trucks from three to seven to 11 trucks per hour, or whatever seems to be the need for the time. So we're not there with that yet, and I think that's going to have to be addressed.

MR. BARRACO: Let me suggest that, again, I assumed that those peak hours would be exactly determined through the next permit process.

CHAIRMAN STRAIN: Well, you've got language in the PUD. That's the problem. And if it's in the PUD, it should be understandable, and it's not just by referring to peak hours. And 16 years on this board, I still don't know -- I couldn't tell you what the peak hours are.

MR. BARRACO: Well --

CHAIRMAN STRAIN: So that means the public's sure not going to know.

MR. BARRACO: I am a civil engineer. I am not specialized in traffic, but I do understand transportation engineering, and I can tell you that in this particular case, the a.m. peak hour is probably going to be between 7:30 and 9:30. The p.m. peak hour is generally between 3:30 and 5:30. We know that for weekday traffic. I think we each see that every day driving around. And Saturdays it's typically a little later in the morning.

I'm sure there's a way we can address that, because I know those numbers exist.

CHAIRMAN STRAIN: Well, they do. They were based -- that's how the traffic engineer bases his calculations on the -- so I just thought we'd be able to get those, so...

MR. BARRACO: I'm fairly certain that they are already determined in the transportation analysis that Mr. Treesh (sic) -- so we could probably take some time and look at it or --

CHAIRMAN STRAIN: Well, we're going to have probably lunchtime, the way this is going.

MR. BARRACO: Then I could probably do it.

CHAIRMAN STRAIN: We're not going to finish quickly today, so...

It is lunchtime, and we usually take an hour for lunch, and I think that's probably beneficial at this

point, and we resume at 1 o'clock with further questioning. Is that okay with the rest of the panel?

(No response.)

CHAIRMAN STRAIN: Okay. Let's break for lunch. Be back at one. Thank you.

(A luncheon recess was had.)

CHAIRMAN STRAIN: Okay, everybody. Welcome back from our lunch.

And we were -- left off trying to understand some of the conditions that Mr. Barraco and Mr. Coleman were telling us about for this PUD. So we'll just continue along those lines.

And I had started asking questions right from the different language of the PUD, and I'll just move forward from there. We'll get back to anything that's hanging when I read the list of things that we still have outstanding.

One of the things I noticed when the use was added -- and I know we're moving it to the R/G section, but at the end, the last sentence says, this use shall terminate upon the date that the county grants preliminary acceptance to the subdivision improvements for the final phase of the residential development. And I would suggest we need to add, "but no longer than four years after the approval of this ordinance," because that's what you told the public at the NIM meeting.

And that's on -- and, Eric, that's on Page 3 of the ordinance that's attached to the staff report, so...

MR. JOHNSON: Yes, sir.

CHAIRMAN STRAIN: On the exhibits that were taken off of the master plan and added as a separate page -- I think it's exhibit -- it's part of -- it's the second page of Exhibit A. It's there that we have the issue on the depth that we need to repair, but the one on top is still a little different too, and I mentioned this one to you guys yesterday, and I reverified it last night. The width of the berm on this plan is four feet. On the other plan it was two feet. I don't care, but make them consistent.

So I don't know why you'd want to just leave it two feet or just -- wherever it occurs, just make it the same.

MR. COLEMAN: Understood.

CHAIRMAN STRAIN: I tried to, during the lunchtime, eliminate a few other things, so I will hopefully have less questions, not more.

In your application for rezone -- and I don't understand why you did this, but it's on Page 14 of the application. And I'm not asking you to bring it up. I'll just tell you what it says. First of all, you applied for a zone and it says, permitted uses, principal uses, no changes. Accessory uses, no changes. Conditional uses, no changes. What did you submit for a rezone for? I mean, what was -- why wouldn't you have -- your application be consistent with what you applied for?

MR. COLEMAN: It was our understanding that the use was allowed in the PUD, and we were providing additional information to get the record clear for the offsite removal of the material.

CHAIRMAN STRAIN: Oh, so that's what Mr. Anderson meant when he jumped up. Okay, okay. And that would be a fun debate. He's not here, so I refrain from that. But I did review all the minutes, all the record from the Commissioners, Mr. Arnold, who represented the applicant at the time, and Manager Mudd, so I'm pretty comfortable with what I read in the minutes, so, we can -- I don't know, hopefully there will be no need to debate it. But, regardless, if we have to, we certainly can be ready for it.

We talked about that.

Whatever depth we get to under your section in your PUD, there's a lake excavation section. I'd like that depth to be reflected in that section. That way it's consistent then, and we don't have any more of this inconsistency.

MR. COLEMAN: Understood.

CHAIRMAN STRAIN: Okay. And the next issue I'm trying to understand is -- well, the scraping off of this material is not changing the control elevation of the lake, but it's changing the storage capacity of the lake; is it not?

(No verbal response.)

CHAIRMAN STRAIN: Okay. Well, the reason I want to address that is because all the members of the PUD on a pro rata share, which would be you guys, Brian Paul, and Collier County, have a right to share in the use of the CF parcel, which is the 90-acre lake that the county owns by warranty deed for

stormwater management, and I want to make sure -- and I'll need staff to verify this after the discussion's done -- that the changes you're asking for are not going to change the capacity that you would have been allowed to use for that lake that we are proposing to modify, that CF lake.

And I don't know who's best on your team to address it, and then I need staff to verify from their perspective.

MR. COLEMAN: Yeah. I'll let Mr. Barraco answer that question.

MR. BARRACO: Good afternoon, again. For the record, Carl Barraco.

The changes we're requesting today will in no way change the characteristics of the surface water management system, and it will remain consistent with the Southwest Florida Water Management District environmental resource permit that was issued approximately -- well, over 10 years ago. So this will not affect the water management system.

CHAIRMAN STRAIN: When this issue first came up, there was a concern about the volume that was going to be deferred to this lake. It was in that very early meeting in -- remember the one in, I think, the County Manager's Office where Bruce was there, I was there, Nick was there, you guys were there. It was the very first one. And we talked about that item.

So it seemed to be a concern then, but I haven't heard it rise again or come up again. In fact, we talked about the possibility of using the canals as additional storage capacity, and there was some berm there that was supposedly going to -- could be removed and create more capacity.

What was all that concern about if -- and has that been -- why is that gone away now?

MR. BARRACO: If there was a concern, I can tell you I never understood it. I think -- I'll tell you what I think some other people may have thought, and that is if the county park, the adjacent park goes forward, and if they fill part of the lake, they would be changing and reducing the storage volume in the lake.

Through this process, we've had discussions with county staff and with consultants working for the county on the park project, and they did an analysis showing -- which resulted in, as I understand it, if they filled a portion of the lake for the park and they excavated that berm separating the existing canal, the volume that they would lose by filling the lake would be offset and gained back through the removal of the berm and connecting the volume of that canal into the lake.

That is, in my mind, a totally separate issue. But I'll repeat what I said earlier; the application in front of you, in my professional opinion, has absolutely no affect on the surface water management system and is consistent with the environmental resource permit.

CHAIRMAN STRAIN: Yesterday you and I touched base on this, so I'm going to bring it up again. The county owns that 90-acre lake in the legal description that describes that lake. The county intends to expand some recreational facilities into, on top of, around that lake. That means there's a -- there's a title policy that would be involved certainly with any structures that are put there. And if we fill the lake in and it's got an underlying right of people to use it for stormwater, that makes it real hard to have a building on top of what could be used for stormwater.

So I'm trying to think ahead in regards to help that the county could attain and to assure that nothing's going to interfere with us based on making sure everything functions as it's supposed to.

Would you have any objection to adding some kind of either agreement or stipulation on your part -- and I'd have to turn to the County Attorney's Office to understand the function of this -- that wouldn't object to the county's alteration of that lake subject to it not changing any of the parameters that affect your side of the project?

MR. BARRACO: Sure. And as we discussed yesterday, in my opinion as a professional engineer, the county owns that underlying land. They can do whatever they'd like to do with the land that they own so long as they do not reduce the level of service already provided in the existing environmental resource permit.

So if they keep that as the floor, they can maintain that, or they can improve those characteristics.

CHAIRMAN STRAIN: Okay. And, Heidi, I didn't get a chance to talk to you since yesterday about it because we had a late meeting. If we're proactive in this, it might solve a problem if we go to fill that lake in than trying to go to all the people that have rights to use that lake. Is that an advantage to have that kind of issue addressed now, or is it rather -- is it better from your perspective not to?

MS. ASHTON-CICKO: Well, there are a number of people that have the ability to use that lake --

CHAIRMAN STRAIN: Three.

MS. ASHTON-CICKO: -- aside from the developer. Oh, it's just three?

CHAIRMAN STRAIN: It's them, us, and Brian Paul. They're the only three owners of that PUD that I'm aware of.

MS. ASHTON-CICKO: I think to raise the issue and have your issues answered today, that they can possibly resolve the issue in dealing with, you know, the parks department if they decide they want to fill it in. I would imagine at some point they'd have to enter into some sort of an agreement. So it could probably be addressed there. You just want to make sure that, from what I'm hearing from you, that it doesn't impact --

CHAIRMAN STRAIN: Well, if we're going to agree to alterations that they're doing on their site on the premise it's not going to impact this lake that they have a right to use, I would want to make sure that we, then, have a similar arrangement so that if we want to modify that lake and it doesn't change the rights to the effect that they have, they'll agree to that. I don't want anybody holding anybody hostage as we go down the road on this thing.

MS. ASHTON-CICKO: Yeah. I would -- you could address it that they'll continue to use the same storage capacity that they used, you know, since the PUD was created. You could tie it to that, that they're not going to increase it beyond what the capacity was when the PUD was created.

CHAIRMAN STRAIN: Thank you.

Okay. Are you vacating any easements in regards to this property in conjunction with this PUD?

MR. COLEMAN: Not in conjunction with the PUD. There is a vacation process that is underway associated with the plan and plat approval.

CHAIRMAN STRAIN: Just what easements are you vacating?

MR. COLEMAN: There are some FP&L easements that run through the property that serve some well locations for irrigation. There is a drainage easement to Collier County that runs along the west side that is the drainage for Oil Well Road.

And the purpose of that is now that the water management system will be functioning, there's no reason to have -- basically, right now there's a canal that cuts through the middle of the property that Oil Well Road drains into the water management system for Orange Blossom Ranch.

Once the water management system is constructed, that canal will be removed, and the outfall for Oil Well Road will essentially just go into our lake system. So there's a --

CHAIRMAN STRAIN: So the easement wouldn't expire until such time that the other system's in place?

MR. COLEMAN: Correct. There's talks through the application process that the easements will not vacate until the plat is recorded, which sets up the additional easements for the county. And the area that I'm talking about is here. There's an existing easement that runs through here, and then it also crosses through here into this, what is an existing lake right now.

CHAIRMAN STRAIN: Okay.

MR. COLEMAN: Once this water management system's done, this easement will be basically rewritten as part of the plat, and then this easement through here will be vacated, and then the county will have easement rights over top of the drainage easements as part of the plat.

CHAIRMAN STRAIN: Okay. And when we get through staff report, I'm going to ask the Transportation Department and the Water Management Department, to the extent that they're here, to respond to confirm that everything in that nature is okay.

MR. COLEMAN: Okay.

CHAIRMAN STRAIN: Thank you.

And other than some questions for staff, I think that's all I've got right now, so...

Anybody else have any questions at this time? Oh, I have one of Tom Eastman. Tom, you had mentioned some time frames involving the school. Mike Sawyer has looked up the time frames for the traffic, what is that prime time or whatever we call it. Prime time, peak hour.

And, Mike, if you could tell us those peak hours, and then maybe if Tom Eastman would confirm that those hours need to be expanded or contracted based on his needs, then we're good.

MR. SAWYER: Yeah. Again, for the record, Mike Sawyer, Transportation Planning.

The peak hour is determined according to our ITE, Institute of Transportation Engineers, to be between seven and nine in the morning and then four to six at night. Principally, you generally look at the middle of that so, basically, give or take around 8 o'clock in the morning and then 5 o'clock at night.

MR. EASTMAN: With respect to the start date for the -- or starting time for the high school, rather, it's 7:10 a.m., and the dismissal or the ending time would be 2:05.

And the school district really doesn't have a problem with this operation so long as it doesn't adversely impact that arrival and dismissal. And it's something that we can work with the developer on. We've done this in the past as far as changing times and the trucks and things of that nature. But it seems like we're in closer proximity for the peak hours for the morning than we are for the afternoon.

CHAIRMAN STRAIN: Well -- and I think what we're going to have to do is expand the limitations from just the peak hours but also to the school hours so that both are covered, because the NIM clearly defined the peak hours as going to be limited. And with your additional hours, that will have to be part of a stipulation to get it in line.

MR. EASTMAN: That's very much appreciated, Mr. Chair. We do have a lot of pedestrians and students that use that that will be walking around, and the pedestrians and the students and the trucks are definitely a conflict.

CHAIRMAN STRAIN: Tom, the morning, if it starts -- if the school gets out (sic) at 7:10, so does seven to nine still work?

MR. EASTMAN: Well, the school starts at 7:10, so we probably have people arriving at the site, I'd say, by a quarter to seven or so. I'm sure there are people earlier, but the majority of the traffic, I'm sure, is 6:45 until that start time of 7:10.

CHAIRMAN STRAIN: And what about the afternoon? So if it's two -- did you say it was 2:10 they get out?

MR. EASTMAN: 2:05 is the dismissal.

CHAIRMAN STRAIN: 2:05. So people would start coming in -- or how would the best time frames work there?

MR. EASTMAN: For dismissal, it's pretty -- it's cleaner than arrival. At the arrival you have -- you have more varied time frame of when people would arrive at the school. Some at the last minute, some early. With the dismissal, it's usually about 15 or 20 minutes, and the entire campus will clear. So by 2:30, absolutely, we're done with our heavy traffic needs at that site.

CHAIRMAN STRAIN: So you're saying 2:00 to 2:30?

MR. EASTMAN: That would be very good to cover the dismissal, yes.

CHAIRMAN STRAIN: Okay. So maybe -- I mean, these are complicated times to track. Maybe we just simply limit it to 11 trucks per hour except for the following hours, and then just indicate from nine to two is your wide-open period, and the rest of it's limited to 11 trucks per hour.

MR. SAWYER: Simple is usually better.

CHAIRMAN STRAIN: Does that work for you guys? It gives you -- it takes more into effect than the peak hour, but then I think we can make an argument that your traffic report was written for 11 per hour period, so...

MR. BARRACO: Actually, no. As I said, the 11 was an average based upon those numbers. If the -- if there was a great need for the fill at a particular time, then those trips could be accelerated significantly, so that's why these are important.

And, by the way, at lunch we did check, and we do concur with those peak hours, and we used the same source.

Right now, proposed, no trucks could leave the site prior to 7 o'clock in the morning anyway, so we've got earlier than seven. What I was thinking is that between 7:00 and 8:00 in the morning and between 2:00 and 2:30 at dismissal, and then in the afternoon peak hour between 5:00 and 6:00, that those would be limited, if that works.

CHAIRMAN STRAIN: Well, I'd need to find out from Mike why he gave us ranges of two hours instead of one. If two hours is the area that's the worst, then we need to consider that. I mean, just so you

know, this request for a PUD is up to stipulations. So while we may not agree, it still could end up that way, and the Board would have to make a decision on it.

Mike.

MR. SAWYER: Yeah. The reason that you've got, basically, two-hour window is because you've got different times depending on where your traffic is moving from; how close it is to that source. So the further out you get from, for lack of a better term, the center of town, the further -- you're going to -- your trips are going to start earlier. If you're closer to town, your trips are going to start later. That's why you've got that two-hour window that we actually look at when it comes to ITE.

And, again, these are average nationally. We're -- they're specific to Florida, but it's all based on national trends.

COMMISSIONER EBERT: I have a question.

MR. SAWYER: And, yes, that's complicated. I apologize.

CHAIRMAN STRAIN: Well, it's typical traffic stuff.

COMMISSIONER EBERT: I have a question. If it's very important in the morning with the kids getting to school, could the trucks, then, rather than start at 7:00, just start at 7:30, and then we eliminate that?

MR. SAWYER: That would be up to the applicant, but that would be a possible solution.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: Go ahead.

MR. BARRACO: For the record, if you're suggesting that in order to address the a.m. peak hour, that we just change the start time, I think that's great. I'm concerned that we didn't say that at the neighborhood information meeting, but I think it works.

CHAIRMAN STRAIN: Oh, at the neighborhood information meeting, what you did say was more intense than what she's suggesting, so we can always go in that direction. What we can't do is make it worse.

MR. BARRACO: So if you're suggesting, then, that maybe the a.m. is covered simply by starting at 7:30 --

COMMISSIONER EBERT: I think that would help Tom. I think that would take care of his problem.

MR. EASTMAN: Yes.

MR. BARRACO: So there is no restriction in the morning is what I'm understanding, other than starting later than we anticipated.

COMMISSIONER EBERT: Correct.

MR. BARRACO: And then certainly the school would be protected if we limit between 2:00 and 2:30, if that's acceptable.

CHAIRMAN STRAIN: Afternoon -- Mike, is the afternoon times any different? Since they are for the school, I was wondering if they are for the way you look at traffic.

MR. SAWYER: Normally we look at p.m. peak as being more critical than a.m. peak. I would prefer to have a limitation around that 4:00 to 6:00 period at night, quite honestly.

CHAIRMAN STRAIN: Okay. So we'd be looking at -- your hours of operation would be from 7:30 to 5:00, and your peak hour limitation would be from 2:00 to 2:30 and 4:00 to 6:00.

MR. BARRACO: Yes, with a start time of 7:30.

CHAIRMAN STRAIN: Yes.

MR. BARRACO: Yes.

CHAIRMAN STRAIN: Okay. I think that gets us to a better situation for the school and for everything we've talked about.

MR. BARRACO: Mr. Chairman, could you repeat that for me, please, so we make sure we write it down properly.

CHAIRMAN STRAIN: That's not a good idea.

Your hours of operation will be from 7:30 a.m. to 5:00 p.m. Monday through Saturday, and your peak hour trip restriction would be from 2:00 to 2:30 in the afternoon, and then from 4:00 to 6:00 in the late afternoon, early evening.

MR. COLEMAN: So it would be 4:00 to 5:00?

MR. BARRACO: Yeah. The discussion we were having is our original proposed time was 7:00 to 5:00, so that 5:00 to 6:00 --

CHAIRMAN STRAIN: Oh, yeah, the five won't matter because you're only 4:00 to 5:00.

MR. BARRACO: That's great.

CHAIRMAN STRAIN: Well, just -- in fact, I'll make that 4:00 to 5:00. That's a good point.

MR. JOHNSON: Mr. Chair?

CHAIRMAN STRAIN: Yeah.

MR. JOHNSON: May I ask a question?

CHAIRMAN STRAIN: You mean -- oh, I understand. You want the job of standing out there counting the trucks, until this is over with, the next four years.

MR. JOHNSON: Do I understand correctly that from 2:00 to 2:30, then, it would be restricted to 11, and then from 4:00 to 5:00 it would be restricted to 11?

CHAIRMAN STRAIN: Well, not really; 2:00 to 2:30 would be five and a half.

MR. JOHNSON: Am I on camera?

CHAIRMAN STRAIN: If you get a half truck out there, let me know. But we'd be looking at five to six trucks, say six trucks at that point, and then in the evening that one last hour -- it would be 11 trucks over that last hour. That's what I think we're talking about.

MR. JOHNSON: Very good. Thank you.

CHAIRMAN STRAIN: Because the other peak hours now are moved off the operating time, and it makes it a lot simpler.

COMMISSIONER EBERT: We just start at 7:30, and they've agreed to that.

CHAIRMAN STRAIN: Okay.

MR. JOHNSON: May I ask just a wild question? Is that the same for Saturday, as well when school is not in session?

CHAIRMAN STRAIN: That's a good question.

MR. EASTMAN: There's need for Saturday restrictions from the school's perspective.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHMITT: What about athletic events and --

CHAIRMAN STRAIN: Well, why don't we just say no restrictions on Saturday --

COMMISSIONER SCHMITT: No restrictions, okay.

CHAIRMAN STRAIN: -- on Saturdays, because even peak hour is modified on Saturdays. People don't drive to work and drive home at the same time every day. So it would be 2:00 to 2:30 and 4:00 to 5:00 with no restrictions on Saturdays.

MR. COLEMAN: Yeah. And if there's special events going on at the high school, we'll -- the developer will be willing to coordinate anything that goes on with that.

CHAIRMAN STRAIN: Okay. One other thing. I noticed that in the staff report -- and I heard Bruce in the beginning -- you're going to be excavating 1.3 million cubic yards?

MR. COLEMAN: Yes, sir.

CHAIRMAN STRAIN: Okay. Because the staff report was written a little flexible. It says anticipated approximately. Now, I'm used to hearing people say, well, you know, 5 million is approximately 1.3. It's not. So I would want to suggest that that needs to be a cap and -- I mean, it's the same kind of thing with the trucks. Who's going to stand out there and monitor it, but it's a cap that should be in place. If there's ever problems, it would give us an opportunity to try to figure it out, so...

COMMISSIONER CHRZANOWSKI: Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER CHRZANOWSKI: Usually earthwork is, you know, what, 10, 15 percent. So if you're going to cap 1.2 or 3, I'd cap it at 1.5.

CHAIRMAN STRAIN: Well, I figure they already calculated that by the way they did their 1.3, so...

One point three. What'd you suggest?

COMMISSIONER CHRZANOWSKI: One point five. Earthwork is notoriously inaccurate.

CHAIRMAN STRAIN: Okay. And that's the only -- that's the last of the questions I have of the applicant. We can move to staff report, then we'll need water management discussion and then traffic, the traffic department's discussion, so...

MR. JOHNSON: Sure. Again, Eric Johnson, principal planner.

Staff reviewed the proposed use and the changes to the master plan. Also, I wanted to point out that in the staff report, the narrative for the landscaping, the applicant submitted an updated working master plan subsequent to when the narrative -- the landscape narrative was made, so it doesn't necessarily jive.

But the working master plan, the notes that we had previously discussed about the Note No. 5 and the 15-foot-wide buffer, see Note No. 5, that's consistent with the master plan that's in the ordinance. And I wanted to clarify that the working master plan is not going to be an exhibit of the ordinance, just for everybody's edification.

So, notwithstanding, staff is recommending approval of the project with the condition that the haul operation access location on the north side of Oil Well Road shall be located from the temporary construction access to the public roadway access location when construction of the public roadway is complete. The public roadway and access location shall be included as part of the excavation permit request.

That's all I have.

CHAIRMAN STRAIN: Okay. Any questions of this staff member before we go to others?

(No response.)

CHAIRMAN STRAIN: Eric, I've got a couple. In your PUD findings, No. 4, the internal/external compatibility of the proposed uses, which conditions may include restrictions on location improvements, restrictions on design and buffering and screening requirements.

You say that the new use is temporary in nature and commonly associated with land development in Collier County. We don't do that much commercial excavation permits hauling off site, so I'm not sure it's commonly associated. I mean, I think excavation is, but I don't think the commercial haul-off is, because we restrict everybody to 20,000 yards unless their PUD allows them to go more.

So that may be a little misleading by reading it. I'm just kind of cautioning you when you write that in the future.

In No. 5 you talk about the platting process already allowed the landscape buffers, and I'm not -- it's probably not going to be relevant after today, but I would hope that if staff -- when Matt's taking a look at it, we can figure out how that happened and maybe put something in place so it stays consistent with the PUD until the PUD's changed.

On No. 13, it's under -- it's on Page 12, and it's under the rezone findings. In this one, the -- it's whether there are substantial reasons why the property cannot be used in accordance with the existing zoning, and you talk about the property can be used in accordance and go on with the commercial excavation permit. It requires a commercial excavation permit in accordance with the Code of Laws.

As such, it is the opinion of the staff that this excavation ought to be listed as a principal use. It's required to be, isn't it? I mean, aren't they -- they can't -- they can't take any more fill offsite without this commercial use being in place, right?

MR. BELLOWS: For the record, Ray Bellows.

I think that came about when the application came in as an excavation permit. That's not under the list of permitted uses. That was under another section of the PUD for excavation.

So if they're going to list it as hauling off more than the code allows, then it's a commercial excavation then. I think that's where that phrase came from.

CHAIRMAN STRAIN: Okay. I just wanted to make sure -- everything I researched, it seemed like it was necessary, so I just wanted to confirm that.

And that's the extent I have. Thank you, Eric.

MR. JOHNSON: Thank you.

CHAIRMAN STRAIN: Anybody else doesn't (sic) have anything?
Transportation?

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

CHAIRMAN STRAIN: Mike, you heard the discussion about the drainage easement for Oil Well

Road and the process in which it's going to be flipped over to a plat. Does your department have any problem with that?

MR. SAWYER: No, we don't. We regularly review those, and we also regularly meet with our transportation people and are actually now meeting with our stormwater people also on a weekly basis to go over petitions as they're coming in as well as site plans and plats. So we're trying to coordinate these things as much as we can.

CHAIRMAN STRAIN: Okay. So that easement doesn't cause any problems with you guys for your drainage for Oil Well Road?

MR. SAWYER: We will make sure it does not.

CHAIRMAN STRAIN: Thank you.

And then the last question, is someone here from water management? Jerry?

MR. KURTZ: Jerry Kurtz, for the record, with county Stormwater Management.

CHAIRMAN STRAIN: Jerry, I want to make sure that the county's lake isn't going to be negatively impacted by any of the changes that they're proposing. Have you reviewed all of the issues that they've got coming up? And from your perspective, are there any issues there that are going to cause the county concerns in regards to the use of that lake?

MR. KURTZ: No, there's really not. In fact, some scenarios have already been evaluated; filling the lake up to half. Should the park plan ultimately be chosen to do that, there's enough capacity. The advantage is we have that big T canal, big bulk canal. Some of that can be utilized should we need to use that for some of the volume. So there's a lot of flexibility. And we've looked at several scenarios already, so there's really no concerns as we move forward with this.

CHAIRMAN STRAIN: Well, that's -- go ahead, Tom.

MR. EASTMAN: Jerry, you're familiar with the school district's drainage at the high school site, correct?

MR. KURTZ: Yes, I am.

MR. EASTMAN: And it's my understanding that the school site's outfall is to that canal that would be on the east side of the school property.

MR. KURTZ: Yes.

MR. EASTMAN: And that's -- it's a strange one. It's kind of a -- it's approved under the permit, but it goes into that what is the agricultural canal, and then it's pumped to another one, and then generally it finds its way to the bulk canal and that T.

Will our drainage be affected by the drainage changes proposed?

MR. KURTZ: Yes, I'd say in a positive way. The agricultural usage of the T canal which, until the ag operation ceased, there was some extra manipulation with some piping and some pumping that was permitted. Now that the ag operation has ceased, a lot of that stuff can be removed, and you can have more of a direct outfall path through the T canal and out to the Golden Gate Main Canal.

So happy to say that now with this land use change your outfall will actually be improved and be more efficient to let the water leave the high school area.

MR. EASTMAN: Thanks. That's great news, and I really appreciate your analysis.

MR. KURTZ: You're welcome. Thank you.

CHAIRMAN STRAIN: Any other questions of staff?

(No response.)

CHAIRMAN STRAIN: Nope. Jerry, thank you.

MR. KURTZ: You're welcome.

CHAIRMAN STRAIN: I think we've got to the end of this. Is there anything, Carl, you want to add, discuss?

MR. BARRACO: Yes, if I may, Carl Barraco.

Earlier in our discussions there was some confusion between some wording that Bruce provided and the area that we're actually talking about, and I was able to discuss that with Mr. Anderson.

And it is the intent, however we want to clarify this, that the excavation removal we're talking about is only relative to the crosshatched area on the exhibits that have been provided. I think maybe in some

wording he included some other general area, but I want to be very clear in that the removal is strictly limited to the area that's crosshatched on the exhibit that we reviewed earlier. That's the first thing I wanted to mention.

The second thing is -- and we discussed this a little bit. This is not a mining for profit. This approval is extremely important -- the timing of this is important to my client because he's trying to build a subdivision, and he wants to -- he can't do that until we remove this fill. So the reason I'm saying that is I think we do have a chance this afternoon to clear up the record with regard to the lake depth to a maximum of 20 feet; however, if that is in any way going to slow the approval of this down, we're fine with clarifying that 12 feet is the maximum. I don't think that's in the best interest of the county, but it is in the best interest of my client to just be able to proceed with his development. So I wanted to offer that. If that's the only fix, then we would be agreeable to that.

CHAIRMAN STRAIN: Now, when you discussed this with Bruce, you didn't get him all upset, did you?

MR. BARRACO: No. I didn't discuss that part, actually.

CHAIRMAN STRAIN: He was a little sensitive when he left. I didn't want him getting too upset over anything.

MR. BARRACO: No. I just asked him what he meant in his wording and if his intent was relevant to the crosshatching, and he acknowledged it is.

CHAIRMAN STRAIN: Okay. Anybody have any other questions, concerns?

COMMISSIONER EBERT: So how deep would you like to go?

MR. BARRACO: Twenty feet is the maximum. And if you -- when we did our analysis, the majority of the lakes can't even go that deep because of the geometry. They're just not that wide. Again, that extra depth gives that stormwater more time in the lakes to free up the nitrogen and phosphorus. So 20 feet is the absolute maximum, but not all the lakes would even get that deep.

CHAIRMAN STRAIN: And 20 feet is not unusual, so, I mean --

COMMISSIONER SCHMITT: So when this moves forward, you will update Exhibit A?

CHAIRMAN STRAIN: We're going to stipulate a bunch of stuff.

MR. BARRACO: Yes, sir.

CHAIRMAN STRAIN: I usually make notes as we move along, and then just as we're about to go into discussion, I'll read all the notes, and we can decide if we like them or not, and that way everybody's comments are collating into one spot.

Anything else, sir?

MR. BARRACO: No, thank you.

CHAIRMAN STRAIN: You've had enough for today, huh?

Let's move into -- we'll close the -- well, first of all, Ray, there's no people here, so I'm assuming there's no public speakers.

MR. BELLOWS: No one has registered.

CHAIRMAN STRAIN: No offense to staff. It's not that I don't consider you people. I know you're not public speakers. But if you're getting tired of sitting back there and want to talk, just come up on.

With that, then we will close the public meeting -- we'll close this public hearing and entertain a motion. Before we do, I'll read off a series of stipulations that we should consider, and they are the following:

The hours will be -- hours of operation of the excavation will be limited from 7:30 a.m. to 5:00 p.m. Monday through Saturday. The maximum time frame will be -- as the use indicates, it will terminate upon the date the county grants preliminary acceptance of the subdivision improvements for the final phase of the residential development but no longer than four years after the approval of this ordinance.

Number 3, limit the depth of the excavation to 20 feet, and that issue will be corrected both on the master plan and as a new sentence in Section 2.5 of the PUD.

The landscape buffer easements will be noted as minimum of 15 feet wide, but all other details of what they are, whether it's A, B, C, or D, will be subject to the LDC.

The staff recommendation is acceptable.

The traffic limitations for the following hours will be limited to 11 trucks per hour: That will be from 2:00 to 2:30 in the afternoons Monday through Friday and 4:00 to 5:00 p.m. Monday through Friday.

Maximum allowed volume of excavation will be 1.5 million yards.

The use of the -- this added use will be added to the R/G section of the PUD and removed from the general section of the PUD.

The master plan will have strikethrough on -- we'll remove Notes 5 and 6 and reword Note 4 to reflect the numeric references for the utility wellsites in number -- in that No. 4.

And the -- well, the depth at 20 feet -- the depth will be 20 feet from control.

And the applicant has acknowledged that they will agree to use the lake -- that if the county modifies the lake, they have no objection to its modification so long as the storage capacity remains the same as when the PUD was created.

Those are the notes I've got. Anybody have anything that needs to be discussed or added?

(No response.)

CHAIRMAN STRAIN: Okay. Well, that's going to be easy. Is there a motion?

COMMISSIONER CHRZANOWSKI: I'll move to approve PUDA-PL20160000787, Orange Blossom Ranch PUD, with the stipulations and additions that Mark just stated.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER SCHMITT: And I second.

CHAIRMAN STRAIN: Seconded -- made by Stan; seconded by Joe.

Discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 5-0.

Diane?

COMMISSIONER EBERT: I have one thing.

CHAIRMAN STRAIN: Well, after the motion?

COMMISSIONER EBERT: Well, here's the thing. I would like them to come back with all the changes so we don't approve everything right now. I'd like them to bring the changes back, that we review it.

CHAIRMAN STRAIN: Okay. So you want -- and that's called consent, and we do --

COMMISSIONER EBERT: Yep.

CHAIRMAN STRAIN: -- consent by another motion of the board.

So you've asked to have a motion made for them to come back on consent. Before we do that, the opportunity for them to come back would have to be the next meeting in October.

MR. JOHNSON: October 20th.

CHAIRMAN STRAIN: But they have to make the board meeting on?

MR. JOHNSON: They are scheduled -- they want the October 25th BCC.

CHAIRMAN STRAIN: Okay. If they come back with a consent on the 20th, assuming it's accepted, you guys would have to pre-load it into the new program prior to the acceptance of the consent by the Planning Commission. I'm comfortable with that because any changes should be very minor, and they could be tweaked on the fly at the Board. But I would have to see how that -- because we've got a new agenda system, and I'm not sure how it works anymore.

MR. JOHNSON: We have the Accela system.

CHAIRMAN STRAIN: Right.

MR. JOHNSON: I want to defer to Mike.

MR. BOSI: Mike Bosi, Planning and Zoning Director.

The agenda will already have been published that Wednesday before the Planning Commission meeting. So we would have to upload an executive summary that didn't have the conclusion of the summary -- or the consent hearing.

CHAIRMAN STRAIN: Right. But you could publish what is submitted, assuming it's meeting all of our criteria. If we have something that doesn't meet the criteria in review as a consent item on the 20th, you could always make sure -- it wouldn't stay, then, on summary. It would have to be brought forward to the Board and explain any discrepancies between what was submitted on the agenda and what happened after the Board reviewed it -- the Planning Commission reviewed it, I mean. Is that something that could be done?

MR. BOSI: Oh, it most certainly can be done.

CHAIRMAN STRAIN: Okay. So if this is to come back on consent, that would probably be the best way to make it happen; that way they stay on track for the 25th. If they coordinate well with the Zoning Department, Eric, in getting all these corrections made as we've discussed, it should be no problem, and you would stay on whatever maybe summary or whatever else is there.

If you don't, then there's probably a good chance you won't end up on summary just for the fact your consent didn't qualify as carefully as it should have.

So with that, we know we can meet the schedule. So Diane's request in that regard is to request they come back on consent. I think with all the changes, it's probably a good idea. Does anybody else?

(No response.)

CHAIRMAN STRAIN: Is there a motion to have this come back on consent on the 20th of October?

COMMISSIONER EBERT: I make a motion to bring this back on consent on the 20th.

CHAIRMAN STRAIN: Is there a second? Anybody?

COMMISSIONER SCHMITT: I would second but, frankly, I think the staff would follow through with all the changes, but if that's the procedure, I'll second.

CHAIRMAN STRAIN: Okay. Well, now it's discussion. Since I am in the office every day and I have the list of things that need to be corrected, I certainly can review this when it comes in and save the trouble of having to come back for another public meeting. I'm not sure if anything that I didn't catch would need to be -- would be something you might see, but I think I'll see everything that at least you would.

COMMISSIONER EBERT: No, that's not -- but it was so many changes. That's the only reason. Normally we do consent right away, but this was a long list, and I believe that was my biggest concern, that something doesn't slip by.

CHAIRMAN STRAIN: You know the one we had before this? It was even longer.

COMMISSIONER HOMIAK: Yeah. I was wondering why that one didn't come back.

CHAIRMAN STRAIN: That was a longer list. I'm comfortable with the fact that I'll get a chance to take a second look at it --

COMMISSIONER EBERT: That's fine.

CHAIRMAN STRAIN: -- to make sure all of our thoughts are there. Okay.

COMMISSIONER SCHMITT: My experience in the past, we've made these kind of changes many years ago back in the old days. We would just make those changes and send them forward.

CHAIRMAN STRAIN: That's why we had to have consent.

COMMISSIONER EBERT: That's why we had consent.

CHAIRMAN STRAIN: That's why we started consent.

COMMISSIONER EBERT: Stevie Tomatoes.

COMMISSIONER SCHMITT: Did they miss any?

CHAIRMAN STRAIN: Yeah. Oh, Joe.

Okay. Well, I think now the consensus is we don't need the consent. Will the motion maker and the second withdraw their request?

COMMISSIONER EBERT: Yes, I will.

CHAIRMAN STRAIN: Joe, you withdraw your second? Joe?

COMMISSIONER SCHMITT: I withdraw my second, yes.

CHAIRMAN STRAIN: Okay. With that, that's the last item on the agenda. Thank you, all, for attending. I'm sure it was enlightening and fun.

COMMISSIONER EBERT: And we got to hear from Tom.

CHAIRMAN STRAIN: There's no new business listed.

COMMISSIONER CHRZANOWSKI: Wait, wait, wait. I had an item of new business.

CHAIRMAN STRAIN: Okay.

COMMISSIONER CHRZANOWSKI: It seems like -- in an age when Google Earth is, like, everywhere, it seems like we ought to be able to pull Google Earth up on these screens through something at the county when we need to do something like look at whether there's a turn lane somewhere or look at what the neighboring property looks like.

Is there any chance that somebody could get that computer system access to the Internet so you can pull up Google Earth on those screens during a meeting?

MR. BOSI: Most certainly. I mean, we probably would utilize the County Appraiser's website as the source we would utilize, but --

COMMISSIONER CHRZANOWSKI: Yeah, but Google Earth has 3D views that are just incredible anymore, and the Appraiser's website is a little tougher to get around in. I use them both at home, and I much prefer Google Earth. But even the Appraiser's website, you know; it's definitely more recent. It's within a year.

MR. BOSI: I could access the Appraiser's website today, and we probably should have pulled that up and make that available for the discussion purposes. I will have to coordinate with IT to see if they could have Google Earth installed within this laptop or the podium computer, and that should take care of it.

COMMISSIONER CHRZANOWSKI: Anybody else think that's handy?

COMMISSIONER EBERT: I think it's handy.

COMMISSIONER HOMIAK: Yes, I do.

COMMISSIONER SCHMITT: Well, if not Google Earth, less demanding from the computer standpoint is just Google Maps, which is pretty accurate as well.

COMMISSIONER CHRZANOWSKI: Yeah. Google Earth, though, now has a 3D building feature for Collier County that's just -- shows you what's there.

MR. BOSI: We will -- the Zoning Services Division will make a request of IT to have Google Earth installed --

COMMISSIONER CHRZANOWSKI: Thank you.

MR. BOSI: -- so we could enrich and provide for a better visual environment for the discussion purposes.

CHAIRMAN STRAIN: And if you could, could you put on some training exercises in YouTube for the various -- like, understanding traffic consultants and things like that and --

MR. BOSI: That's a little more difficult. Our access to YouTube through the county web system is limited, so -- but we will have to see what kind of movement we can make within that. As long as the -- as long as it's only going to have a de minimis impact upon productivity, we should probably be allowed.

CHAIRMAN STRAIN: In the peak hour, right.

COMMISSIONER SCHMITT: Peak hour, peak period.

COMMISSIONER HOMIAK: Less than 1 percent.

CHAIRMAN STRAIN: Thank you, Mike.

MR. JOHNSON: Is that Monday through Friday?

CHAIRMAN STRAIN: Any other new or old business?

(No response.)

CHAIRMAN STRAIN: And there's no members of the public left to speak, so is there a motion to adjourn?

COMMISSIONER EBERT: I make a motion.

CHAIRMAN STRAIN: Seconded by?

COMMISSIONER HOMIAK: Second.

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COMMISSIONER CHRZANOWSKI: Second.
CHAIRMAN STRAIN: All in favor, signify by saying aye.
COMMISSIONER CHRZANOWSKI: Aye.
COMMISSIONER EBERT: Aye.
CHAIRMAN STRAIN: Aye.
COMMISSIONER HOMIAK: Aye.
COMMISSIONER SCHMITT: Aye.
CHAIRMAN STRAIN: We're out of here. Thank you.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 1:45 p.m.

COLLIER COUNTY PLANNING COMMISSION



MARK STRAIN, CHAIRMAN

ATTEST
DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 11-3-16, as presented or as corrected _____.

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