

April 5, 2018

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida, April 5, 2018

LET IT BE REMEMBERED, that the Collier County Planning Commission, in and for the County of Collier, having conducted business herein, met on this date at 9:00 a.m., in REGULAR SESSION in Building "F" of the Government Complex, East Naples, Florida, with the following members present:

CHAIRMAN: Mark Strain
Stan Chrzanowski
Patrick Dearborn
Diane Ebert
Edwin Fryer
Karen Homiak
ABSENT: Joe Schmitt

ALSO PRESENT:

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

PROCEEDINGS

CHAIRMAN STRAIN: Good morning, everyone. Welcome to the Thursday, April 5th 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: Okay. 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: Mr. Fryer?

COMMISSIONER FRYER: Here.

COMMISSIONER EBERT: Ms. Ebert is here.

Chairman Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER EBERT: Ms. Homiak?

COMMISSIONER HOMIAK: Here.

Mr. Schmitt is absent.

Mr. Dearborn?

COMMISSIONER DEARBORN: Here.

CHAIRMAN STRAIN: Mr. Schmitt informed me he wouldn't be here today, so it will be an excused absence.

Okay. Addenda to the agenda. First of all, the Board -- this panel the last time had a couple of projects that we approved, and rather than have them on consent, they asked me to -- they said they'd be satisfied with my proofreading them before they were brought to the Board in lieu of consent, and I did that. But one of them, which is the Creekside Commerce Park CPUD that we heard last time, had a concern by the applicant over something that was said at the meeting that may not have been necessarily understood by all of us in the same manner.

So to be sure that we're seeing that as we wanted to, I asked that it be put back on the agenda for today's discussion; however, we can't hear it as consent because if -- the result of the discussion may provide other options that need to be considered for the PUD.

On that basis I'm going to request that we move it from 8A, which is the consent agenda, to the first item up under the regular agenda, but because the regular agenda's already labeled, we'll call it 9E, but it would be first up as a supplemental hearing, and it would be limited to the issue at hand that's in dispute, let's say, and then anything related to that issue based on the outcome of the discussion.

So with that, could I have a motion to move 8A to 9E and have it first on the regular hearing addenda?

COMMISSIONER DEARBORN: So moved.

COMMISSIONER FRYER: Second.

CHAIRMAN STRAIN: Made by Patrick, seconded by Ned. Discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRYER: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER DEARBORN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Okay. With that, we'll -- Ray, let's move to -- oh, I think it's Planning Commission absences would be next.

Planning Commission absences for the April 19th meeting. Does anybody know if they're not going to be here?

(No response.)

CHAIRMAN STRAIN: Okay. We'll have a quorum. That takes us to approval of the minutes.

Ray, I think March 1st is the only ones we have. Has anybody reviewed those? Do you have any questions, concerns?

(No response.)

CHAIRMAN STRAIN: If not, is there a motion to approve?

COMMISSIONER FRYER: So moved.

CHAIRMAN STRAIN: Made by Ned.

COMMISSIONER CHRZANOWSKI: Second.

CHAIRMAN STRAIN: Seconded by Stan.

All in favor, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRYER: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER DEARBORN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Now it's Ray's turn. BCC report and recaps, Ray.

MR. BELLOWS: Yes. The Board of County Commissioners met on March 27th. They heard the City Gate PUD amendment and the development order amendment. It was approved 5-0 subject to the Planning Commission recommendations.

CHAIRMAN STRAIN: Okay. And there were some changes to our recommendation. So I'm assuming the Board, then, made those changes without our involvement, but they did get approved?

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: Okay.

COMMISSIONER FRYER: I'd be interested, Mr. Chairman, if we could have a brief summary of those changes just for my --

CHAIRMAN STRAIN: I'm not sure Ray's prepared. Do you know what changes there specifically were?

MR. BELLOWS: That was Nancy's project. We can get those summarized for you.

CHAIRMAN STRAIN: Next time around, just brief us on what those were, if you don't mind.

MR. BELLOWS: Definitely.

CHAIRMAN STRAIN: Next up is Chairman's report, and in lieu of the fact we have a long meeting today, I'm not going to waste your time with any further discussion. And we'll have no consent items left.

***So we'll move right into 9E, which is the advertised public hearing. Well, it's been advertised as a regular hearing, but it was shown as consent. It was moved from consent. It was PL20170000425, the Creekside Commerce Park Commercial Planned Unit Development (CPUD). It's for the Arthrex center up on Immokalee Road and U.S. 41 and Goodlette.

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

MR. EASTMAN: None.

CHAIRMAN STRAIN: Stan?

COMMISSIONER CHRZANOWSKI: I didn't even know this was happening, so how could I disclose anything? But I've got a question. Is what we're doing legal, Jeff?

MR. KLATZKOW: I asked for it.

COMMISSIONER CHRZANOWSKI: Okay. I guess that's legal.

CHAIRMAN STRAIN: Stan, just to give you a word, I wouldn't have asked -- I wouldn't have gone forward with a new process unless I cleared it with the County Attorney's Office, so...

Okay. Ned?

COMMISSIONER FRYER: Nothing to disclose since the previous time it came before us.

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: Nothing.

CHAIRMAN STRAIN: All my similar disclosures as previously on the project overall, but since that time I have talked with various staff members, the County Attorney's Office, I either talked to or saw emails from the applicant or applicant's team members. I can't remember all of it right now.

Karen?

COMMISSIONER HOMIAK: Nothing since last time.

CHAIRMAN STRAIN: Patrick?

COMMISSIONER DEARBORN: Nothing from me. I'm just glad to hear it's legal.

CHAIRMAN STRAIN: And with that, we'll move into -- Richard, if you want to start your discussion.

MR. YOVANOVICH: Sure. Good morning, for the record, Rich Yovanovich on behalf of the petitioner.

As you know, one of the purposes of the PUD amendment was to allow for an additional hotel to be constructed on the east -- I'm sorry -- the west side of Goodlette-Frank Road. And we went through an extensive discussion of what Arthrex's current plans are for the hotel and that it was their intentions for -- from now until whenever, to operate that hotel for its use and for its doctors' use, but we made it very clear we don't know what the ultimate future may be.

So we analyzed the hotel as if it were a regular hotel, any brand hotel it could possibly be. We did that from a transportation standpoint, we did it from an impact standpoint. The total analysis is as if it was a standalone hotel and not an accessory exclusively to Arthrex, because if it was -- hang on a second -- because if it was an accessory use exclusive to Arthrex, I wouldn't have even had to not -- I would have not had to have done the impact analysis we were doing because it would have been considered a medically related use which was allowed under the Comprehensive Plan.

But because we knew we couldn't commit forever that this hotel would always be only for Arthrex, we did the analysis that's required under the Comprehensive Plan to make sure we were not increasing the intensity under the PUD by adding this hotel use. So we analyzed it as if it were a Hilton -- I don't know why -- I'm thinking I'm a Hilton Club member; that's why that's the only one I can remember right now. But a Marriott, anything like that. So we analyzed it like that.

Mr. Bumpous was asked the question, do you intend for it to have a flag, and he said no. And I got up after Mr. Bumpous, actually in response to Mr. Fryer's questions about traffic impacts and said, we analyzed this conservatively as if it were a standalone hotel.

That's how we analyzed it, that's how we intend to permit it, and that was our intentions all along is that some day in the future we don't want to have to come back in the future to amend the PUD to be allowed to put a flag on the hotel if circumstances change.

That's what we understood the motion was. There was nothing in the motion that said thou shalt not have a flag on this hotel, because I would have got up there and said, whoa, whoa, whoa -- you know me, I'm not shy -- we can't agree to that condition.

So it is our intentions to not have a flag. But we're not going to commit that forever there will not be a flag on that hotel.

So our request is for our language that's currently being presented to you, and we hope the Planning Commission can support that on behalf of Arthrex and their goals to continue to be an economic engine here

in Collier County. And that's the confusion that exists.

So our request is that you consider this as a regular hotel without a limitation on flags.

CHAIRMAN STRAIN: Okay. Before the Planning Commission asks any questions, I think to put it all in perspective, I'd like to read the minutes from that meeting so we know exactly why the question came up. It will take a couple -- a few minutes to read them all, but there's several paragraphs.

First of all, Commissioner Ebert said, I have a question. Is this a private hotel? Is this yours only?

Mr. Bumpous: It is a privately owned hotel; however, again, to meet the AdvaMed requirements, if we were to create an independent private hotel only catering to physicians, that would violate some regulations, so we have to establish it as a public hotel.

You will not see this in Expedia. You will not see this in Orbitz. This will not be something that's publicized. This will be a business hotel for our visiting surgeons and visiting employees that come in from Europe, from California, from other locations that would stay there as well.

Mr. Klatzkow: So there's no flag on it?

Mr. Bumpous: Correct, no flag.

Mr. Klatzkow: Okay.

Under -- Mr. Yovanovich entered into that discussion in the same -- second page later.

Also, the way we analyzed this hotel is we analyzed it as if it were a public hotel, a real public hotel, like a Marriott or a Hilton, or whatever, from a transportation standpoint.

We analyzed it that way, and we actually reduced the square footages in the PUD as if it were a standalone hotel open to the public and, therefore, the traffic -- the typical traffic impacts of that type of a hotel.

So we reduced square footage in the PUD to offset those impacts so the PUD would not be -- so the PUD would be transportation neutral.

So if -- you're really looking at this in the worst-case scenario as if it's a public operated open hotel for the general public when, in reality, it will be operated as a private hotel essentially for Arthrex visitors.

Now, after that meeting we got to the end of it, there was a motion to approve, and Joe Schmitt said, motion to approve subject to -- and we can go through the paragraphs, but subject to the changes we discussed today.

Mr. Strain: Okay. Then both of you are in agreement.

This was between Mr. Fryer and Mr. Schmitt who were making the motion and a second. It was approved unopposed.

So that's the discussion we're having today is try to resolve the issue of the flag. I've read to you the actual discussion that occurred, so now, Stan, I think you had some questions.

COMMISSIONER CHRZANOWSKI: Just the way the conversation started out, if someone were to read this, I assume by "flag" you mean not the code definition of flag but something else.

MR. YOVANOVICH: I think they use the term when you put either a Hilton designation or a Marriott designation or whatever else is out there designation is a flag for a hotel, not a flag as in an American flag or some other type of flag.

CHAIRMAN STRAIN: Ned?

COMMISSIONER FRYER: My vote last time was influenced by the fact that it was not going to be held out publicly as with signs, I suppose, is what I thought a flag meant, or otherwise advertised to the public as something that would be available for occupancy to anyone who might have read an advertisement.

Now, I'm not sure exactly what flagged means. I personally would not have a problem if Arthrex entered into a management contract of some kind whereby a large hotel chain operated the place because I'm sure that they would do an excellent job operating it, perhaps better than if Arthrex went out and hired people to do that. And it seems to me that could be accomplished without it then being touted to the public as being a Marriott or a Hilton.

And even if in fine print somewhere you said "managed by Hilton Hotels" or something like that, I don't have a problem with that. What the problem I have is is that if it becomes part of the public awareness that there is a hotel there, that would, I think, negatively influence the traffic, and it would take away from the arguments that I was persuaded by last time such as that it's going to keep more people on the campus.

MR. YOVANOVICH: Well, and it still will do that.

COMMISSIONER FRYER: Well, if people are checking into that hotel for purposes other than spending time at Arthrex or attending seminars or meeting with people, if they're checking into the hotel in order to visit North Naples or downtown Naples or other places, I don't know that it would. But it seems to me there ought to be a win-win here unless I misunderstand what is being said.

If the language here that has been suggested, the proposed new language, would allow for professional management but not being advertised as such, I think I'd be okay with it, although the language must be very carefully crafted.

MR. YOVANOVICH: Let me take a step back.

This whole discussion is predicated on it is intended to be a hotel with a limited universe of people who will be staying at that hotel. But we've never said that -- we don't want to have to come back 10 years from now, times have changed, and now have to amend the PUD to be able to have that hotel be open to people who are staying at -- family members who are staying at Naples Community Hospital or family members who are staying at Collier's Reserve.

COMMISSIONER FRYER: And I don't have a problem with that, really. It has to do with how it's held out to the public, how it's advertised, that type of thing.

MR. YOVANOVICH: And I understand that, Mr. Fryer. What we're saying, we analyzed it worst-case scenario; that if the world changes, we can advertise it and have a --

COMMISSIONER FRYER: I know you did, and that was appropriate and a conservative approach.

CHAIRMAN STRAIN: You guys have got to let each other stop speaking. You're over each other, and we're not going to be able to record it properly. So one at time, please.

Go ahead, Richard.

MR. YOVANOVICH: And I appreciate that. I didn't mean to interrupt Mr. Fryer, and I'm sure he didn't mean to interrupt me, so...

COMMISSIONER FRYER: Not at all.

MR. YOVANOVICH: We analyzed it worst-case scenario. We hope that worst case never happens, but we don't want to have to come back in the future and say we are now going to put the name Marriott on this hotel and let people come stay at it, because we've already analyzed it as if the name Marriott is there. We're not changing how we plan to operate this. We've always said we're going to have professional management of the hotel.

We don't -- we're going to have professional management, whoever that professional management company may be. But we did say we don't intend to put the name Marriott there anytime in the near future. But to say we'll never do that, we didn't agree to that. We didn't think we said we would agree to that. We didn't analyze it that way, and that's why we're here right now is what happens worst-case scenario.

Frankly, I think the people -- I think people in Collier's Reserve and Pelican Marsh wish this was open to their guests in our discussions with them, you know. So this hotel has received the least amount of discussion amongst the residents of Pelican Marsh and Collier's Preserve, because we reached out to them early, we reached out to them often, and they have no issues. And nobody's here to speak against it. And we're hopeful that we can live with our language.

COMMISSIONER FRYER: Is there -- would there be a way to make going public with the name, advertising it, holding it out to the public as a Marriott or Hilton or whatever, that would first trigger another study of traffic implications?

MR. YOVANOVICH: But we've already studied the traffic implications. We've already done that analysis. And we're going through that process right now --

COMMISSIONER FRYER: I'm just saying that all of that was important to me, and your conservative approach was appreciated, but my vote was influenced in part by the arguments that were impressive that had to do with keeping people on the ranch, on the farm, so to speak.

And to the extent that this would become the same kind of an institution as the Ritz-Carlton, that is not going to be the case, and that will result in more traffic. That's all I have.

MR. YOVANOVICH: Can I just say one point? This isn't something that's happening in the future. We're already in for our Site Development Plan for the hotel. So we're doing the transportation analysis as

we speak real time to -- with the assumption that the traffic impact is a regular hotel open for everybody. So those traffic impacts are being analyzed today real world, worst-case scenario. So we are factoring in those impacts today.

So the reality is, we're going to get tagged, if you will, because I can't think of another word, as if I'm open to the public today, but we will not have that impact because we won't be. So if I do sometime in the future put the Marriott on there -- put the Marriott tag on there, or flag on there in the future, I've already been analyzed as if it's a Marriott today.

I get it if I were coming in and it's going to be three years from now before we look at a hotel, but we're already in for that Site Development Plan with the hope that we're going to receive approval and have the hotel open when we're done building the office.

MR. KLATZKOW: Yet there's an administrative parking reduction request that's currently processing through the system as well based on the fact that this is a private hotel.

MR. YOVANOVICH: Right. I'll tell you what --

CHAIRMAN STRAIN: We're going to get into that in a minute, Jeff. But I want Ned to finish his discussion first, then we'll come to you, and then Diane.

COMMISSIONER FRYER: The traffic analysis helped me get to a yes vote. I appreciated it, but it was not the only factor that I took account of. I was also impressed by the fact that it logically seemed to be something that would net reduce the amount of traffic by keeping visiting physicians, drug reps, whoever else, on the campus.

So -- and, again, I appreciate that your study was done conservatively and that that was the proper way to do it. But as far as my vote was concerned, that was only a part of why I voted yes.

Now, let me ask a question, Rich, if I may. Let's -- I understand no one wants their hands tied forever, and I get that conceptually, and I also appreciate that it's not your client's present intent to advertise it, open up to the public, and make it like the Ritz-Carlton.

But may I ask what opportunities are you looking -- not to foreclose in the future. Are you looking to make it a publicly advertised place where companies could come in and have retreats or families could come to visit the Naples area? What opportunities are you trying not to foreclose?

MR. BUMPOUS: Good morning. David Bumpous, for the record, with Arthrex.

To respond to your question, the intent is for our visiting surgeons, visiting guests from other locations within Arthrex. At the same time, we plan to host business partners, again, other companies affiliated and associated with us that we do business with, work with, that we oftentimes collaborate with and provide that opportunity.

As I stated last time on the record, this is a public hotel, and while you may not find it on the Internet to book a reservation, if you call the number, any of you on this board, you would be able to book a room if one's available. So it is a public hotel as required.

COMMISSIONER FRYER: Mr. Bumpous, I understood that completely last time. It just has to do with whether it's being advertised or promoted. I know if it were approved the way the language was and somebody called and tried to make a reservation, you would accept them; I get that. But how is it they would have found out about it? And the more advertising, the more promotion, the more signage that is used, the more that the public mindset becomes connected with the fact that that is a Ritz-Carlton or a Hilton or Marriott, the more non-Arthrex business will be done there. That stands to reason.

MR. BUMPOUS: Absolutely, and that's why the traffic impact study was done at the max.

COMMISSIONER FRYER: And the traffic impact study was one factor that influenced by vote.

MR. BUMPOUS: Ultimately, there will be no more additional rooms added. So whether it's full today or whether it's full in the future --

COMMISSIONER FRYER: But it has to do with how many people will be leaving the campus.

MR. BUMPOUS: I understand.

MR. YOVANOVICH: I guess the answer to your question was, we don't know what's going to happen in the future. So every smart businessperson has, what's my exit strategy if things don't work out the way I think they're going to work out. And I have a hotel there. And that's what every smart businessperson would do. That's what we're doing.

Now, since the window was opened up on this alternative parking calculation, and it seems to be something that is part of your agenda, you can do alternative parking calculations for purposes of a Site Development Plan to determine what should the parking be, but you always have to have the backup plan is what if you're wrong and your calculation is wrong and you need more parking than what you need.

Now, what does this alternative parking calculation show you? It shows you that we have a surplus of 423 parking spaces on the campus when we build the office building and the hotel. We only asked for a reduction of -- we asked for 111 to be the requirement instead of the 186 required by the code.

If we had to do the 186 and identify them on the immediately adjacent Arthrex office parcel, we're still excess parking.

CHAIRMAN STRAIN: And, Rich, I don't mean to --

MR. YOVANOVICH: So that was --

CHAIRMAN STRAIN: -- interrupt, but Ned didn't ask a question about the parking exemptions, and let's wait till that question comes up from the person who asked it, and then you can understand what the reason for the asking is, and we can respond to that one for that basis.

MR. YOVANOVICH: Fine.

CHAIRMAN STRAIN: So you're going off on tangents. I'd like to get to the next question if we can. I think you've answered all of Ned's questions. Ned, are you finished?

COMMISSIONER FRYER: Yes, I am.

CHAIRMAN STRAIN: Okay. Jeff, do you want to move forward with your question?

MR. KLATZKOW: Well, no. I just -- I'm completely indifferent as to whether this is a public hotel or a private hotel, whatever. What Rich is saying here is, in essence, they want it zoned to be a public hotel. That's what they're saying, which is fine, you know, but that's what he's saying. So all this talk about how this is going to be a private hotel and it's just for, you know, doctors, that's just talk.

What the zoning's going to be is a public hotel. That's what he's asking for. Again, that's fine. You've got a parking exemption request. Again, the discussion was, is it going to be a private hotel? If what they want is a public hotel, again, that's fine. But, you know, staff's going to have to relook at this administrative parking reduction in light of the fact that this is going to be a public hotel because that's what the zoning's going to be if the Planning Commission agrees.

That's all. I mean, we're trying to sell it in one way while really asking for something else.

CHAIRMAN STRAIN: Okay. Now, Rich, do you want to respond to that?

MR. YOVANOVICH: No.

CHAIRMAN STRAIN: Okay. Diane, do you have a question?

COMMISSIONER EBERT: Yes, I do.

I asked Mr. Bumpous, I believe, if the public could use this hotel, and you said no. This is for doctors -- this is for doctors, and this is for people that come in from overseas. And when we have different meetings and everything, it's going to be -- this is going to be a private -- that is the way I gathered it more so was that it had nothing to do -- because I said, can the public stay there, and I thought it was said, no. And, you're right, I'd have to go back and look at the minutes.

CHAIRMAN STRAIN: Well, no. I read them to you.

COMMISSIONER EBERT: I know.

CHAIRMAN STRAIN: The question was -- you asked, is this a private hotel? He said, it's a privately owned hotel, but they have to establish it as a public hotel. So they said that in the record. And I've just read the minutes from that. So he did answer your question, but I think there's a difference between private ownership and private operation. This is an operation as a public hotel, but it's going to be privately owned. That's what I think they intended.

Does anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Okay. Rich, I have a few. And, first of all, you did approach the use of the hotel as ITE Code 310 in the PUD as a publicly operated hotel, and because of that your traffic count came out like any other hotel in any other part of the county that would have. And then you correspondingly said, okay, to make up for that traffic, we will reduce our square footage of other elements of our PUD so we

remain traffic neutral.

I don't have a problem with any of that. That part fits even whether it's flagged or not. That part doesn't bother me as much. What bothers me -- because you proceeded it -- you moved forward as a publicly operated hotel.

What bothers me is two things. Number one, the application for the parking exemption -- which I was a little disappointed to see staff would even have approved it without looking at the PUD, but it says, it will be a private hotel for use by Arthrex guests and employees. Now, again, we're looking at a limitation there which staff banked on for the approval of the parking exemption, but they also banked on the fact that you used ITE code for that exemption, No. 312. But in your PUD you used 310.

I'd like to know why you changed from a hotel -- a normal operating hotel in your PUD to a parking exemption that was purely a business hotel.

I granted that the trip counts are just slightly different, but why would you need to do that?

MR. TREBILCOCK: Good morning. My name is Norm Trebilcock, and my firm prepared the Traffic Impact Statement and also the parking needs analysis for the hotel as well.

The reasoning is in the PUD amendment we use 310, and that is -- for trip generation purposes, okay, and that is just to maintain consistency because that's what we had had -- you know, we already had hotel rooms for the project.

And the business hotel is a public hotel use. It's just a different type of hotel. It actually describes what's happening more accurately. For the purposes of doing the traffic analysis, we maintain the 310 as a higher assumption.

When we did the parking needs analysis, though, the parking needs analysis, what I wanted to do -- that is for this very specific parcel and type, and it's really an evaluation tool for staff. So I wanted to use -- and parking generation is not the same as the trip generation, but there are parallel numbers used. But I wanted to just be more accurate to the staff in terms of looking at that.

When we do the traffic studies, a lot of that ties back into impact fees, and the county uses a standard for 310 for their impact fees for hotel. So we weren't looking to mix and match that. I think it would create more complications. But for this very specific use in this evaluation tool, it was really a deficit number to evaluate. I mean, the whole deficit, though, in what I call a remedy is still based on the Land Development Code standard, so our remedy for the parking needs is we have this adjacent administrative building that will take care of the parking needs in the event the assumptions are incorrect on that particular parcel, and that's really how it's described for everybody.

So it's really just to try and be more accurate for evaluation in that very specific report. So it wasn't an intention to anything other than that.

CHAIRMAN STRAIN: Well, it also helps that the number you used in the parking calculation has a different ITE trip generation than the PUD.

MR. TREBILCOCK: It's a parking demand. It's not the same as a trip generation. It's a parking demand. There are differences, so I just --

CHAIRMAN STRAIN: I don't know why staff would allow you to use a different ITE code for parking when that's not the ITE code that's in the PUD.

And I would suggest to staff in the future that they need to match up parking exemptions to what the applicant had applied for in the PUD, unless there's -- I still haven't heard a good reason why they wouldn't. I understand your reasoning. It's not theirs.

MR. TREBILCOCK: No. And you make a good point. But the point of the matter is is when we look at a PUD analysis, we're looking at highest and best use, so we'll tend to go to a higher and conservative number. But really what we'd like to get to is actually the very specifics that you're doing.

So there's nothing wrong with going with something that is more accurate to what you're doing. And if it has a lower assumption, that's helpful for staff to understand in their evaluation as well.

So, yeah, we could have used 310 in the parking demand, but we know specifically that wouldn't be accurate to how this hotel's being used. Again, in the PUD, it was just a conservative, higher approach. And I don't see anything wrong with that. It's -- you know, again, we like to be conservative in the PUD level and then in the specific SDP, if we can hone in on the more accurate numbers, there's nothing wrong with that.

So I don't see a fault there.

CHAIRMAN STRAIN: Well, first of all, the more accurate numbers, then, should have been the ones you used in the PUD since that came three months after the parking reduction request. Regardless, I think there needs to be some coordination between applications that go in on the same project and the numbers used to generate those applications. Let staff make the decision on how you're going to operate it versus on a narrative you provide, but they ought to match up. That's all I'm trying to say. That's my first problem.

The second problem is we base -- you asked for a wellness center. You asked for a wellness center of 40,000 square feet. You asked for that wellness center under the basis that it wouldn't be counted -- because it's traffic neutral, it would have no impact on traffic because it's limited to Arthrex employees and guests and hotel guests; that it wouldn't be -- wouldn't generate any traffic and, therefore, the square footage shouldn't count necessarily against the overall square footage of the PUD because there are certain limitations. It's an industrial park. I didn't have a problem with that realizing that the limitation's on the hotel.

Now, if you in the future convert this hotel to a Ritz-Carlton or whatever brand you'd want to put on it and it goes beyond Arthrex, that means the wellness center's going to see traffic that would now come on and off site that may be for a different purpose than what the original operation was conceived at.

So all I'm suggesting is that to cure the problem that we're having today, is since this is going to be a more flagged hotel, if it goes that route, that the wellness centers are prohibited from using membership programs, meaning you can't have off-site memberships or people drive to the site to use the wellness center when they're not either an Arthrex employee or a guest at the hotel.

And that as far as the square footage goes, the sentence that we've had is wellness centers limited to employees and hotel guests within the PUD should not exceed a maximum of 40,000 square feet and shall not be counted towards overall square footage so long as they remain traffic neutral as accessory only to existing uses. Again, no off-site memberships. That's all I'm suggesting.

MR. YOVANOVICH: I'm okay if we simply say "no off-site memberships."

CHAIRMAN STRAIN: Well, then what's wrong with the last part of that where "so long as they remain traffic neutral"? That's the basis for not counting a stand-alone facility that's not accessory to the hotel lot.

MR. YOVANOVICH: Are you -- are you --

CHAIRMAN STRAIN: Let's go to 3.2 under your industrial commerce district general description. That's the added language I was just reading from. First paragraph. It's on Page 29 electronically and 3-1 in the PUD.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: Okay. So that's where I'm suggesting we add something to not allow membership programs.

MR. YOVANOVICH: I'm okay with that. But this whole "traffic neutral" language, I can't see it, I'm just saying, and we shall not be allowed to sell off-site memberships.

CHAIRMAN STRAIN: Right. So we make sure that that first sentence that's underlined in the bottom of that paragraph at the end of it, instead of a period where it says overall square footage, comma, "so long as they remain traffic neutral as accessory only to existing uses."

MR. YOVANOVICH: Where does it say that? It doesn't say that.

CHAIRMAN STRAIN: I'm saying add it. Read the -- go to the -- you're on Page 3-2?

MR. YOVANOVICH: I'm at 3-2.

CHAIRMAN STRAIN: Okay. See the third line from the bottom, wellness centers limited to employees and hotel guests within the PUD --

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: -- shall not exceed a maximum of 40,000 square feet and shall not be counted towards the overall square footage. And I'm suggesting we add, "so long as they remain traffic neutral as accessory only to existing uses." You can't have memberships, and they've got to remain traffic neutral.

MR. YOVANOVICH: So am I doing a -- how am I going to get -- my question is, someone's going to say to me, what did you do to measure traffic neutrality? I can easily measure I'm not selling memberships. I get that, and I can easily measure that it's Arthrex employees. I can easily measure that it's hotel guests.

How do I measure traffic neutrality? If I'm -- you've already -- I'm assuring traffic neutrality by saying I can't sell outside memberships. I just -- I'm looking at what's the measurement tool.

CHAIRMAN STRAIN: Well, part of the traffic neutrality for that wellness center was its limitation of uses. The users would only be Arthrex campus employees or the hotel guests.

MR. YOVANOVICH: And it's there and I'm saying, and we'll agree to the additional concern you have, and we shall not sell outdoor -- I'm sorry, outside memberships.

CHAIRMAN STRAIN: And if you feel you already meet the additional language that I'm suggesting, then why are you worried about it?

MR. YOVANOVICH: You know, what's the measurement tool? What's the measurement tool?

CHAIRMAN STRAIN: What's the measurement tools for yours?

MR. YOVANOVICH: It's very easy. You're going to come in and you're going to say, hey, Rich, what are you doing here? You're not an employee of Arthrex, and you're not staying at the hotel.

CHAIRMAN STRAIN: Right.

MR. YOVANOVICH: That's the easy --

CHAIRMAN STRAIN: So that's all I'm saying. I'm making it very clear at the end of the sentence; "so long as they remain traffic neutral as accessory only to existing uses."

MR. YOVANOVICH: We like the language we have.

CHAIRMAN STRAIN: Okay. So be it.

COMMISSIONER EBERT: Mark, I have another question. I mean, I'll be honest, this bothers me because I was figuring it was a private hotel. And you just -- can you say again what the -- what the Arthrex hotel parking spaces are required?

MR. YOVANOVICH: I have to go back to the traffic parking analysis. Norm, is it 186?

The hotel parking required as a stand-alone Marriott would be 186.

COMMISSIONER EBERT: And you're providing?

MR. YOVANOVICH: I believe it was 111 because it's being operated as a business hotel.

The irony of the whole thing -- I'll be honest with you, I thought we were doing this parking -- alternative parking analysis because we were short on parking.

I've got, like, 500 extra spaces. So we can have a parking agreement between Arthrex and the Arthrex entity that's owning and operating the hotel to address the 186 parking spaces if that's going to make everybody feel better. But we were doing a Site Development Plan based upon how the hotel was going to be operated just like any other hotel would go through.

If it's a business oriented hotel, this is the analysis we would do with staff and we'd say this is the required parking. It's different than what your code currently requires.

This is -- this is just a red herring. It has nothing to do with zoning. Nothing to do with zoning. We've said from day one this was a public hotel. We've been honest with you how we plan to operate the hotel. We've been honest that we need an exit strategy if things are different, and we analyzed it as if there was an exit strategy. We've done everything right.

This is a business that has been nothing but good for this community and has told you what it wants to do and what it needs to do, and we're making this way harder than it ought to be when we have nobody complaining from the community about this hotel.

CHAIRMAN STRAIN: And I think, Richard, that you're making it way harder than it needs to be. We're not asking for much. We're asking simply put your -- I guess your money where your mouth is. You guys said you weren't going to be -- you were going to be a private hotel, you have to be open to the public, but you'll be limited on the users of that hotel.

I'm concerned more -- not as the hotel, because you did the right analysis on that. I'm not concerned about the parking exemption. There's no problem there. I don't -- I mean, that's not going to hurt anything. All I'm concerned about is the fact that wellness center isn't counted as square footage on an overall program,

and it's different. It's not necessarily -- it's not on the same lot. It's not attached. We're going to say it's an accessory to two other uses. Fine. Then just stick with that.

As long as they remain accessory to the existing uses, then we can -- that helps assure the traffic neutrality. It's the only language I asked to add. That's too much for you, which makes me a little more concerned that there's something there we're missing, which means I think that language is needed now more than I previously did.

MR. YOYANOVICH: You know what, I'm running out of gas. I originally called these things accessory uses during the original application, and because I called it an accessory use, we spent a couple of hours on the phone about how I'm not an accessory use. So now you want to put the accessory use back in that I had in the first place. So if we want to go back to my original language where I called it an accessory use, I'm at peace, but I was told to take the accessory use language out, which we did.

CHAIRMAN STRAIN: But they're now accessory uses to the overall project, not just an overall use where it's got to be tied to a principal use on the same lot. This is the overall project. It qualifies that way. You want to start up the whole -- you want to open the whole can of worms up again?

MR. YOYANOVICH: We always said it was an accessory use to the Arthrex campus and the hotel. We always said that. And I --

CHAIRMAN STRAIN: It started out as the hotel, Richard.

MR. YOYANOVICH: No, it never did, Mr. Strain. It never did.

CHAIRMAN STRAIN: I'm fine with what I've heard to date. Anybody else have any other questions of the applicant?

COMMISSIONER FRYER: Well, I want to summarize my concerns because they're slightly different, I think, than those that have been expressed by the Chairman and by the County Attorney.

The proposed new language that we have before us now "and shall not be affiliated or associated in any manner with a hotel, motel, vacation," et cetera, that does seem to be too broad because having a management agreement with Hilton or some other entity that is acting as a silent partner, if you will, or supplying the back office would be an affiliation or association that I would not have any problem with.

And so, to me, the proper language, the language that gets at the essence of my concern, would be something like this: Instead of what we have outlined in yellow, I would have said, "and shall not be advertised or promoted to the general public to any substantial degree as a hotel, motel, vacation resort company or any entity that falls under SIC Code 7011, hotel and motels, unless the resulting greater public occupancies will be traffic neutral."

MR. YOYANOVICH: But I'm analyzing it today for purposes of my Site Development Plan. And correct me if I'm wrong, Norm, as if I am advertising to the general public a regular hotel. So I'm already having those impacts analyzed right now.

So I'm already doing that for you, Mr. Fryer. So I think I've addressed your concern because my Site Development Plan is analyzing the traffic impacts today as if I am advertising to the world that they can come stay here.

I'm not going to operate it that way, but I'm analyzing it that way for purposes of concurrency, which is what I'm required to do. So I think we've -- I think -- I really do believe I've addressed your concern about traffic impacts because we may some day advertise it to the general public. I'm doing it up front.

COMMISSIONER FRYER: I appreciate your point of view, and I understand it. I just don't happen to be willing to place 100 percent confidence in traffic impact studies, and that's why at our last meeting I asked for some further explanation that followed a telephone conversation that we had about how this was going to keep the folks down on the farm to a greater degree than if you were using hotels in Estero or downtown Naples, and so that influenced my vote.

And taken with the other discussion that we had about -- and I understand that if somebody wants to check in from the public with no association or affiliation with Arthrex, that you're going to accept those check-ins, but it has to do with the degree of public awareness that there is this very nice hotel in that location that, to my way of thinking, will add additional traffic. And if your traffic impact study says it won't, then I guess I disagree with your traffic impact study.

CHAIRMAN STRAIN: Okay. Anybody else have any questions?

COMMISSIONER EBERT: Yes, I do.

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: Unlike Mr. Fryer, I was told this is the Arthrex hotel. I thought I asked if the public could stay there; it was no.

There is going to be a hotel on the east side of this project, so I assumed that is where you wanted the public to stay.

MR. YOVANOVICH: Well, two things: We've always said we don't know whether or not the hotel on the east side will ever be built or not. We don't know. It could. No guarantee that it will be. It's not my client's property, Arthrex. They don't know what's going to happen there.

We've analyzed this PUD as if both hotels were being built. We were clear in the explanation that this is a public hotel. I understand -- and that's why we're having this discussion is maybe you didn't understand it the way -- and we're clarifying how it's going to be operated.

Make no mistake, this whole idea happened because of a lack of hotel availability to Arthrex and its professionals that are coming to stay. They need to have certainty that they'll have rooms for their guests, and it will be operated where doctors and other visitors who are currently staying in another hotel will now be staying at this, whether it's a Marriott, whether it's Innovation. Whether it's advertised on the Internet or not, it's still going to be Arthrex's guests staying there. We're just looking for the exit strategy in case things change in the future.

CHAIRMAN STRAIN: Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: Are there any members of the public registered to speak, Ray?

MR. BELLOWS: No one has registered.

CHAIRMAN STRAIN: Any member of the public here who would like to speak on this item?

(No response.)

CHAIRMAN STRAIN: Okay. With that, we'll close the public hearing and have discussion first. Does anybody have any discussion on it?

COMMISSIONER CHRZANOWSKI: Yeah, a comment.

CHAIRMAN STRAIN: Go ahead, sir.

COMMISSIONER CHRZANOWSKI: I've had a lot of opportunity to visit Naples, North Naples Hospital in the last year, and I drive through that intersection frequently, and I never see any traffic problems. I'm not all that concerned.

But I know people in here think that Immokalee Road is overstressed, but not that intersection; not from what I saw, ever. So I'm not as concerned as the rest of you. I'm just not.

CHAIRMAN STRAIN: Anybody else?

COMMISSIONER FRYER: I'm going to ask, I guess, the chairman to -- before we vote to explain exactly what we're voting on and what the consequences of a yes versus a no vote would be in terms of what the County Commissioners did at the last meeting.

CHAIRMAN STRAIN: In terms of what the County Commissioners did? I'm sorry. I don't follow their meetings all the time, so what did they do at the last meeting that I'm --

COMMISSIONER FRYER: Well, part of Creekside was approved, was it not?

CHAIRMAN STRAIN: Creekside?

COMMISSIONER FRYER: No?

MR. YOVANOVICH: Not that I know of.

COMMISSIONER FRYER: Okay. I misunderstood. Okay. All right. So --

CHAIRMAN STRAIN: Okay. We only opened this up for just this singular item and any items that would be related to it as a result of this discussion, which means the PUD previously was recommended approval from us subject to clarification -- incorporating our comments from last time.

In review of the last time, this was the one issue that wasn't clear. So I think the motion would stand to recommend approval, but if we vote differently on this issue today, I think this one issue may stand out from the rest of it. I'll turn to Jeff on any clarification he may offer.

MR. KLATZKOW: No. Usually we request the reason for a negative vote, and that reason, then,

Mr. Bellows would put into the executive summary that goes to the Board. And so if there is to be a no vote, I just ask that you state your reason, you know, for the opposition.

CHAIRMAN STRAIN: But I think the question was, are we voting no on the whole project now or just a singular issue that we --

MR. KLATZKOW: No. It's for the whole project.

MR. YOVANOVICH: May I ask --

MR. KLATZKOW: I mean, it doesn't matter because the practical -- the practical consequence of voting no is that it doesn't go on summary. That's the practical consequence. When the Planning Commission is unanimous and there's no public opposition, a land-use matter goes on summary and is approved at the very beginning of the board meeting without further discussion.

When there is a split vote by the Planning Commission, then it goes for regular public hearing. That's the practical consequence of a no vote.

CHAIRMAN STRAIN: Okay. Richard, you wanted to ask a question?

MR. YOVANOVICH: Yeah. I'll be honest with you. I'm a little confused about the procedure. Are we back reconsidering the original PUD? Because we're not talking consent anymore. We've gone way beyond consent, so...

CHAIRMAN STRAIN: We announced that in the beginning this wouldn't be consent. And it was a limited discussion on the flagging issue that was brought up previously.

MR. YOVANOVICH: So my question is, I understand the vote to be whether or not you agree with the language proposed by Arthrex or not. If you don't agree with the language proposed by Arthrex, you'd be voting no against the PUD, and we would then have a consideration by the Board on the regular agenda. Am I right?

CHAIRMAN STRAIN: Well, I think that's what Jeff said. We're voting for the PUD.

MR. YOVANOVICH: Okay. So we're back to -- we're not voting on consistency with the original Planning Commission motion.

CHAIRMAN STRAIN: No. That went away --

MR. YOVANOVICH: We're back now talking about we've reconsidered and reopened up the public hearing on the PUD itself.

CHAIRMAN STRAIN: That's correct. That's correct.

Okay. Ned, did you have anything else you needed to ask?

COMMISSIONER FRYER: No. I'm going to explain my vote when the time comes, though.

CHAIRMAN STRAIN: Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: I have one point of discussion. First of all, this is a good project, and I like the project. I thought it was well presented. I thought that everything went fine. I understand the traffic issue, and I agree with Stan. You seem to indicate, like us -- you were in agreement with the rest of us. I'm not in agreement where there's a traffic issue here. I'm worried about a traffic issue in the future.

I simply -- now the only thing this boils down to -- and because it's not going -- because it's going to be more of a full operational hotel or it could be in the future -- and I think it's the future that I'm worried about. To allow 40,000 square feet to go uncounted on the premise that it will remain traffic neutral because the wellness center's going to function as an accessory to existing principal uses, and not allowing that language to be added, to me, means there's something else there that we've missed; otherwise, how does it hurt anything? It matches exactly what we've been told and what we voted on.

So I'm going to have a problem with an affirmation on this without stipulations that add clauses that allow wellness centers to be prohibited from using any -- using membership programs and from adding the following language to Section 3.2 and the other section where we have wellness centers that says, "so long as they remain traffic neutral functioning as accessory to existing principal uses." Try to make that as clear as possible.

And if those two things can be added as a stipulation -- I would have no problems, with those stipulations, recommending approval to the Board, and then let the Board deal with it. At least they've got the option to hear it clearly then.

MR. YOVANOVICH: We've already said we agree --

CHAIRMAN STRAIN: Rich, this isn't a debating point for you. You've already had testimony. This is simply for discussion with us.

So that's my position on it. And with that, I'll ask for a motion from the Planning Commission.

COMMISSIONER FRYER: I'm going to make a motion to approve the proposal with the stipulations that the Chairman has inserted.

COMMISSIONER DEARBORN: Second.

CHAIRMAN STRAIN: Motion made by Ned, seconded by Patrick. Is there any further discussion?

MR. YOVANOVICH: Question. Point of order.

COMMISSIONER HOMIAK: What exactly are we voting on here in this language that was the original --

CHAIRMAN STRAIN: We're voting on the original discussion that we had at the Planning Commission meeting a couple weeks ago, and now we're voting on the changes to the wellness center designations as a result of the discussion this morning going on about the flags being removed.

So, basically, it's everything we previously did that we already made a motion on with two additional clauses. It leaves the flag idea in place. They can have their public hotel. But it's the wellness center that really generates the unknown from this whole thing, and it's a wellness center that my concern was we need to address because they properly addressed the hotel in their original TIS.

So with a hotel being more public than we thought it would be, by restricting the wellness centers as we described it helps keep that traffic neutral which is -- that's the big elephant in the room, basically. It's 40,000 square feet of space that's not counted, but it's only not counted because of the way it's tied to the uses that are there.

So that's the discussion. I mean, does anybody have any comment on that?

MR. KLATZKOW: Just one brief comment. And I understand where the Chair's going on this, and I can see that the applicant may not --

COMMISSIONER EBERT: Agree.

MR. KLATZKOW: -- agree to this. So this is going to be the issue for the Board of County Commissioners.

So that I can have absolute clarity before the Board, if I could get staff to write that stipulation -- just table this for now, get staff to write that stipulation, bring it back, and make that part of your motion, I'll have absolute clarity before the Board of County Commissioners. Because this sounds like this is going to be a one -- just a single issue before the Board. The rest of it, apparently, is fine.

CHAIRMAN STRAIN: I don't have a problem with the rest of it. I stand behind what I and the rest of us voted on originally. It's only this one change because of the re -- further defining of the hotel, and that, I think, buttons it up.

MR. YOVANOVICH: Mr. Strain, I think that the --

CHAIRMAN STRAIN: I know. Go ahead, Richard.

MR. YOVANOVICH: Look, we are the applicant. We have brought forward a proposed PUD for our property. Only the applicant can request PUD zoning on its property, and only the applicant can propose the terms it's willing to agree to.

You have to either agree with our proposed language or not. You can't impose upon us conditions that we're not willing to accept.

That's why I tried to get up there and say, Mr. Strain, we have no objections to adding we will not sell memberships and that it has to be accessory to the uses of the PUD. We've always balked at the language; I don't know how to measure transportation neutrality. We're hoping by the fact that only Arthrex people can use it, only hotel guests can use it, and that we can't sell memberships to the wellness center, and it's accessory to those two uses, that that will provide you with the assurance that it will be transportation neutral, and that's all we're suggesting.

We would agree to a condition that we can't sell outside memberships and that it be accessory to the PUD uses. We have no problems with that. It was, I don't know how to measure transportation neutrality. And I don't want to get into a fight with anybody about whether that has or has not occurred. That's the only

thing we're not agreeing to is the transportation neutrality language.

CHAIRMAN STRAIN: Okay. Thank you.

And as far as us insisting on something with you, we are -- we merely recommend to the Board of County Commissioners.

MR. KLATZKOW: No, no, no. No. Don't assume he's right.

CHAIRMAN STRAIN: I'm not.

MR. KLATZKOW: This is a county ordinance.

CHAIRMAN STRAIN: That's what I was just trying to say. I don't think he's right.

MR. KLATZKOW: You're the local planning authority. Okay. I mean --

CHAIRMAN STRAIN: Jeff, I'm not saying --

(Multiple speakers speaking.)

MR. KLATZKOW: You condition your approval on a clause. You condition your approval on a clause. He doesn't like it, that's fine. It will go to regular -- he'll go to the Board. This is -- this is what they conditioned on. I don't like it. And then the Board of County Commissioners will make a decision.

CHAIRMAN STRAIN: Jeff --

(Multiple speakers speaking.)

MR. KLATZKOW: I've never heard of such a thing. It's my ordinance. It's not your ordinance. Once you walk into this -- once you walk into this room it becomes a county ordinance.

CHAIRMAN STRAIN: Jeff, that's okay. We're all on the same page here. It's fine. We'll get there.

So as far as I'm concerned, the motion and the second accepted the language. I will ask staff -- we'll take a break -- well, it's a little bit early for our court reporter, but we'll take a break anyway. We'll get staff to type it up, and we'll read it back into the record, make sure it's crystal clear, and then that will meet Jeff's needs, and then we'll go from there.

So based on the motion that we have said, the two stipulations would be the wellness centers will be prohibited from using membership programs and that the last -- the sentence on 3.2 and the other section that talks about wellness centers where it says they shall not be counted towards their overall square footage, we'll continue with the following language: "So long as they remain traffic neutral functioning as accessory to existing principal uses," period. That's what was suggested. That's what the motion maker and second, I believe -- can I have a reaffirmation of that?

COMMISSIONER FRYER: Yes.

CHAIRMAN STRAIN: Patrick?

COMMISSIONER DEARBORN: Yes.

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

MR. KLATZKOW: Well, let's table it. We'll get it written up --

CHAIRMAN STRAIN: And we'll come back.

MR. KLATZKOW: -- then we'll come back and vote on it.

CHAIRMAN STRAIN: Okay. Let's table it for 15 minutes. We'll return at 10:15. And right after that we'll move right into Sand Banks parking exemption. We'll take a break till 10:15.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay, everyone. Welcome back from the break.

The printed copy of what we were waiting for just came through the door. So this is basically for the Planning Commission's benefit and the County Attorney's Office to understand clearly what the motion was. So long -- in yellow is the highlighted part. Wellness centers limited to employees and hotel guests within the PUD shall not exceed a maximum of 40,000 square feet and shall not be counted towards overall square footage so long as they remain traffic neutral and functioning accessory to existing principal uses in the PUD. There shall be no off-site memberships, and that captured both items.

COMMISSIONER FRYER: That's my motion.

CHAIRMAN STRAIN: Motion maker satisfied?

COMMISSIONER FRYER: Yep.

CHAIRMAN STRAIN: Okay. And the second?

MS. ASHTON-CICKO: Mr. Chair?

CHAIRMAN STRAIN: Yes, ma'am.

MS. ASHTON-CICKO: There's one other change that should be made.

CHAIRMAN STRAIN: Could you use the microphone, Heidi.

MS. ASHTON-CICKO: Okay. There's just one additional change that should be made, which is that last sentence should say "wellness centers" instead of just "wellness center." So we'll correct that in the final.

CHAIRMAN STRAIN: Okay. Yeah, that's a typographical.

So with that, there's been a motion made to accept this language by Ned, seconded by Patrick. Any further discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRYER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER DEARBORN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Motion carries 6-0 (sic).

Oh, why don't you use your mike. I thought you were with us. Aye?

COMMISSIONER EBERT: No.

CHAIRMAN STRAIN: So it's still 6-0 (sic).

Okay. Thank you. And that will end that particular discussion. It doesn't need to come back on consent. This is --

COMMISSIONER EBERT: I voted nay.

CHAIRMAN STRAIN: Oh, I'm sorry. Diane voted no.

COMMISSIONER EBERT: I did.

COMMISSIONER CHRZANOWSKI: I heard her say aye.

CHAIRMAN STRAIN: I thought so, too.

COMMISSIONER EBERT: No.

COMMISSIONER FRYER: But she said it when you called for the --

COMMISSIONER EBERT: Any opposed, I said aye.

CHAIRMAN STRAIN: Oh, okay. So it's actually 5-1. You still have a no vote. 5-1 in favor with the recommended language and one no vote.

MR. KLATZKOW: And could we get the reason for the no vote?

CHAIRMAN STRAIN: Yeah. What's your reasoning for the no vote, Diane?

COMMISSIONER EBERT: Because -- my reasoning for the no vote is I thought it was a private hotel and that guests could not stay there other than doctors and employees for Arthrex.

CHAIRMAN STRAIN: Okay. Thank you. With that we will -- this meeting -- that item's finished, and we'll move on to our next agenda item.

***Next up on today's agenda is Item 9A, and this has been continued from our March 1st meeting. It's for a parking exemption located between Rosemary Lane and Ridge Street.

All those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter. If you're going to talk on this item, ladies and gentlemen, please stand up.

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

CHAIRMAN STRAIN: Thank you.

Disclosures. We'll start over with Tom.

MR. EASTMAN: None.

CHAIRMAN STRAIN: Stan?

COMMISSIONER CHRZANOWSKI: Just some correspondence from people.

CHAIRMAN STRAIN: Ned?

COMMISSIONER FRYER: None.

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: None, just emails.

CHAIRMAN STRAIN: Okay. And I have met with the applicant a couple different times, staff several times. I've also talked to some folks from the neighborhood at a meeting, and I've received some correspondence from them which was forwarded to staff to disseminate. I think it came in just after the application went out, so I'm not sure it got to everybody, but it was a summary of their concerns after a meeting with the applicant.

Go ahead. Karen?

COMMISSIONER HOMIAK: Nothing.

CHAIRMAN STRAIN: Karen's nothing. Patrick?

COMMISSIONER DEARBORN: None.

CHAIRMAN STRAIN: Okay. With that, Fred, you can proceed.

MR. HOOD: Good morning, Mr. Chairman, Commissioners.

Frederick Hood with Davidson Engineering representing Sand Banks, LLC, the applicant for the parking exemption request.

I just want to go over briefly the project description and location with you-all. As you can see on the screens, the property is outlined in red here with Ridge Street to the north, Tamiami Trail North to the west, and Rosemary Lane to the south.

To the south of the site across Rosemary is Borelli Construction's new construction. It was a couple years ago that they built that. And to the north is Thalheimer's jewelry store, just to orient you.

Here's the zoning map, and the property has the star spinning on it, which is no longer spinning. It's C4 and has RSF4 zoning to the rear of the site.

The site is approximately 2.32 acres and, as I said before, bounded by Ridge Street to the north and Rosemary to the south.

Just to give you kind of a better idea of what the location -- the locations of the zoning are on the property. The highlighted yellow hatched area to the rear is the RSF4 zoned property. The remaining property to the west is C4.

Just to give you an idea of what's actually situated on the property right now, this is the existing shopping plaza that is just south of Mr. Tequila's restaurant. This shopping center is about a little bit more than 6,600 square feet. And, yeah, there's a few tenants in it right now. These are just some additional pictures; some views for you to take a look at. And there's Mr. Tequila's. Mr. Tequila is on the corner of Ridge Street and Tamiami.

This is the site plan that we have come up with for the proposed parking exemption and the future Site Development Plan. This one differs slightly from what's in your packets. We had a conversation with Mr. Strain about the dumpster location. So in this master plan you will see the dumpster location that is just north of Mr. Tequila's restaurant. If you look in the upper left-hand corner of the property, we had to swap those areas. The dumpster could not be located in the RSF4 zoned property, so we put it into the C4 property closer to the restaurant.

Just to kind of give you an idea of how the site is. Again, looking today, there is the 6,600-square-foot building shopping plaza to the south of Mr. Tequila's, and you can see it's kind of the aerial I've overlaid on top of the master plan just to give you an idea of what's going on here.

Again, the site plan, just for additional reference, as I just spoke about, the original loading area was there in blue on the upper left-hand portion of the screen, and on the upper right-hand portion of the screen was where the existing -- or proposed dumpsters were. I've now swapped those in this master plan.

This is the existing parking exemption that was approved back in 2009. It was for a 60,000-square-foot building, office building, five stories, 12,000 square feet each floor. On this particular master plan in the RSF4 designated areas, there were 63 parking spaces that were being proposed.

It was also -- obviously, as you can see, this site was surrounded by parking. And, again, five stories maximum height in this particular scenario would have been 75 feet.

Side-by-side comparison, what we have proposed versus what was already approved back in 2009.

We're looking at a one-story shopping plaza that will be replacing the existing shopping plaza that is -- if you're looking at this, the existing one is just south of Mr. Tequila's and in front of this proposed plus-or-minus 17,000-square-foot structure that we're proposing.

I just want to kind of go into the conditions of approval, and I'll just go through them one by one. Fair warning, there's a couple of these that have changed. After we spoke with Mr. Strain and we discussed some items with staff, we organized, and some of these weren't necessary, so I'll get into that at the end of the presentation. So bear with me as I go through these.

CHAIRMAN STRAIN: Well, and you had already modified some of them before you talked to me.

MR. HOOD: I did, correct. And just to give you some background on that, staff provided us with a list of conditions of approval. We looked at those items, and we kind of made them more consistent with how the LDC is written today versus what they were approved of back in 2009. So that's the real difference.

The ones that I will show you later are additions to those conditions just to make sure that we're meeting the intent of what we have been proposing.

CHAIRMAN STRAIN: Okay.

MR. HOOD: Okay. So the first one is the restriction of the parking -- sorry -- the restriction of the allowable area of the parking exemption. It is accurately depicted on the conceptual plan. The second one limits the provision --

COMMISSIONER FRYER: Excuse me, Fred. I have a procedural question; otherwise, I wouldn't interrupt you.

MR. HOOD: Sure.

COMMISSIONER FRYER: The material that we're looking at, the redlining, is this the first time we're seeing this?

MR. HOOD: The redlining that I'm going to go over after this --

COMMISSIONER FRYER: Yes, this redlining --

MR. HOOD: -- or right now?

COMMISSIONER FRYER: -- that's on the screen right now.

MR. HOOD: This one right now is what you have in your packets.

COMMISSIONER FRYER: Okay, redlined?

MR. HOOD: Redlined that has been in your packets through coordination with staff, yes.

COMMISSIONER FRYER: Okay. Mr. Chairman, do you have a page number for that?

CHAIRMAN STRAIN: Page 30.

COMMISSIONER FRYER: Thirty, okay. Thank you. Sorry to interrupt.

MR. HOOD: No problem. Sorry about that.

The second condition limits the provision of the typical parking restrictions and restricts for -- the use for the proposed shopping center and restaurant only.

The third condition -- and you will see that No. 3 was from staff, and we struck that. That is a portion of the restructuring that I will discuss as I go through the rest of these. So now No. 3 is the condition restricts the parking within the PE area and to be a paved surface parking lot only.

Number 4 restricts the use of the parking exemption area to normal business hours and the operation between 7 a.m. and 10 p.m. So anyone who is parking in this area, there will be signs that will be available that says you can only park here between the hours of 7 a.m. and 10 p.m.

The next one, we're going into more detail about the lighting in the parking exemption area. We limited the lighting fixtures in this PE area to a height of no more than 42 inches. So in this area, as you can see on this slide, we've proposed bollard lighting. So everything that was in that previously yellow outlined box for the RSF4 area we've provided for bollard lighting.

I know that there's snow in that picture. It was one of the better ones that we found that was an example, so just to give you a little Christmas cheer.

COMMISSIONER EBERT: Northern Florida.

MR. HOOD: And Northern Florida.

Okay. Next, No. 6, the lighting, we provided at the rear of any building adjacent to the parking exemption area and adjacent to those residential lots, and I've identified those lots as Lots 57, 59, 18 -- and 18

of the Rosemary Heights Subdivision, shall be in the form of shielded structure-mounted sconces. So what I'm talking about here is any lighting that's on the back of that building will have to be structurally mounted. There is a change to this language that we'll go over later on, and I'll discuss why in a second here.

These structures shall be placed no higher than 10 feet measured from the finished floor of the building or structure.

Okay. Our next condition provides that all landscaping for the off-street parking areas shall be in accordance with Chapter 4 of the Collier County LDC in effect at the time of building permit application.

Next, No. 8, through coordination, phone calls, and emails with adjacent property owners and affected parties in the surrounding area, we retained the six-foot wall requirement within the Type B landscape buffer. Per the Land Development Code, this wall has to be six feet from the common property line and, again, this wall will be adjacent to Lots 57, 59 and 18 of the Rosemary Heights Subdivision.

This graphic gives you an idea of where that wall will be placed, generally.

Okay. Moving on to No. 9, perimeter landscape buffers, dumpster enclosures --

COMMISSIONER FRYER: Excuse me.

MR. HOOD: Yes, sir.

COMMISSIONER FRYER: Your numbering doesn't correspondence to what we had in our package.

CHAIRMAN STRAIN: Yeah. Well, it does mine.

COMMISSIONER FRYER: Number 10 is what I have showing perimeter landscaping buffer.

CHAIRMAN STRAIN: No.

MR. HOOD: Oh, I'm sorry. These are my notes.

COMMISSIONER FRYER: He called it No. 9.

CHAIRMAN STRAIN: He's got 10 on here. Oh, okay. I was looking at what he had on the screen.

MR. HOOD: Number 10, I'm sorry. So No. 10, perimeter landscape buffers, dumpster enclosures, screen, and additional screens between residential and nonresidential development shall be in accordance with Chapters 4 and 5 of the Collier County LDC in effect, again, at the time of building permit application.

Number 11 provides the option for an enhanced landscape buffer if the applicant decided to do so. That would just be providing additional landscape materials if they saw fit, anything that was more than code minimum.

I believe we're on No. 12. Let me go down here. Here we are. Let's see. Provides that there shall be no direct access from adjacent streets to the parking exemption area. This was a previous condition that was provided in 2009 so that no -- none of the parking exemption area could have access directly in that RSF4 area onto Rosemary or onto Ridge Street. So we've moved them -- and I'll show you again on the master plan when we get down here.

You will see with the red arrows, the access points, the main access points, are to the north on Ridge Street and to the south on Rosemary Lane, and they are within the C4 area. We do have one emergency access for emergency vehicles that straddled that line, that yellow line that you see, and that yellow line is the zoning line. So we had to -- for circulation and emergency fire purposes, we added an emergency access point there.

Okay. We are on number -- that's 12. Okay.

COMMISSIONER CHRZANOWSKI: Fred, on that last page, No. 7 --

MR. HOOD: Yes, sir.

COMMISSIONER CHRZANOWSKI: -- the last line, instead of shielded structures, you might say shielded fixtures. Small point; probably not important.

CHAIRMAN STRAIN: And if we can, when he finishes with his presentation, we can get into walking through it again with the questions.

MR. HOOD: Sure. Okay.

So now I'm going to go through the revised conditions of approval through coordination that we've had with the county and with our phone calls with some of the concerned neighbors.

Okay. So this is the -- and, actually, I want to hand these to you-all. I have copies of them, if you wouldn't mind.

CHAIRMAN STRAIN: No, please do. And how many -- you need to make sure the court reporter and staff and the County Attorney's Office as well.

And, James, when it gets to the staff report and you've heard everything, I'm going to ask you if you need -- how you would perceive this proceeding since you haven't had time to see these changes. I don't think any of us have.

MR. SABO: Very good. I've made notes as well, so thank you.

MR. HOOD: And if you need them, I also have copies of the PowerPoint presentation for the record, if you would like to have a copy of those.

Okay. Going on to the first change, in No. 2, as you can see on the screens here, there was a concern about -- and there was a concern but there was also a practical reason why this one was changed. When we moved the dumpster areas, I no longer needed to say that I was going to leave this parking exemption area for dumpsters, vehicular circulation, and so forth, so the refuse collection was stricken there, and I added the word "vehicular" to circulation just so that we could say this is an area for cars. That's why that change is there.

As I was talking about earlier, No. 3, that has been stricken in this copy. These were a portion of the conditions that we received from staff. We've reorganized those, and some of them didn't apply anymore, and most of them have just been added further down the line.

So we'll go to the next one, which is No. 5. We added the hours of operation for the actual lighting. So you'll see there in red the text that says, "and be restricted to operating in the parking exemption area between the hours of 6:30 and 10:30 p.m." This is just for the lighting.

So as I was stating before, the parking exemption area will only be available to people parking there between the hours of 7 a.m. and 10 p.m. I added an extra half an hour on each end just for -- you know, so the site illuminated before people arrive to park. And we discussed that point with two of the neighbors yesterday, and they seemed to be okay with that.

The next one is about the restrictions. And so this is the one that I was talking about that we were going to change inside of the C4 area. For safety reasons, I couldn't just leave bollard lighting only in the parking exemption area, but to be able to light the drive aisle that is in that area, we are proposing for pole lighting no higher than 10 feet on the C4 side of things basically behind the building to be able to light that aisle.

And so Dark Skies technology will be applied here so that there will be shielded fixtures that will be lighting that aisle. We also added the hours of operation for that lighting as well just because it's outside of the parking exemption area. I wanted to be very, very clear. So also 6:30 a.m. to 10:30 p.m. for that.

We struck No. 8. This was a reference that had to do with the landscaping. It is already in the Land Development Code, so there was no need for us to reiterate it here, and No. 7, which was formerly No. 9, this was about the wall. The previous condition had the wall being four feet from the property line. The Land Development Code has since changed. It is now six feet from the property line, so we just made that update.

Our next one, we removed 10 and 11. Again, these have to do with the landscaping. Number 11 was about the enhanced. If our applicant wants to go ahead and plant additional landscaping, that's not precluded by the LDC, so there was no point in us leaving that there. And No. 10 was, again, redundant because it is already in the Land Development Code, so we will be following that.

And then the changes we had were to the master plan. These were just some housekeeping items. One was adding one story to the proposed shopping center, that 17,128-square-foot building that you see there in the center, and then the second ones were the addition of the words "with wall" to the Type B landscape buffers on the eastern portion of the site.

"Contiguously" in that hatched area to the bottom right was spelled wrong previously, so we fixed that.

And the last change was a question -- actually, a conversation that me and Mr. Strain had about how we would restrict access from the public for that emergency access. We coordinated a couple days ago with the fire district to see what they would like to be there, and we proposed putting a hedge there that they could just run over if they needed to access the site.

They weren't very keen on placing that hedge there. So I've put the language in to coordinate with

North Collier Fire Control District to determine vehicular control method at SDP approval. We'll just have to discuss with them what they would like to see unless this board would like to provide an option for us to put something there at the zoning level.

And that is it.

CHAIRMAN STRAIN: Okay. We'll start with applicant -- or questions of the applicant. Anybody? Ned?

COMMISSIONER FRYER: Yes, sir.

Fred, would you please explain the legal relationship between your client and Mr. Tequila? Does Mr. Tequila own the property, or is it a tenant?

MR. HOOD: Mr. Tequila is a tenant of the property.

COMMISSIONER FRYER: Okay. And I take it that under the terms of the lease with Tequila that you are able to speak for them --

MR. HOOD: Yes.

COMMISSIONER FRYER: -- on this kind of a matter?

MR. HOOD: Yes. What we're doing, we're speaking for the property owner. They've made the application to reconfigure and redevelop their site. As I understand it, Mr. Tequila is just a tenant, and they don't have a power to dictate what we're doing in this application.

COMMISSIONER FRYER: Okay. Power aside, I'm sure you've spoken with them. Are they satisfied with this --

MR. HOOD: Yes. There hasn't been any ill feelings towards the redevelopment. They are remaining in their building, and that building is not going anywhere at this point.

COMMISSIONER FRYER: Okay. Now, you're wanting a reduction of spaces from 114 to 98.

MR. HOOD: Yes, sir.

COMMISSIONER FRYER: Okay. So that difference is whatever it is. Is that -- that's 16. Where would those hypothetical 16 cars or people now park?

MR. HOOD: So what we have here, there's two applications that are in for review. Well, this one is here before you now for the parking exemption. Staff is also reviewing an administrative parking reduction application currently.

What we have proposed -- because of the proposed development of the site, we've proposed a 16-space reduction of that area, and we had, for the -- reasonings for those, and I can go over those for you. We discussed the proximity of hotels in the area. We've discussed the proximity of pedestrian -- pedestrian facilities to get to the property, additional bike racks that will be provided at the time of SDP, so forth and so on.

So we're asking for that reduction in a separate application. So what you see here on this master plan is 98 spaces of those required 114, but they will be reduced if we get approval.

COMMISSIONER FRYER: It's your position that 98 spaces will adequately accommodate all vehicular traffic?

MR. HOOD: Yes, sir. And the other reason we believe that is because with the retail and office shopping plaza that will be built, they'll have varying operating hours between Mr. Tequila and that structure itself. Typically, if we have, let's say, a general office in there or a dog groomer or something like that, they have general hours of, you know, 7 to 5 or 6 p.m., and then the height of the hours for Mr. Tequila for their dining is between, like, 6 and 9. They're open a little bit later than that.

So we feel comfortable that with these uses on site there will be enough area in between where there will be enough parking for everyone. And then --

COMMISSIONER FRYER: Here's my concern.

MR. HOOD: Okay.

COMMISSIONER FRYER: If you're not correct, if your assessment is not correct --

MR. HOOD: Yes, sir.

COMMISSIONER FRYER: -- I understand Rosemary and Ridge Streets, there will be no direct driving access.

MR. HOOD: Yes.

COMMISSIONER FRYER: But, certainly, there would be the potential for pedestrian access; in other words, people parking on Rosemary and Ridge and walking over to this area. Would that not be correct?

MR. HOOD: I can't speak to that because I'm not sure of how the county dictates people parking on Ridge or Rosemary, but I can't preclude it from our standpoint, no.

COMMISSIONER FRYER: Okay. My next question then: There seems to be a discrepancy, and maybe it's been worked out through the various iterations of the paperwork, but at the beginning it seems as though we were talking about hours of operation from 7 a.m. to 6 p.m. or at least the signage with respect to the PE spaces.

MR. HOOD: Yes, sir.

COMMISSIONER FRYER: And then it jumped up to 7 to 10. Has that change been run by the neighbors? Have they had a chance to weigh in on that?

MR. HOOD: I did discuss the -- this was last month before we were going to come before you before the hearing got continued. I spoke with two ladies that live in the neighborhood, and I think they're here tonight (sic), and I went over all of the conditions that we were proposing and all the conditions that were previously proposed.

The reason for the change from 7 a.m. to -- 7 a.m. to 6 p.m. to 7 a.m. to 10 p.m., offices usually close at 6 p.m., so there was no reason for it to go beyond that. We are now proposing offices and retail. So for our purposes of being able to operate the site, we needed more time on that.

So I've discussed it with them. I'm not sure how they feel about it. But when I did speak with them, I think they understood it at that point. But they can speak to that at the appropriate portion.

COMMISSIONER FRYER: Okay. My next question, and this relates to the hearing, the NIM that you had and the tape recording that I listened to -- well, it looks like it shows up on Page 47 of 62 on the electronic copy. And the question is whether the City of Naples has had an opportunity to weigh in on all this since what's happening is so proximate to the city.

MR. HOOD: We have not heard any objections from the City of Naples, but I will also tell you that we did not send this to -- directly to the City of Naples. We figured this is a Collier County issue. We're before you to discuss it. I certainly can send them a copy, but it wasn't something that we did.

COMMISSIONER FRYER: Well, in present -- in presenting at the NIM, you said that the City of Naples will have the opportunity to review and weigh in on the application, and I'm just wondering if that opportunity has really been extended.

MR. HOOD: At this time I can't say that it has.

COMMISSIONER FRYER: Okay. So the dumpster.

MR. HOOD: Yes, sir.

COMMISSIONER FRYER: Where will the dumpster be positioned?

MR. HOOD: So the dumpster in the original master plan that you had in your packets, it was along the backside -- the northeastern portion of the parking exemption parking lot. We cannot put it there. It is not allowed per that residential zoning.

So we have literally swapped it directly across from where the previous loading area was that was behind Mr. Tequila's. So the loading area is now where the dumpster was, and the dumpster is now where the loading area was.

COMMISSIONER FRYER: Well, help me. So you say you couldn't put it in the northeast --

MR. HOOD: Correct.

COMMISSIONER FRYER: -- corner because of residential. Are you putting it somewhere close to the eastern border of the property?

MR. HOOD: No. It is -- if you look at this screen here and you look at the existing shopping center area restaurant in the northwest corner, the upper left.

COMMISSIONER FRYER: Northwest, okay.

MR. HOOD: And then there's that dumpster enclosure that's right in front of that building along Ridge Street.

COMMISSIONER FRYER: I got it, okay. And just for my edification, that's going to be closer to

the outdoor seating of Tequila?

MR. HOOD: The outdoor seating for Tequila, the main outdoor seating for Tequila is south of that about -- I'm not sure of the distance on this drawing. But if you look at that one box that says 784 square feet of outdoor dining area, it is there. That's where the outdoor dining is.

COMMISSIONER FRYER: That's all I have, Mr. Chairman.

CHAIRMAN STRAIN: Okay. Anybody else?

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Go ahead, Diane.

MR. HOOD: Yes, ma'am.

COMMISSIONER EBERT: You want to repeal the whole ordinance that the BCC did and get rid of that one?

MR. HOOD: We're doing that because it no longer applies for the type of development that they're doing here. That was for a -- that was specifically for a five-story office development. We're not doing that anymore, so we've crafted our own new proposal, parking exemption proposal, that would be in a new ordinance to apply to what we are providing here.

COMMISSIONER EBERT: So you want to repeal the whole thing?

MR. HOOD: Yes, ma'am.

COMMISSIONER EBERT: The six-foot wall --

MR. HOOD: Yes, ma'am.

COMMISSIONER EBERT: -- who will maintain --

MR. HOOD: It is the responsibility of the owner to maintain that wall.

COMMISSIONER EBERT: No. On the other side you have six feet.

MR. HOOD: Yes. So per the Land Development Code we have to plant landscaping on both sides of the wall. It is still their property whether the wall is there or not.

COMMISSIONER EBERT: It is still their property?

MR. HOOD: Meaning the property owner. It has to be six feet from that property line that they abut with the adjacent property owner. So six feet onto their property will be the wall. That six feet that is outside of the wall, that's still their property, so they'll have to maintain it. It's -- that's how everything is done in this county when you place walls outside of your property line. It's still your property. You still have to maintain it.

COMMISSIONER FRYER: And the owner in question is your client?

MR. HOOD: Yes, sir.

COMMISSIONER EBERT: That's all for right now.

MR. HOOD: Okay.

CHAIRMAN STRAIN: Okay. Fred, let's start with Page 2 of the staff report, which is Page 3 for Ned's purposes, electronically. Underneath the parking calculations section, you said something that you hadn't -- I hadn't heard before until you said it previously. Your reasoning for the reduction in parking spacing is because of the off hours of the different uses that would operate the new shopping center location and exist.

MR. HOOD: Yes. That was language that is in our APR application, our administrative parking reduction application for reasonings.

CHAIRMAN STRAIN: You're not asking for that now.

MR. HOOD: No.

CHAIRMAN STRAIN: You're asking for APR in conjunction with the parking exemption that's happening here.

MR. HOOD: Correct.

CHAIRMAN STRAIN: Okay. So from -- procedurally, I didn't -- I didn't realize this until you said what these off-hours issues -- because basically you're calling for a shopping center. It doesn't say office. It says shopping center.

The analysis on Page 2 refers to restaurants and shopping center as well. So generally when you do an APR you qualify the reasoning as to why you want a parking reduction, and staff ties the approval of the

parking reduction to the intent and discussion of the APR.

MR. HOOD: Correct.

CHAIRMAN STRAIN: You haven't given us an APR.

MR. HOOD: Not here, no. I haven't. I can discuss it with you.

CHAIRMAN STRAIN: No. I would think that before this day's over or before this next hour, or whatever it takes, is over, you're going to be coming back, and we're not going to vote on this today.

MR. HOOD: Okay.

CHAIRMAN STRAIN: But my point is, staff analyzes an APR based on what you say, and you get the approval based on what you say.

MR. HOOD: Correct.

CHAIRMAN STRAIN: You didn't give us that kind of information other than the verbal I just heard, and I have no commitment that 17,000 square feet is going to be part office. That's a huge difference in my mind because, you're right, you do have some off hours.

So I would suggest when you come back, prepare a narrative to address the APR of how much office you're going to have out of that 17,000 square feet.

MR. HOOD: Well, let me say this to you, because what we have to do per the Land Development Code and how we're looking at this, the restaurant plus the 17,000 square foot is considered -- those total 22,505. We are considered a shopping center under the parking standards in the Land Development Code.

CHAIRMAN STRAIN: And why did you do that?

MR. HOOD: So that's how we're looking at it.

CHAIRMAN STRAIN: Yeah. But why did you do that? You know why you did that? Because you get the best rate for parking; shall qualify as a shopping center.

MR. HOOD: It was also because our client wanted this building, okay. I'm just being honest with you at this point.

CHAIRMAN STRAIN: Right.

MR. HOOD: He wanted this building. He wanted it this size, okay, plus --

CHAIRMAN STRAIN: At this point. Does that mean the rest of what you said isn't?

MR. HOOD: No, it does not.

CHAIRMAN STRAIN: Okay.

MR. HOOD: When we looked at this, we said, okay, what do we want for this new building that we're going to redevelop. It happened to be a 17,128 square foot building. We were keeping Mr. Tequila's, okay.

So looking at the parking requirements that we had -- and I understand where you're going with this -- we said, okay, well, whether it's going to be all retail or whether it's going to be a mixture of retail and office we don't know yet because we don't have the tenants.

So I had to look at this from a practical standpoint and say, what parking standards do we apply? So since we are over the 20,000 square feet, we applied it as a shopping center. Okay.

CHAIRMAN STRAIN: I understand all that.

MR. HOOD: So that's why -- there's a portion of the justification for the APR and for our parking exemption. The APR's justification obviously stands on its own. It's something that staff is reviewing right now. We are asking for the parking exemption in this area that you see defined on the RSF properties to be able to park what we have. So we're using that parking to operate the proposed shopping plaza.

CHAIRMAN STRAIN: Well, first of all, James or Ray, are they also asking for a simultaneous parking exemption -- or APR for this project?

MR. SABO: Yes, they --

CHAIRMAN STRAIN: Then why are we considering that as part of this project? Because at one point in your staff report you even said the applicant's being proactive in asking for this parking reduction now. What does that mean? So you're processing a separate APR even though we're kind of reviewing the amount of spacing that's going to be allowed through the parking exemption.

MR. SABO: Correct.

Mr. Chairman. Commissioners, James Sabo, principal planner, for the record.

The discovery of about four months after the application for the parking exemption, the applicant applied for an administrative parking reduction. On the first of March we sent a memorandum informing the Planning Commission of that and, as such, we are holding on to the administrative parking reduction application and holding action on it until we have heard the issues related to this petition.

CHAIRMAN STRAIN: Okay. In this particular process, they're also asking for a parking reduction, more or less. It's not in the form of an APR, but they're looking at 98 spaces as the bottom line. So in order for us to understand how they got there, we would need the same evidence that you have through the APR.

So when this comes back -- which I'm assuming you're going to probably suggest it needs to for you to rewrite your recommendations --

MR. SABO: That's an accurate assumption.

CHAIRMAN STRAIN: Okay. I would like that analysis to be provided in what staff's position and analysis is as part of your recommendation so we have a package all tied up and we know what it means. Because if there are going to be office allocations as part of the reasoning for the APR, you're going to tie the APR to those.

MR. SABO: Correct.

CHAIRMAN STRAIN: We need to know that as well.

MR. SABO: That's correct.

CHAIRMAN STRAIN: It will just make everything better. Okay.

When we get to the emergency access for Rosemary Lane --

MR. SABO: Yes, sir.

CHAIRMAN STRAIN: -- you will have time before you come back to work this out. I do not like leaving zoning issues like that in the hands of the fire department. They look at it from how fast can our trucks go out and come in. It's a different application. I know -- I can tell you I've used two methods before when I've done developments. One is to put a gate arm of some type that's tripped by a transmitter that they might have or a short hedge so that if they drive over it, you just replace a few plants, but they'd only do it for emergencies, which hopefully will never happen.

Why they're saying to you now that that's not something they like, I don't understand it. But, regardless, it needs to be worked out so we can enter something in here that works for all parties.

MR. HOOD: Okay.

CHAIRMAN STRAIN: You had written a -- let me see what it's titled; narrative and evaluation criteria, and in that narrative evaluation criteria, you had the last -- two questions, or last one question, actually it's No. 12, whether there are more viable alternatives available, and you basically said there are no more -- there are not more viable options.

Well, yeah, there is. You can reduce the size of the structures there until a point it fits on the site.

MR. HOOD: Yeah. And so we discussed that. And I agreed that that is something that is possible, but our applicant has wanted to move forward with this configuration. So I can adjust that if you'd like.

CHAIRMAN STRAIN: No. I just want to make it clear for anybody else reading it. We're not -- I think we're aware that that may not be factually accurate, and I wanted to correct it.

MR. HOOD: Sure.

CHAIRMAN STRAIN: On the site plan that's in front of us, Ray, are loading zones allowed in the parking exemption areas?

MR. BELLOWS: For the record, Ray Bellows.

The parking exemption process only allows the required vehicular parking spaces to be located on the residential tract, not accessory loading bays or dumpsters. Those aren't part of the process, so they would have to be located on site.

CHAIRMAN STRAIN: Okay. So when you come back, you'll need to bring a master plan showing those as parking spaces, or whatever you want to do with them, but...

MR. HOOD: Okay. Before I let Ray go on that one, because we are tying this proposed resolution to a number of spaces, so if I change that now and I put those parking -- put those parking spaces there, I can move the loading area. That's not the issue. I just want to make sure that we all understand that instead of there being 21 parking spaces in the back, as we've proposed now, there will be probably three more. So

we'll be looking at about 24.

CHAIRMAN STRAIN: But your overall parking reduction will still be requested at the same?

MR. HOOD: That's correct.

CHAIRMAN STRAIN: I would expect that, so...

On Number -- didn't you -- did you strike No. 10?

MR. HOOD: I believe I did.

CHAIRMAN STRAIN: Yes, you did. Okay. Because you had referred to a dumpster enclosure there and you had referred to one in No. 11, but both of those are struck. And No. 11, too, you referenced a fence waiver, but since that's gone, we won't waste any more time on that.

And let me move on down my pages and -- well, the master plan's -- all the corrections have been made, so we're good there.

And I did notice on your original plan, the 60,000 square feet at five stories --

MR. HOOD: Yes, sir.

CHAIRMAN STRAIN: -- you actually had a different configuration for the PE lots. You didn't use -- you used -- it looks like you used half of 18, 17, and, was it -- the 16 next to it, and then on the north end you used the same two you've got now. So that house on -- that's on half of 18 and 17, you're not tearing that down then?

MR. HOOD: That house is remaining. And, yes, that previous PE was done by a different firm. But, yes, that house is remaining that was on Rosemary, and our applicant also owns that property.

CHAIRMAN STRAIN: And I think that's -- I think that's all I've -- oh, yeah, and you are limiting it to one story as you said in the NIM.

MR. HOOD: Yes, sir.

CHAIRMAN STRAIN: Okay. And that will need to be articulated in the document when it comes back. Okay.

MR. HOOD: Okay.

CHAIRMAN STRAIN: That's all the comments I have for now.

MR. HOOD: Would you like it as a condition, or is it okay --

CHAIRMAN STRAIN: Why don't you just put it in the parking -- well, the parking exemption will have to be based on the fact that the building that will be built on the adjoining C4 will be no greater than one story, and then if you change that, then you have to come back and remodify your parking exemption. That would probably be the best way.

And you mentioned something about lighting that you'd have to add that would be Dark Skies, they would meet Dark Skies standards --

MR. HOOD: Yes, sir.

CHAIRMAN STRAIN: -- but you said you're putting them in because the bollards wouldn't give you the ability to safely light the parking lot?

MR. HOOD: So what I was getting at there -- and I'll just go back to the master plan here. On the backside -- so I can't put bollard lighting in the middle of the drive aisle, obviously, and even if you were able to put it on the landscape islands that you see separating those parking spaces, I just wasn't sure if it was going to be enough light spilling onto the drive aisle. So I wanted to have the additional option to light that aisle from the C4 side that would have the same hours of operation for those bollard lighting just to light it from overhead.

CHAIRMAN STRAIN: And how high would you expect that bollard -- that pole lighting to be?

MR. HOOD: Ten feet. We placed a maximum of 10 feet as one of those conditions.

CHAIRMAN STRAIN: Okay. There's two locations that would be equally distant from that drive aisle. One would be on the west side of the parking up closer to the building, but if you do that, and especially if you're going to try to aim it towards the drive aisle, you're going to have probably more glare or spillover to a point where it will be more noticed by the neighbors. If you did that on the opposite side of that parking area and put the pole lights on the east strip of the asphalt facing towards the C4, you would probably reduce quite a bit of possibility of the neighbors being disturbed by it. Do you have a problem with that?

MR. HOOD: I don't have a problem with that. That would just be a function of our Site

Development Plan and me updating these conditions to say that they would be in the parking exemption area.

CHAIRMAN STRAIN: Okay. And if that -- when you come back, that would be good to show that -- indicate that the lighting will be on the east side facing towards the C4, then that way the neighborhood's protected a little bit better.

MR. HOOD: Okay.

CHAIRMAN STRAIN: Anybody else have any questions? Stan?

COMMISSIONER CHRZANOWSKI: It's been a while since I've been involved with lighting, and more for Ray than for Fred. We don't have a standard on how much you have to light a parking lot, do we?

MR. BELLOWS: For the record, Ray Bellows. No, the LDC doesn't have specific standards in that regard.

COMMISSIONER CHRZANOWSKI: Okay. Does the police -- I know we used to have a problem. The police department said parking lots weren't lit enough for safety. Do they get involved in this at all?

MR. BELLOWS: I'd have to check with Chris Scott who handles the SDP reviews to see if --

COMMISSIONER CHRZANOWSKI: Okay. Because I know that was always -- you know, we'd show up and we'd say Dark Skies, and the police department would say, it's not bright enough for safety. And I was just wondering, in seven years have we come any farther than that, and I guess not.

CHAIRMAN STRAIN: I know that in some of the road systems that I was involved in, we had to space our roadway lighting at a certain distance.

COMMISSIONER CHRZANOWSKI: Roadway, yeah.

CHAIRMAN STRAIN: But I don't know of any for parking lots.

To that point, in Golden Gate Estates when we did the master plan there, we were insistent that bollards are the only thing that would be used in parking lots unless it was proven not to be safe enough.

So, Fred, you may, between now and the return, take a look at that. And if you can do away with those pole lighting and just put a few more bollards, that might be a better way to consider it.

MR. HOOD: Okay. I'll take a look at it.

CHAIRMAN STRAIN: Okay. And maybe -- I don't know in our -- I don't know if anybody -- who on staff would have that knowledge. It might be just cross-check it to see what we have for codes.

MR. BELLOWS: Yeah.

CHAIRMAN STRAIN: Thank you. Anybody else?

(No response.)

CHAIRMAN STRAIN: Ray, are there any public speakers registered first?

MR. SABO: Yes, we do.

CHAIRMAN STRAIN: James, I'm sorry.

COMMISSIONER FRYER: Actually, I had a question for staff, if it's appropriate to ask now.

CHAIRMAN STRAIN: Oh, I'm sorry. We'll go -- yeah, we're going to get staff report, but we almost already had that. But go ahead.

COMMISSIONER FRYER: Okay. On Page 20, electronic Page 20 of 62, the form that was being filled out by Sand Banks, there's a line for corporations, individuals, and partnerships but not for LLCs, which, of course, have been in use, and preferentially so, probably, for 15, 20 years.

Wouldn't it be a good idea to update our forms so that -- because in this case Sand Banks used the corporation line items and listed Sand Banks, LLC, as a corporation. Of course, it's not a corporation. It's an LLC. And Mr. Carr, as the sole shareholder and, of course, he's not the sole shareholder. He's a member. Just a thought.

MR. BELLOWS: For the record, Ray Bellows. Most of the applications I see, they do list the LLC. But if the application is confusing in that regard and needs to be updated, we'll look at it and update it.

COMMISSIONER FRYER: Thank you.

CHAIRMAN STRAIN: And, James, I guess I should have asked for your staff report, although this is going to be continued for you to rewrite your staff report. Do you have anything that you wanted to asked from the staff's perspective before we go to public speakers?

MR. SABO: Just very quickly.

Based on the concept master plan being different than what you have in your packet, the parking

exemption conditions have been amended a couple of times. The planning and zoning division has not had the opportunity to research this. We would request that it be continued.

CHAIRMAN STRAIN: Okay. And when we get to the point of continuance after public testimony today, between you and the applicant, we need to understand how much time you need, because he's going to have to redo the master plan again. And we do not want any more late submittals. From now on, things need to happen through staff. They need to come at the time of the staff -- before the staff report is distributed, so we'll have to discuss that before we get to a continuance date to make sure we work that out, okay.

MR. SABO: We're good.

MR. HOOD: We'll work as quickly as we need to.

CHAIRMAN STRAIN: Okay. Thank you.

MS. ASHTON-CICKO: Can I ask a question?

CHAIRMAN STRAIN: Yes.

MS. ASHTON-CICKO: Under the conditions that Mr. Hood presented, the Dark Skies applies to the pole lighting on the C4 lot but not to the fixtures on the parking exemption lot. Would you like to see that in both locations?

CHAIRMAN STRAIN: You're use downward -- down-washing sconces, right?

MR. HOOD: Yes.

CHAIRMAN STRAIN: Like you've used, like, on the Vanderbilt Commons project.

MR. HOOD: Correct. Those ones are going to be in the C4 area on the building.

I think Heidi's getting at the ones for the bollard lighting that would be on the RSF4 parking exemption area if I'm not mistaken.

MS. ASHTON-CICKO: Yes.

MR. HOOD: So for those, we can, I just -- at that point we're providing a six-foot wall, and our 42-inch bollard lighting is going to be way below that. So, I mean, we could, but I don't see a real reason, if we --

CHAIRMAN STRAIN: Take a look at that standard. If it's a problem, let us know.

MR. HOOD: Okay. Sure.

CHAIRMAN STRAIN: But, I mean, at 42 inches, you're going to be practically half the height of the wall, so I didn't see it as much of an issue. So thank you.

With that, will you call the first public speaker. And when you're called, please come up to one of the microphones, identify yourself for the record, and we'd like to hear what you've got to say.

MR. SABO: The first speaker is Martha Gill.

MS. GILL: Good morning. My name is Martha Gill. I live at 1006 Ridge Street. That, on the plot plan, is Lots No. 57 and 59. I have owned the property since 2011. I did not realize at the time I purchased the property nor did the person -- the previous owner know that the property next to us had been rezoned. I had been under the impression it was still residential and would have another dwelling structure built upon it.

I am concerned because his plans -- I've spoken with Mr. Hood several times, and we've asked for an 8-foot wall rather than a 6-foot wall because my home, the way that it is situated on the lot, has its front entrance, its main entrance, facing the west side, facing the parking area.

I have -- my front door looks at the parking lot, and I'm on an elevation as such that I have to go up at least steps to get to my dwelling. So having a 6-foot wall is not going to be tall enough because I'm going to sit there and still look at lighting.

Right now they are currently using that lot as a staging area for water redevelopment on the street, and I'm looking at tractor trailers and dump trucks that would go way over the height of a 6-foot wall.

And when I asked about the reason why they wouldn't put in an 8-foot wall, he said it was too expensive; the client said it was too expensive. And I don't feel that's a good enough reason.

I don't want to have to look at the glare of the lighting, so I'd also request that they remove the pole lighting.

And I'm also concerned about the additional traffic that's generated by the shopping center.

But my main thing is that the pole lighting be removed and that I have an 8-foot wall between me and the property.

Thank you.

COMMISSIONER FRYER: Ms. Gill?

MS. GILL: Yes, sir.

COMMISSIONER FRYER: Would you please repeat which lots you own.

MS. GILL: I own Lots 57 and 59, which are the ones that face Ridge Street. They're the longest tract on that diagram.

COMMISSIONER FRYER: Got it. Thank you very much.

MS. GILL: Sure.

CHAIRMAN STRAIN: Next speaker?

MR. SABO: Next speaker is Warren Gill.

MR. GILL: Thank you, Mr. Chair.

And I was more concerned about the traffic increasing on Ridge and Rosemary because right now that whole shopping center is coming in and off of 41. And Ridge, right now, is so busy and so much traffic. And with the improvements in the road, things are going to increase both speed-wise and dangerous-wise with all the kids on the road.

So is there an alternative there that part of that could be back on 41, because it ties up there in the morning with the cut-throughs that -- it backs up 10, 15 cars, you know, past Thalheimer's, way past Thalheimer's.

So that's my concern there, of something we can do to mitigate the traffic or maybe a left or right turn only, you know, so they can come in off there.

Thank you, sir.

CHAIRMAN STRAIN: Thank you.

COMMISSIONER FRYER: I have a question. I'm sorry.

Mr. Gill, are you familiar with what the parking rules are on Rosemary and Ridge and what the signage might say with respect to parking?

MR. GILL: No, not really.

COMMISSIONER FRYER: Okay.

MR. GILL: There is no signage. But, you know, again, all that traffic for the Peace, Love, and Little Donuts and the groomers are all right now coming off of 41. That's the only egress -- access egress.

COMMISSIONER FRYER: Do you experience parking -- cars parked on Rosemary and Ridge?

MR. GILL: Not really. I haven't seen that yet.

COMMISSIONER FRYER: Okay. Thank you.

MR. GILL: No, I haven't seen it. Even with Mr. Tequila's, I think they tend to use Thalheimer's, but occasionally, like on Cinco de Mayo, yeah, they will park in that empty lot there.

COMMISSIONER FRYER: Thank you.

MR. GILL: Okay. Thank you.

CHAIRMAN STRAIN: Next speaker?

MR. SABO: Next speaker, Dawn Litchfield Brown.

MS. LITCHFIELD BROWN: I'd like to speak last, please.

MR. SABO: Dawn Litchfield Brown is not the next speaker. The next speaker is Wayne DiGiacomo.

MR. DiGIACOMO: Hello. I'd like to introduce myself. Wayne DiGiacomo.

CHAIRMAN STRAIN: Could you spell that last name, please.

MR. DiGIACOMO: D-i-G-i-a-c-o-m-o.

CHAIRMAN STRAIN: Thank you.

MR. DiGIACOMO: You're welcome.

I live on the property at 979 Ridge Street, which is going to be directly across from the new entrance to this parking lot.

Right now I have so much traffic on that street I can hardly get my mail. My wife in the morning, when she goes to work, there's cars backed up, and my driveway would be right across from the new entrance. I also live right next to Thalheimer's, and they have a driveway, which is commercial, and I can't

understand why they wouldn't put the new driveway across from Thalheimer's.

CHAIRMAN STRAIN: They are. See that map right there on the wall? Do you see the driveway entrance on Ridge Street, and directly across the street it lines up with the driveway entrance to the back side of C4, which is Thalheimer's, and there's an attorney and an architect in there as well. So those driveways are lining up. I think that's probably why they did it.

I'm sorry. From the audience you're not allowed to make comments. We can't get them on record if you do.

James, did you take a look at that, and is what I'm suggesting accurate?

MR. SABO: Yeah. For the record, James Sabo. Yes, that's correct.

CHAIRMAN STRAIN: Okay. So that part of it, sir, it is not across directly from your house. It's across from the -- looks like the back parking lot of the Thalheimer's building.

MR. DiGIACOMO: Okay. That I wasn't aware of. Also, I'd like to know what kind of buffer zone they're going to put so I don't see that parking lot.

CHAIRMAN STRAIN: And that's a Type D landscape buffer. That probably doesn't mean a lot to you. So I can ask that the applicant, when they come back, be prepared to show how that buffer's going to basically be portrayed on the site plan with the vegetation that's required.

MR. DiGIACOMO: And last but not least, I'm representing my next-door neighbors also that have three children that go to school. There's a bus stop just down the street, and it's so busy right now we're worried about people. You know, no stop sign, no -- nothing -- people actually pass each other on that road, which they shouldn't be doing, with children catching the bus early in the morning and middle school, you know, a little bit later.

CHAIRMAN STRAIN: I can concur with you on that. I use your road frequently, and there's a lot of people on that road. And it's tight, and it's narrow. There's no curbing on the side. It's just asphalt.

And Ned's question about parking, I think sometimes people park just off the asphalt. So it makes it tight. I don't disagree with you at all.

I think CubeSmart down at the end probably didn't help while it was under construction. But as a destiny (sic), those kind of facilities don't create a lot of traffic, so hopefully that will be less intense for you as a result of them than other uses that could have been there, so...

MR. DiGIACOMO: Okay. I guess that's all I have to say. Thank you.

CHAIRMAN STRAIN: Thank you, sir. Appreciate it.

COMMISSIONER CHRZANOWSKI: A question.

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER CHRZANOWSKI: Sir, is the traffic limited to, like, an hour in the morning that's really bad, or is it, like, all day long?

MR. DiGIACOMO: It's bad most of the day because it's used as a throughfare now.

COMMISSIONER CHRZANOWSKI: Yeah, cut-through. There's only a few between Goodland and 41. There's Ridge and, like, two or three others.

MR. DiGIACOMO: Right. Rosemary doesn't go all the way through, so they don't use that. Creech is the one that's used, and then ours is the next. But ours is really used.

COMMISSIONER CHRZANOWSKI: I was curious if it was, like, really bad, like, maybe between eight and nine and not the rest of the day.

MR. DiGIACOMO: Oh, at that point it's really bad. That's when it's really bad. When my wife has to go to work, she can't get out of the driveway.

COMMISSIONER CHRZANOWSKI: How far is it backed up; how many cars?

MR. DiGIACOMO: Fifteen sometimes.

COMMISSIONER CHRZANOWSKI: Cool.

MR. DiGIACOMO: No, it's not cool.

COMMISSIONER CHRZANOWSKI: I know. I sympathize. Thanks a lot.

CHAIRMAN STRAIN: Thank you.

Any other registered speakers?

MR. SAWYER: Just one more, Dawn Litchfield Brown.

MS. LITCHFIELD BROWN: I'll go to this side.

CHAIRMAN STRAIN: Either one's okay.

MS. LITCHFIELD BROWN: I have to balance everything out.

Okay. Hi. I'm Dawn Litchfield Brown.

CHAIRMAN STRAIN: Litchfield, could you spell that name for the court reporter just in case.

MS. LITCHFIELD BROWN: L-i-t-c-h, f as in Frank, i-e-l-d.

CHAIRMAN STRAIN: Thank you.

MS. LITCHFIELD BROWN: Okay. And I do want to start by saying that I think Fred Hood and his teams have tried to be really good neighbors. We've had some great conversations with him, and I appreciate his time.

I do feel like he hasn't been all that successful with the owners of the property to be a good neighbor. You've heard some specific things from neighbors living right around. And I'm representing a lot of neighbors. We had about 30 people show up at a neighborhood meeting about this.

And I realize that you have to look at this project as a silo and how it's currently zoned and what can be done, and while we have traffic issues and we have other issues, maybe it really isn't under the law that you have to look at right now. But with all the traffic conversation that Arthrex just had -- and I understand it's a different zoning and a different issue -- this is far, far more important. And I'm going to ask you to try to open your mind up a little bit and not look at it as just a silo project.

The lighting is a problem; the wall is a problem; the entrance is a problem. You can see on Rosemary the entrance is closer to 41 -- if I'm looking at it right, it's closer to 41 than it is on Ridge Street, which would take it away from Wayne DiGiacomo's house a little bit there.

You know, we want a nice plaza there; we do. We're asking them to do something to help us, like how has this impacted the sewers that we now are being forced to put in there and the drainage issues? We have no idea what's happening there.

The traffic impact, they have to do no traffic study because they're not C5, as I understand. And you know. You've been on this street trying to get either way. There has to be some help.

I asked them personally if they would consider setting aside a small -- well, it wasn't a small amount -- set aside an amount of \$250,000, asked them to put that in escrow to be held to bear interest to help the county with their funding for traffic issues, and that was just a no, you know.

And the wall, that was just a no. Okay. So the lighting is back to the 42 inches with 10 foot. Okay. That didn't really, I feel like, be working with the neighbors at all.

So all in all, you know, when I look through all the things on the list that we had, you know, if you get the lighting at 42, that's grand. So they're going to park there; we can deal with that. We can deal with some of these things.

The noise issue, it looks like now you're going to have some office buildings there. Please correct me. Is this two stories or one? Okay. I thought I heard two in there somewhere.

CHAIRMAN STRAIN: No. They had said at the NIM that they'd be one story, so they'll be stipulated and now it will probably be written in their final that it will be one story. Currently they're approved without a public hearing to go to five stories and 60,000 square feet, and they just could go in and get a building permit and do that right away.

MS. LITCHFIELD BROWN: And I don't know that that's a bad thing for us right now.

CHAIRMAN STRAIN: Five stories looking down at your homes? Okay.

MS. LITCHFIELD BROWN: Well, the office hours would be less. The traffic would be less. We've talked about it, and maybe that's not such a bad thing. Because you gave us that very good advice that be careful what you ask for because you might get something you don't want, and I took that to heart.

But I do think there could be some more neighborly cooperation here. And that's the biggest thing. We can deal with a lot of the things. The lighting, the wall will help, anything to do with traffic calming, moving -- I know you can't move the entrance so that it's on any residential area there. Maybe it could go up a little bit more. Because right now there's -- if you want to say there's no traffic issue, right now getting into Mr. Tequila's or into Ridge Street coming from either way, the traffic backs up on 41 already so much. That's how much traffic we have coming on there.

Coming from Goodlette, it is the same thing, because it's the only way you can go both ways. It is 15 cars sometimes. They're backed up even, you know, beyond the turn lane on Goodlette, way back out there, and that is now. We had nothing to say about CubeSmart. I know you don't think it will impact traffic much, but I'll tell you, people use storage units a lot, and you know how they're going to get there, because they can't get there from Goodlette and they can't get there from 41. They can't get to his development from 41. There's only one way you can get there.

So we are asking them for a little neighborhood cooperation to help us get some traffic calming that we've been working on and have had petitions, and traffic studies are getting ready to be done. I don't know how this is affecting the city sewer issue and the drainage issue. I'd like to know those things before we, you know, say, yeah, this is great.

We think it's a great idea to improve the area. That little plaza's kind of dumpy and trashy. Although we love Peace, Love, and Little Donuts, and they're very concerned. And they know the rent's going to go up, so that might be sad, but it's a fact of life.

So I'm sure my time is just about up, but I would like to know the impact on the sewer and all of that kind of stuff as well as ask you once again to have your owner consider setting aside some money to help with a problem that you will be adding to.

I don't know if there's anything I've forgotten, but after you have your discussion, I'd like to reserve the right to come back up.

CHAIRMAN STRAIN: Well, we're not going to have you come back up today. We're going to continue the meeting, and you'll see a new program, a new layout, a lot of answers, and at that time we'll be glad to hear you again.

MS. LITCHFIELD BROWN: And will we get what you guys get, ever? It's like you have all that --

CHAIRMAN STRAIN: You can have it. See that fellow there? His name's James Sabo.

MS. LITCHFIELD BROWN: Hi, James. Nice to see you again.

CHAIRMAN STRAIN: He can send you all the files we get every time we get them.

MS. LITCHFIELD BROWN: Okay. I think you have my email address and that information; do you?

MR. SABO: I do. I have your card.

MS. LITCHFIELD BROWN: Okay. But we would like to get that so we don't come in blind.

COMMISSIONER FRYER: Question for you, Ms. Litchfield Brown.

MS. LITCHFIELD BROWN: Yes, sir.

COMMISSIONER FRYER: Thank you for your testimony and, also, I saw your letter of March 28. I'm unclear, though, who exactly you're representing and in what capacity. Is there a homeowners association?

MS. LITCHFIELD BROWN: No. This is just the neighbors --

COMMISSIONER FRYER: Informal?

MS. LITCHFIELD BROWN: Informal neighbors and all those who have signed that -- we have little petitions going out for three different issues.

COMMISSIONER FRYER: Yeah. Without holding you to an exact number, but how many people would you say that you're speaking for?

MS. LITCHFIELD BROWN: Ninety.

COMMISSIONER FRYER: Ninety. Okay. Thank you.

CHAIRMAN STRAIN: Any other registered public speakers, James?

MS. LITCHFIELD BROWN: Any other questions?

MR. SABO: I have no more.

COMMISSIONER EBERT: I have a question for the lady.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: Do you see a lot of people going from the Tequila parking in Thalheimer's?

MS. LITCHFIELD BROWN: Well, I wouldn't see it as much because I live a little bit down the road. I think Muffy and Wayne said that they do, yes. And those are just times there's not enough parking

there, because it's just a big empty lot, and people don't want to park in the dirt, so they park over there. Yeah, it's -- you know, we're not trying to get rid of them.

COMMISSIONER EBERT: And yet they want reduced parking spaces. Okay. Thank you.

MS. LITCHFIELD BROWN: Thanks.

CHAIRMAN STRAIN: Okay. Any -- James, there's no other public?

MR. SAWYER: No other public speakers.

CHAIRMAN STRAIN: Okay. Is there any members of the public that are here who have not spoken who would like to speak?

(No response.)

CHAIRMAN STRAIN: Okay. With that, Fred, this will need to be continued. There are some issues that I think you need to address. You've heard some of them. I'll reiterate some of them and, for the benefit of the Planning Commission, if they have others, we can make sure. But most of the discussion's been had.

MR. HOOD: Yes, sir.

CHAIRMAN STRAIN: When this comes back, it would be better if you and the -- you were either -- if you're objecting to certain staff recommendations, let's address those, but let's not change any of the others unless they're a result of something like that.

We need the analysis for the parking reduction, and that analysis will then tie it to the number of parking spaces based on what you've written in that analysis, so we need to know that, too.

Language needs to be added to limit it to one story. Your backside lighting, which I think is going to be 10 feet and the Dark Skies basics that you're referring to if those light poles are needed, but I also think you need to research and find out if you really need those or not, because we have bollard lighting as a requirement in Golden Gate Estates in the Growth Management Plan. And I know we've built projects out there with bollard lighting, so I'm not sure you really need to go to the pole lighting, and that would solve one of your problems.

The neighbors are asking for an 8-foot wall. If your applicant's reasoning for not providing that is because of the two additional feet of masonry, remember, you might want to remind him of how much wall he's not being asked to build, and that might -- he's still way to the plus.

You need to have the provisions we normally add -- well, I shouldn't -- the buffer. It would be nice to show the buffer that you're having along the Ridge -- Rosemary and Ridge Streets.

MR. HOOD: I can speak to that if you'd like me to now or --

CHAIRMAN STRAIN: I know it's a Landscape Buffer D, but you have --

MR. HOOD: Yes.

CHAIRMAN STRAIN: Just -- no, next time you come back, bring something that portrays the vegetation that you're putting in there. I think that would be to your benefit.

MR. HOOD: Okay.

CHAIRMAN STRAIN: Also, the traffic before and after. Again, it's not necessarily something tied to this, because you're not required to do that, but I think it would help us understand the arguments of the neighborhood in regards to -- I can't imagine anybody would want a five-story, 60,000-square-foot building, but if that's what they think is better than this and traffic drives that, I'd like to see an analysis of some kind showing the different traffic calculations.

MR. HOOD: Yeah. We can do a quick calculation for that just to show existing versus -- well, existing approved versus what we're proposing. I don't think that's a problem.

CHAIRMAN STRAIN: Right. Okay. And then I think that covers all of the issues other than the stuff you have made notes on probably while we were -- oh, the loading zone. You've got to move that from that area, so we've got to make that correction on the master plan, but that's the bulk of it, I believe.

Anybody else? Ned?

COMMISSIONER FRYER: Two things from me. First of all, since you did indicate to the people at the NIM that you were going to ask the City of Naples to weigh in --

MR. HOOD: I wanted to talk to you about that. My associate, Jessica, just reminded me, I think at that point we were talking about the city utilities, and that also came up. We wanted to make sure that -- and

we will have to, when this application comes in, make sure that the proposed development does not negatively impact the utilities that are being constructed currently.

So I think -- and I'll look back at my notes, but I think when we were discussing whether the city would have an opportunity to review, it was from that perspective looking at the utilities.

COMMISSIONER FRYER: I thought your comment was a little more broad than that. But this is a very unique site because it's almost surrounded by the City of Naples. It's almost an island. And I think due to its uniqueness, it would be fair and --

MR. HOOD: We'll call them.

COMMISSIONER FRYER: -- and certainly helpful to me to have (sic) the city the opportunity to weigh in on whatever concerns they may have so that we can consider them.

And the other point that I had is that -- whether this is for staff or for the applicant, I'd like to know what the status of -- what the legal status of parking on Ridge and Rosemary is.

COMMISSIONER HOMIAK: Just one comment. In the list of --

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER HOMIAK: -- addresses that the notice of the NIM was sent to was the City of Naples was one on the list, so they were notified.

CHAIRMAN STRAIN: Okay. Okay. Anybody have any other comments? Stan.

COMMISSIONER CHRZANOWSKI: Just, what is county staff doing about Ridge Street? Is Ridge Street a problem? Is there any plan to widen Ridge Street? Is there any plan to put traffic calming in? Is there any plan to do anything on Ridge Street? Because it's a cut-through. It's always been a cut-through. And, apparently, it's pretty crowded.

And, you know, I don't think that this project is going to make it worse. I don't think it's going to make it better. But what does staff know?

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

Currently right now there is a joint city and county project that is improving utilities, stormwater, and roadways, including sidewalks, within the neighborhood, generally. It's a larger project, primarily designed to help stormwater because of issues related to stormwater issues.

We have received from the neighborhood a neighborhood traffic management request. We've got that. We will be implementing that as soon as the project is completed.

Right now things that we've worked with our stormwater staff on, that particular project coming in, is to try and narrow the drive aisles along Ridge in particular as narrow as possible so that we actually have the striping pulled in. Again, psychologically, trying to reduce the speed a bit, and also improving sidewalks through there.

So hopefully -- with those improvements, we're hoping that there might be a change from what existing is. We will not know that until the project is complete. And at that point, then we'll start doing our traffic studies and working with the neighborhood as far as whatever can be done as far as education, enforcement, and then any potential engineering solutions as well for traffic management.

COMMISSIONER CHRZANOWSKI: What I'm hearing is, though, that speed is not a problem. Calming is not a problem. Volume is a problem, and the only way to stop the volume is just to stop people from traveling the road, and you're not going to do that.

MR. SAWYER: Quite honestly, I don't know that because we have not done a traffic study to find out, is it a traffic problem as far as volume or is it speed? And those are the things. We definitely look at both of those. We even look at the type of traffic that happens -- Is it mostly trucks? Is it automobiles? -- when we do those studies.

COMMISSIONER CHRZANOWSKI: Well, if there's 15 cars lined up at that intersection, I guarantee you speed's not a problem.

MR. SAWYER: Commissioner, I don't know that. I don't have the study to back that up.

CHAIRMAN STRAIN: Okay.

COMMISSIONER CHRZANOWSKI: I know. Thanks, Mike.

CHAIRMAN STRAIN: Basically you said there's going to be improvements on that road system.

MR. SAWYER: Yes, sir.

CHAIRMAN STRAIN: Can you, by the time this comes back, give us some approximate dates in which the neighborhood can expect to see things -- some of those improvements implemented?

MR. SAWYER: Chairman, I will definitely check that. My last update was that that project, if it hasn't already started, is going to be started within the next several weeks. But I will get that information to you.

CHAIRMAN STRAIN: That would be great. Thank you. Anything else?

COMMISSIONER CHRZANOWSKI: Thanks, Mike.

MR. SAWYER: Thank you.

CHAIRMAN STRAIN: Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Okay. Fred and James, time frame? In order for you to have this prepared for a meeting, James, you're going to need it how far in advance?

MR. SABO: Yeah, the next meeting is the 19th. I don't know if Mr. Hood can make that.

CHAIRMAN STRAIN: The one after that is the 3rd of May.

MR. SAWYER: May 3rd. That's probably better. May 3rd.

CHAIRMAN STRAIN: Fred?

MR. HOOD: I can make the 19th. It's just whatever you need me to get to you.

CHAIRMAN STRAIN: Well, James will have to review it, you're going to have to get with the fire department, the other entities, and at the same time rewrite the recommendations to coordinate to those extent that he agrees with and those as well he may not. I just want to make sure we don't have any flurry of last-minute changes again. This is not the way to do business.

MR. HOOD: I understand.

CHAIRMAN STRAIN: James, I'm going to -- I'm really going to take your lead in this. Fred feels he can get you something by what date, Fred?

MR. HOOD: Next week.

CHAIRMAN STRAIN: Well, next week's long -- five days? I mean, are you talking --

MR. HOOD: Five days --

CHAIRMAN STRAIN: See, he's got to have a staff report into Judy by, what, the 11th? What's her due date?

MR. SABO: Yeah. That's, I think, when it's sent.

CHAIRMAN STRAIN: Right. That's when it's sent out, so you have to give it to her Monday or Tuesday, which means -- and today's already -- you're not -- let's make it comfortable. I would rather not have another flurry of last-minute changes. This is not helping anybody. So let's make the 3rd of May the date. Does that work for everybody?

MR. SABO: Yes.

CHAIRMAN STRAIN: Okay. So with that, is there a motion from the Planning Commission to continue Item PL20170002686 to the May 3rd hearing?

COMMISSIONER EBERT: I make that recommendation.

COMMISSIONER DEARBORN: So moved.

CHAIRMAN STRAIN: Made by Diane, seconded by Patrick. Discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRYER: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER DEARBORN: Aye.

CHAIRMAN STRAIN: Anybody opposed? Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

Thank you. Thank you, Fred.

MR. HOOD: Sure. Oh, just one followup. Do you-all want copies of this or no?

CHAIRMAN STRAIN: Just provide the electronic version to Ray, and if we need it -- or James, I'm sorry. And it will be part of the record, and then if we need it, we can ask James for it. Thank you.

MR. HOOD: No problem.

CHAIRMAN STRAIN: Okay. Now, it's 11:30, and we normally try to break around noontime. And I kind of query the Board. We can take -- we can do a couple of different things. I know there's some members of the public here who may not want to sit and come back after lunch. We can let the public speak and then take their comments into consideration as we hear the applicant's presentation. We can start the project, go through the presentation to whatever point but break at noontime, or we can break now for an hour and come back at 12:30.

COMMISSIONER FRYER: Mr. Chairman, there are three members of the Naples City Council here and at least two senior staff members who have been sitting patiently all morning. And I know that they are very busy, as we all are. And if there's some way that they could be accommodated so that they don't have to endure the rest of the --

CHAIRMAN STRAIN: That's why I suggested that as one of the opportunities. I wanted to make sure you guys were all --

COMMISSIONER DEARBORN: Let's move forward.

CHAIRMAN STRAIN: Okay. With that, we're -- the following three items will be discussed simultaneously but voted on separately. They're all for the same project.

***The first item is 9B. It's PL20160003084. It's for the mini-triangle mixed-use subdistrict located at the corner of the intersection of David Boulevard and Tamiami Trail East. The second item is PL20160003054. That's for the MPUD. And then the third one is for an LDC amendment, and it's LDCA-PL20160003642.

All of these have been continued from the previous February 15th meeting, then the March 1st meeting. 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: I notice some of the people who might want to provide testimony didn't rise. If you're going to speak on this matter or you'd like to speak on this matter, such as Ms. Penniman's handing a speaker slip, you need to stand back up, and we need to swear you in. And I didn't know --

COMMISSIONER FRYER: Mr. Chairman, also there's some confusion resulting from advice that the city councilors have received from the City Attorney regarding Sunshine Law and the extent to which they are able to speak.

CHAIRMAN STRAIN: Okay. I just want to make sure if they intend to -- City Council people intend to speak, they've -- and I noticed Ms. Penniman has put a slip in. So you'll need to rise to be sworn in by the court reporter.

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

CHAIRMAN STRAIN: Okay. Thank you, all.

And I think what we'll do is, first of all, I'll explain to everybody, this has come back before us twice previously, and we went through a long discussion of probably a better way to approach the project from the Planning Commission's perspective.

The applicant has reworked their project narrative and their project request. It's now in a different format than we've seen before. We have not, obviously, discussed that yet. We will do so today.

We will be breaking at lunch. So what I'd like to do is turn to any public speakers now to hear what you have to say before we have an opportunity to break for lunch. We'll still, if we have time, continue into the presentation, but I wanted to make sure if you can't come back after lunch you have an opportunity to speak right now.

So are there any members of the public who would like to speak on this item who cannot come back about 1:00 and address it later in the afternoon when we finish with it that would like to speak?

Okay. Ms. Penniman, we'll start with you, and then the gentleman in the back.

MS. PENNIMAN: Good morning. My name is Linda Penniman. And I want to make it abundantly

clear that I'm here speaking for myself. I am not speaking for my colleagues in the city nor anyone else in the city. I'm here to speak for myself today.

I want to remind the Planning Commission as well as the developers today about this particular area. This particular area depends upon development and it also depends a great deal upon tourism. Now, how is tourism promoted in this area? Tourism is promoted in this area by way of our beaches. When we look at this particular project, the beaches are west of this project which means that anyone that is -- there's a possibility with this particular project of 605 units, some of which are multifamily, some of which are transient.

These people are going to want to be accessing the thing that we promote time after time after time, which are our beaches, which means the impact on our neighborhoods in the city is going to be tremendous.

I also wanted to remind the Planning Commission that we are county residents. Yes, we live in the city, but we are county residents. We have not been contacted by these developers about this particular project. We know nothing of it. The only reason that we know about it is because we are here. Yes, they contacted our city manager a year ago, but common sense would tell you that if you're going to have an impact on a particular neighborhood, that you would come and talk to that neighborhood about this particular project so that we would have had the opportunity to express our concerns about this particular project. So shame on them, in my opinion, for not having contacted the city on this particular project.

I'm concerned about many things right now, the four corners, which is arguably maybe 400 yards from this particular project. Right now the LOS on that particular corner is an E during the season. When not during the season, it's as low as a C -- as a D or a D minus. So now we're going to add additional impact onto that.

Stormwater is a real concern of mine. I think that the planning board needs to increase -- whatever the maximum treatment could possibly be for this particular project on stormwater must occur. Again, arguably, this project could be as close as 3- to 400 yards from Naples Bay, which is currently highly impaired. And we're going to add much more stormwater that may not be well treated into that particular project. Look what you're doing. You're covering this thing completely, almost, with buildings.

And, again, you know, this is being built as an iconic project. One of the buildings is going -- could possibly be as high as 168 feet right across the street from this building, maximum height 42 feet. This isn't an icon. This is a monster.

So there's -- this is not being built with any kind of sensitivity to the area around this particular project, so far as I'm concerned. This is really going to have not only a visual but impacts in terms of traffic, in terms of pedestrian traffic. There are no plans, so far as I know, with this project having to do with how they're going to improve pedestrian access into the city. You know, we've got two skinny little sidewalks that could possibly be used, but that's not going to handle this kind of an impact at all.

So, you know, it isn't just the triangle. You can't just look at it as just the triangle. This is going to have tremendous impacts on the surrounding area. It's meant to be a catalytic -- this is used almost exclusively and consistently through the narrative on this project, a catalytic development when it's sucking, in my opinion, practically every bit of infrastructure that could possibly be needed going east of here. I just -- please, please take all of this into consideration; the traffic impacts, the stormwater impacts, and the impacts on the neighborhood that -- of the city that, oh, by the way, are also part of this county.

And I think heretofore, or going forward, when we have projects that have to do with the county, let's remember that the city is a part of the county. We are county residents. And the planning board, I think, needs to start to insist that if you're going to have projects that are that close to the city, that they must approach the City Council on this, apprise them of that and give us an opportunity and give our people, give our citizens the opportunity to comment on these projects.

And I'll end by saying this: We just -- I just came off of five weeks of a campaign, and what I heard consistently from our residents was the word that is anathema in this area so far as our citizens are concerned, is Miami, Florida, and this is going to look like, feel like, and be like Miami, Florida. What a shame.

Thank you very much.

CHAIRMAN STRAIN: Thank you.

And I was remiss in asking the Planning Commission if they have any other disclosures since the last

meeting. So we'll start with Tom just in case you have anything to add to your previous disclosures.

MR. EASTMAN: No disclosures.

CHAIRMAN STRAIN: Stan?

COMMISSIONER CHRZANOWSKI: Just saying hello to Bob Mulhere; that's about it.

CHAIRMAN STRAIN: Okay. Ned?

COMMISSIONER FRYER: I've had conversations with city councilors and senior staff of the City of Naples.

CHAIRMAN STRAIN: Okay. Diane?

COMMISSIONER EBERT: Just staff, which I tried to get ahold of; transportation. Mainly staff, and I met Mrs. Penniman this morning.

CHAIRMAN STRAIN: Okay. I, too, have had conversations with staff, with the applicant's team, with Ms. Penniman, a couple of our county commissioners, and I think -- and, obviously, the County Attorney's Office.

Okay. Karen?

COMMISSIONER HOMIAK: Nothing since last time.

CHAIRMAN STRAIN: Patrick?

COMMISSIONER DEARBORN: Nothing since last time.

CHAIRMAN STRAIN: Okay. Now, the next speaker -- we have another public speaker, I think the gentleman. Can you call his name, please.

MR. JOHNSON: Well, for Item 9B, we have Gary Price.

CHAIRMAN STRAIN: Mr. Price.

MR. JOHNSON: Thank you, Mr. Chair, members of the commission. I appreciate the opportunity. My name is Gary Price, City of Naples.

Again, I stand here to speak for myself. I don't represent the voice of the Council or the residents, but I can tell you that I've spent the last 18 years fighting either on a planning board or a City Council position to fight to keep what we think is unique and special about the character of our community, and I've never seen Naples separate from the county. I've always thought of us as one Naples where we both have to succeed for everyone to succeed.

So I don't look at this as an us-versus-them issue. What I can tell you is that I've been fighting every day for 18 years to try to keep the density, intensity of especially this particular area down. I find out to no avail a couple weeks ago on a three-acre parcel to rezone it from C2, which is 40 percent lot coverage, to D downtown, which prevailed at 100 percent lot coverage.

So we're fighting every day to keep what we think the residents of our community want, which is a special, unique place. It's not dense and intense. I don't know what you do with -- and I'm sorry I'm not going to be able to sit for the entire hearing. I don't know what you do with this kind of density, intensity, and traffic. Honestly, I don't know what we do with what we have today.

And so all I can tell you is that I'm matching my effort with what I hope you'll match your efforts, which is to try to make this one Naples and consider the impacts of our community right across the bridge and make sure that as you look at the exceptions and the effects that it has that -- not just what it has on the City of Naples, but the county and all of its residents and know that we're fighting and I'm fighting every day to keep that character special for all of us, and I appreciate everything you're doing.

Thank you very much.

CHAIRMAN STRAIN: Thank you, sir.

Do we have any other registered -- well, first of all, if you cannot be here at 1 o'clock or when we return from break, is there anybody else that would like to speak now?

(No response.)

CHAIRMAN STRAIN: Okay. So we don't need to call any more. Just whoever's still left, we'll assume they're going to come back at 1:00 to speak.

MR. JOHNSON: Item 9B, Robin Singer.

CHAIRMAN STRAIN: Right. I think he's -- yeah, we'll just wait. And he didn't stand up when I just asked, so I'm sure he's going to be here at 1 o'clock.

MR. JOHNSON: She.

CHAIRMAN STRAIN: She, I'm sorry. I'm sorry. I don't know everybody by -- now, with that, Bob, it's yours for presentation.

MR. MULHERE: Thirty seconds.

For the record, Bob Mulhere here on behalf of the applicant.

With me also this morning, this afternoon -- almost this afternoon -- this morning -- Jerry Starkey, Fred Pezeshkan, Alex Pezeshkan. Norm Trebilcock is our transportation consultant, and Barry Jones is the civil engineer on the site.

I want to take -- initially, I just want to speak to the public speakers that have spoken so far. I want to take exception to the suggestion that we had not communicated. Not only did we provide all these documents to the city staff, who certainly could have communicated or provided that information to the people they work for, every time we made an amendment those documents were provided.

And on 5/25/16, an email was sent by my client to Bill Moss. And I'll read this for the record. In followup -- this is -- I just want to make sure I got the date. That was 5/25/2016.

In followup to our telephone conversation yesterday afternoon and yours with Mr. Fred Pezeshkan, I have attached the Gateway Triangle Redevelopment summary and Gateway presentation, both made available to you to share with your City Council members and development directors.

Mr. Moss, we share these details with great enthusiasm and encourage further communication as to better address this product and the positive impact it can hold for the future of Naples and the community.

We look forward to your feedback.

Now, we have had some feedback with staff, and we feel we have addressed the staff comments. This is our third Planning Commission hearing. I take exception -- we had a neighborhood information meeting, and we had nearly unanimous support at that. One person spoke with questions. So -- and just -- thank you.

And just yesterday we made a presentation before the Community Redevelopment Agency, a followup advisory board. The place was packed, not necessarily for our petition, but because they had issues with -- related to, apparently, murals, but we were happy to see the crowd there. Unanimous support again second time around. Their only question was, when will you close on the property?

Now, I don't mind constructive comments, and we will always work with people to address those comments, but to suggest that we haven't been 100 percent open and communicative is not the facts.

Thank you.

Now, Mr. Chairman --

CHAIRMAN STRAIN: You started out with a rebuttal.

MR. MULHERE: Well, I felt it was important.

CHAIRMAN STRAIN: That's fine.

MR. MULHERE: I do want to -- I'm going to take a breath. I don't want to be Rich Yovanovich as he was this morning. Let me take a deep breath.

COMMISSIONER EBERT: Now you're in trouble.

MR. MULHERE: Mr. Chairman, if you would assist during this process, because we do get a copy of everything that you get, but we don't have those electronic numbers. So just in case there's any confusion, I would appreciate that assistance.

I'd like to start with the memo -- and I'm asking for your direction. But my thought was to start with the memorandum which -- or the letter which I provided that summarizes the changes we made based on our last two planning board hearings.

CHAIRMAN STRAIN: That's on Page 3 electronically of the -- I'm working off the MPUD.

MR. MULHERE: Okay. That's great. It's the same letter either way, so...

And so I thought I would summarize those. They fall in all three categories, the LDC amendment, the GMP amendment, as well as the PUD.

CHAIRMAN STRAIN: And, Bob, just so you know, we're going to break at noontime for an hour.

MR. MULHERE: I know. And I think I -- and then my second, sort of, part of the presentation would be to go over some relatively minor but additional changes that I want the Planning Commission to

hear about, and then I would just open it up to questions.

CHAIRMAN STRAIN: All right. Well, we can certainly start you and then finish after break, so...

MR. MULHERE: So we -- in working with the Naples Airport Authority -- and they are present here today to speak to this issue as well -- we've resolved their concerns. We're in agreement. And I'll go over the exact changes, but I just want you to know that both the LDC amendment language and the PUD conditions, we've come to agreement, and I'll go over those in detail as I move through the process.

As far as the GMP goes, we did reformat the -- I want to -- before I continue, I just want to express my appreciation to all the staff, CRA staff, planning staff, transportation staff, legal staff. It's been a lot of time and a lot of meetings, but they've been very, very willing to meet with us and address all of the issues on it. It's been an ongoing basis, and it's really been a pleasure working with them, so I just wanted to say that.

We did reformat the document. We did make changes. You'll remember the more complicated conversion matrix that was in the PUD, which also complicated the GMP amendment. We've eliminated that and made it very clear. And I'll go over that in detail in a minute. I'm just giving you an overview now.

We also clarified, as was requested at the last planning board hearing, that we base our trip cap on net new trips, and we can talk specifically what that means in just a few minutes.

It's important because the overriding concern that I hear expressed is traffic and transportation, and the overriding limitation that we have imposed is also on traffic.

So as far as the MPUD, again, we simplified the document. It's a lot shorter and cleaner and, I think, easier to read and I think much easier for the staff to implement, which was a concern that was raised.

We simplified by creating two separate exhibits related to building height. There are actually four ways that we have to deal with building height. There's the FAA, which is from mean sea level; there's the Naples Airport Authority, which is from the established elevation of the Naples airport; then there's the county, which has the zoned and actual height.

The measurements start from a different location in all four of those, but they all end up at the same place in the sky. So we've simplified that by creating two exhibits, one for the county measurements and one for the FAA and Naples Airport Authority.

We added quite a bit of text as it relates to limiting and/or addressing unintended consequences related to a car dealership that have typically been added to car dealerships.

We've added some additional stipulations, I hope, that will get to some of the questions that were raised as to here's what you said you were going to do now, help us feel comfortable that that's exactly what you're going to do, which is in terms of multi-story structures, no single -- no free-standing uses other than office and hotel, those kinds of things. And we can go over those in detail. I just wanted to give you a summary at this point.

And I've already addressed the fact that we have, as of yesterday, finally come to complete agreement with the Naples Airport Authority.

So at this point, it's 11:50. I'm happy to start with -- do you want me to start with the MPUD, which is a little more --

CHAIRMAN STRAIN: Well, you know what, Bob, why don't we just take an early lunch. That way everybody can make sure they get into a restaurant in time. We can just come back at 10 minutes to 1:00. Well, why don't we just come back at 1 o'clock. That will make it even better; round it off. And that way people can get into the restaurants and get back. We seem to have a problem with that sometimes.

So, okay, we'll break for lunch. We'll come back at 1 o'clock. We'll resume with your presentation on probably the MPUD.

MR. MULHERE: Thank you.

(A luncheon recess was had.)

CHAIRMAN STRAIN: Everybody, welcome back from the lunch break.

When we left off, Bob was just getting warmed up. And so now we'll continue with his presentation on the mini-triangle project. And we're listening to all three applications; we'll vote on them separately. The three applications are GMP amendment, Planned Unit Development, and the Land Development Code amendment.

Go ahead, Bob.

MR. MULHERE: Thank you, Mr. Chairman.

I'm starting with the -- well, let me start with the LDC to tell you that the document that you have in your packet dated March 26th or March 16th has not changed. There are no changes to that, and the airport -- the Naples Airport Authority agreed with that language. Actually, we worked with them to come up with that language.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: The GMP, I'm operating from the 3/26/18 document. I'm on Page 1 of the GMP amendment. The footer would say 3/26, and so I'm not sure what page that is for you.

CHAIRMAN STRAIN: Well, the staff report starts on Page 2 electronically. Is that the one you're going to -- or are you going right to the language page?

MR. MULHERE: Right to the language. Page 1.

CHAIRMAN STRAIN: Well, we had a confusing submittal on that from the Planning Commission's perspective. We had one that has a bunch of handwritten notes on it, which probably shouldn't have been in our packet, and the second one that we probably want to work towards is the one that starts on Page 10 electronically and it's the -- starts with Paragraph 19, mini-triangle mixed-use subdistrict.

MR. MULHERE: That's it. I think those handwritten notes were Heidi's comments, and they are reflected in this document.

CHAIRMAN STRAIN: She has disowned those from last time.

COMMISSIONER EBERT: That's the one we weren't supposed to see.

MR. MULHERE: Right. Where's Eric?

MR. JOHNSON: I'm over here.

CHAIRMAN STRAIN: He's not moving. He's safe.

MR. MULHERE: I only have one change. And I appreciated David Weeks bringing this change to my attention. One of the SIC codes that we have in the PUD would allow for museums and art galleries, and that was not really reflected in the GMP. So if you look at Paragraph 3 that starts under C, C3, it starts, movie theater, bowling center, physical fitness facilities, yoga studio; I would strike through that end. Continuing: Bicycle rental; museums and art galleries; or museums and art galleries. So we would just add those two uses to that.

CHAIRMAN STRAIN: Okay. And while we're on the GMP, David had a couple of other -- well, at least one other change I can recall, and that is, instead of restaurants, I think you called them something different in the PUD, and he wanted to make sure the language was consistent.

MR. MULHERE: Yes, it is. He was okay with it in the GMP using the word "restaurant," but in the PUD you have to use the SIC code.

CHAIRMAN STRAIN: Well, here he comes.

COMMISSIONER FRYER: Which is eating and drinking establishment.

CHAIRMAN STRAIN: Right. So I think that's what David wanted this change to do, right?

MR. WEEKS: That's correct. David Weeks, Comprehensive Planning section.

We would like the language in the GMP to also say the eating and drinking establishments; reason being, because restaurants is a type of eating establishment, but not drinking, so just to put the two in the same --

MR. MULHERE: Okay. Thank you. So we'll revise that to reflect, instead of restaurants, eating and drinking establishments.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: That's the only change that I had. Those two changes are the only changes to that 3/26 document. I would go right into the PUD, also using the 3/26 date, and I'm not sure what page that's on --

CHAIRMAN STRAIN: I am going to --

MR. MULHERE: -- electronically.

CHAIRMAN STRAIN: -- get you there in just a second. 3/26 date would be the first -- right after -- it will be on Page 5 of the electronic version.

MR. MULHERE: Most of these changes are relatively minor, but I'll read them into the record.

On Page 1 of 31, under principal uses Paragraph B, it reads commercial uses, paren C Table 1 for a minimum and maximum, and then there's the word "required." The word "required" needs to be struck through. It's no longer necessary. It simply provides for minimum and maximum square footage.

MS. ASHTON-CICKO: Bob, are you making the same change on (1)(a)? Because it also has the term "required."

MR. MULHERE: Yeah.

MS. ASHTON-CICKO: Okay.

MR. JOHNSON: So we're going to delete that also?

MR. MULHERE: Yep. Thank you.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: There is a change on Page 2 under No. 9 under the bullets. The first bullet would be struck through entirely, and that is because if you count down, including that first bullet that we're striking through, 1, 2, 3, 4, 5, 6, 7, 8 to the ninth bullet which starts out, vehicular access, slash, overhead doors. We don't need the first bullet because we're dealing with it here.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: And there is a change to that. I had the pleasure of working with Peter Shawinsky and Mark Templeton from the staff. We worked together to get this language to where it was succinct and address their concerns. I'll read that for you. But, yes, you had a question.

COMMISSIONER EBERT: Can I ask a question?

CHAIRMAN STRAIN: Yes. Well, why don't we -- yeah, why don't we catch the questions as we go along. Does that work for everybody --

MR. MULHERE: Yeah, that's perfectly fine by me.

CHAIRMAN STRAIN: -- in this particular document?

COMMISSIONER FRYER: We're doing questions as we go along?

CHAIRMAN STRAIN: If that's okay with you.

MR. MULHERE: It's perfectly fine.

CHAIRMAN STRAIN: Yeah. I figure that way it will expedite it. But since we've seen this twice before, hopefully we're not going to be --

COMMISSIONER FRYER: Okay.

COMMISSIONER EBERT: You added used cars. That was not in --

MR. MULHERE: It was not in the original, no. We added --

COMMISSIONER EBERT: That's right. So this is added, this last one?

MR. MULHERE: We did add it.

COMMISSIONER EBERT: And I'll be very honest with you, if you would have had No. 9 with these words in it at a NIM meeting, this car dealership would not be there.

MR. MULHERE: Well, the only thing I can say in response is that we have had conversations with some very high-end antique and collectable dealers. And there's one located right on the corner of Airport Road and Davis. Not just off the corner; behind the Porsche dealership.

And so that's why we did put the limitations in the value in there. We don't necessarily -- I mean, we don't think that would be a detraction.

COMMISSIONER EBERT: Do you have a signed deal with them? Because looking at this, of what you're putting in with all the things that you can stuff into this --

MR. MULHERE: No, we don't have a signed deal. That's why we put that minimum value of \$80,000 per vehicle in there so that we would guarantee that it would be high end.

CHAIRMAN STRAIN: Have you ever seen an \$80,000 used car?

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Really?

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Okay. Was it looking like an old used pickup truck, or are they something nice?

COMMISSIONER EBERT: No, no, but that's --

CHAIRMAN STRAIN: I've never seen a used car that price. I can only imagine it's going to be something rather elaborate. Is that a kind word?

COMMISSIONER DEARBORN: Exotic; vintage.

CHAIRMAN STRAIN: Exotic. That's even better.

COMMISSIONER EBERT: Mark, this is supposed to be a redevelopment project. To me, a car dealership is not. If they want something like that, you can just go out this building down two doors. This, to me, is not redevelopment.

CHAIRMAN STRAIN: Where in Collier County do you buy --

COMMISSIONER EBERT: That's my thought.

CHAIRMAN STRAIN: -- an \$80,000 used car? I don't understand. This is -- you can have a new car for \$20,000, but an \$80,000 used car is the minimum they can have there?

COMMISSIONER EBERT: We have car dealers that have that.

CHAIRMAN STRAIN: Okay. Well, anyway.

MR. MULHERE: I didn't want to prolong the discussion.

CHAIRMAN STRAIN: No, that's okay.

MR. MULHERE: I just want to say that this will be entirely enclosed within a multi-story building. It isn't the same as the used car dealership that's on the corner of Davis and Airport. It isn't the same, and we've structured it that way, so...

CHAIRMAN STRAIN: Well, that's too bad. That's a new Porsche dealership.

MR. MULHERE: Not that one.

CHAIRMAN STRAIN: Oh, okay.

MR. MULHERE: And by the way, that business has been there for many, many years. I'm not -- nothing derogatory against that business.

COMMISSIONER FRYER: If I can follow up with Commissioner Ebert's question. In addition to adding the used car, the word "dealership" was also pluralized. Do you intend to have more than one?

MR. MULHERE: No.

COMMISSIONER FRYER: Why was it pluralized?

MR. MULHERE: No. I mean, it was just new or used dealership. We can take the S off the end of that. Not a problem.

COMMISSIONER FRYER: All right.

COMMISSIONER CHRZANOWSKI: Hey, Bob?

MR. MULHERE: Yes.

COMMISSIONER CHRZANOWSKI: Shouldn't there be a D on the end of used?

MR. MULHERE: I think that's been corrected. Yeah, it has been corrected, yes. Thank you.

Getting back to that ninth bullet that begins vehicular access/overhead doors, the second sentence starts, SDP plans shall show lines of sight. That entire sentence would be struck through based on my discussions with Mark and Peter.

And it would read as follows instead. A new sentence would be added: Overhead doors visible from any road -- overhead doors visible from any road or access -- or internal access, excuse me, will utilize the roll-down security gate style door or fully glazed overhead door. And I can read that again. My notes were a little -- so it should read, overhead doors used from any -- visible from any roadway or internal access will utilize a roll-down security gate style door or a fully glazed overhead door, and that would be consistent with the LDC.

On the next page -- I don't have any changes on that page except I wanted to call your attention to another change which might result in a change to that page, and I wanted to ask you about this. The green space requirement, which is on page -- well it's --

CHAIRMAN STRAIN: It's on Page 9 electronically.

MR. MULHERE: We've had some discussions in our meetings with various planning board members and other staff in particular over the full duration of this review process that really, other than the deviation to 15 percent, the rest of this green space is consistent with the existing LDC definition. All this can be used in green space with a couple of exceptions, and that is -- and that's why we added them, and that

is the food trucks and the mobile kiosks.

So there was a suggestion to take this out entirely. Now, if you go back to the other page, 3, I think it would be, your electronic Page 3, under accessory uses, B, commercial uses, we would like to add those under a new Paragraph 4 to list food trucks and mobile kiosks. So we -- you know, we don't need the entire paragraph on green space, but we'd like to add those there. They would be approved through a temporary-use process --

CHAIRMAN STRAIN: Then what happens is your deviation addresses a 15 percent, so you don't --

MR. MULHERE: Correct.

CHAIRMAN STRAIN: -- need Paragraph C for that.

MR. MULHERE: Correct.

CHAIRMAN STRAIN: And the LDC addresses the rest of it as it exists today, so you don't need Paragraph C for that.

MR. MULHERE: Including the temporary-use permit process for those two uses.

CHAIRMAN STRAIN: Right. So, okay.

MR. MULHERE: So then we would flip over again to Page 4 which contains Table 1. We only have one table now.

CHAIRMAN STRAIN: I've got a question back on the page we just left.

MR. MULHERE: Yes.

CHAIRMAN STRAIN: Would you mind adding after Roman Numeral III, interim use, where it says on the end, early by agreement of the parties of the lease and/or their successors and assigns.

MR. MULHERE: Oh, on the cell tower?

CHAIRMAN STRAIN: Yeah.

MR. MULHERE: Let me just read that again. Tell me where you wanted me to --

CHAIRMAN STRAIN: At the end of the paragraph, add the words, "and their successors and assigns."

MR. MULHERE: Sure.

MR. JOHNSON: Mr. Chair, did you say "and/or"?

CHAIRMAN STRAIN: It doesn't matter. Just "and" is fine. One's equal to the other.

MR. MULHERE: And the successors and assigns.

CHAIRMAN STRAIN: Yeah, successors and assigns.

MR. MULHERE: Okay. So on the next page Table 1, you can see now this is much more simple. We've eliminated the conversion matrix. You have maximums and minimums. And the heading tells you which of the uses -- for example, in the commercial general medical office, Section A.1.B.U.6 tells you that's office and that's got a minimum of 30,000 and a maximum of 60,000. So as applicable, that's provided for all the uses.

One minor change under the last column where it says new car dealership, obviously, depending on what your recommendation is, we would strike through the word "new."

CHAIRMAN STRAIN: Right.

MR. MULHERE: Again, I express my appreciation to David Weeks for his very detailed review on Item No. 3. The way I worded that, I said, subject to the minimum amounts required in Table 1 and overall maximum of 200,000 square feet of any combination uses allowed in A.1.B.2 through 11. Well, that includes the ALF. That was never subject to that 200,000. That has its own restrictions. And so I would reword that to say uses 2 through 6 and 8 through 11.

CHAIRMAN STRAIN: That would be consistent with the GMP language.

MR. MULHERE: Yes. There's a floating No. 10 at the bottom of the page. There's not anything missing. As I often do, I must have hit return, and the 10 came up.

On the next page that will go away, Paragraph C. On the next page --

CHAIRMAN STRAIN: Page 10 electronically.

MR. JOHNSON: Mr. Chair?

CHAIRMAN STRAIN: Yes.

MR. JOHNSON: On Page 5 of 31 in your PUD document, is the intent to delete the whole

paragraph?

MR. MULHERE: Yes.

MR. JOHNSON: Will that be an issue with respect to the master plan? The master plan, I think, identifies a Tract C, and if we don't have a Tract C listed anywhere in the PUD document, is that an inconsistency?

MR. MULHERE: Well, maybe we just retain --

CHAIRMAN STRAIN: Well, wait a minute. Just go to the master plan.

MR. JOHNSON: Yeah, I'm looking at the master plan, and I don't see a Tract C.

CHAIRMAN STRAIN: I don't either.

MR. JOHNSON: Okay. All right.

MR. MULHERE: You know why? We didn't put it on there because we weren't exactly sure all where it would be. It's not one single location, the Tract C, for open space. It's throughout the site.

CHAIRMAN STRAIN: If it's on a rooftop on the building, you couldn't put it on the parcel.

MR. JOHNSON: All right. So if it's not listed on the master plan, then I don't have a problem with it not being, you know, here.

CHAIRMAN STRAIN: No. But I know what you want to say. You want to say when we get to the deviation language, we've got to strike the last sentence because it mirrors that paragraph, and we don't want that there as well, right?

MR. JOHNSON: I wasn't going to say that.

CHAIRMAN STRAIN: I'm sure he was then. But that's going to have to be the case. The last paragraph -- the deviation language has got to be changed to mimic this language, so...

MR. JOHNSON: While we're still here, just for my clarification, the last sentence of Tract C, you know, GO, green open space, Mr. Mulhere talked about food trucks, mobile kiosks, signage and outdoor dining facilities. Is the idea that we're going to put those four things or those three things -- listed as exhibit -- in an Exhibit A, accessory uses?

CHAIRMAN STRAIN: Well, the commercial use is exhibit -- under accessory uses 2B. He was going to add 4, and No. 4 would be food trucks and mobile kiosks. The other, outdoor dining facilities and all the other stuff, are customary accessory uses, so I don't think there's a question.

MR. MULHERE: It's not only allowed; it's actually encouraged by the overlay.

MR. JOHNSON: Okay. So 2.B.4 is going to say what?

CHAIRMAN STRAIN: Food trucks and mobile kiosks.

MR. JOHNSON: Okay. Thank you.

MR. MULHERE: I don't have any changes on -- I'm trying to remember what page -- I'm on 6 of 31.

CHAIRMAN STRAIN: We're on Page 10 electronically, Exhibit B, the table for the development standards. And there is one change that Heidi brought up to me yesterday that I made a note to bring up today, and that is the adjacent to a public street, 20 feet, and it's common (sic) measured from the MPUD property line. And as she pointed out, our definitions, I think, require it to be measured from the right-of-way line.

MR. MULHERE: They do.

CHAIRMAN STRAIN: Okay. We can't change definitions. So I know what you're trying to do, and I don't think there's any objection to that in regards to a decel lane.

MR. MULHERE: I've done it this way on several PUDs recently.

CHAIRMAN STRAIN: Well --

MR. MULHERE: That's why I was very specific. Twenty feet measured from the PUD boundary line. I know there's a definition, but in a PUD you can vary.

CHAIRMAN STRAIN: You can change your development standards. That's what they're for. Heidi, do you --

MS. ASHTON-CICKO: He did it for a project where there was some issues with the utilities department that needed to be fixed after the fact, and so that's why it was allowed on that project. But, essentially, I don't know where the property line is because I don't know whether the roadways are owned in fee simple or easement, because the property line could really be the center of the road. And what he's trying

to do here is say that you're -- if he has to do a decel lane, then it's going to be a zero foot --

MR. MULHERE: No, it will be six.

MS. ASHTON-CICKO: -- setback, which is going to impact the buffers that he's got on there, so...

MR. MULHERE: That's why I asked for a deviation from the buffer.

CHAIRMAN STRAIN: Okay. But let's look at your master plan. The lines on your master plan, why don't we refer it -- like we did on the one that she's talking about where you had to fix it, we referred to the lines that were on the plan, I believe. Why don't we just use that --

MR. MULHERE: PUD boundary.

CHAIRMAN STRAIN: Yeah, the PUD boundary, and that would get us there. And wherever the right-of-way has to change because of the decel lane, it's covered.

MR. MULHERE: So instead of "property line," we'd use the word "boundary."

CHAIRMAN STRAIN: You just put PUD -- as measured from the PUD boundary.

Heidi, does that cause you any heartburn?

MS. ASHTON-CICKO: Well, as long as everyone understands there's not going to be a landscape buffer.

CHAIRMAN STRAIN: There is a landscape buffer. It's the DOT that may not provide a landscape buffer.

MR. MULHERE: But there still is. I just want to -- we requested a deviation from the otherwise required 10-foot landscape -- or 15-foot landscape buffer there. By the way, the overlay only requires 10; we agreed to 15. But we asked for a deviation for that to go down to six feet only in the event that we have to put in a right-turn deceleration lane. So we still would have a 6-foot buffer.

CHAIRMAN STRAIN: And you just reminded me of something. I did have conversations with the FDOT, and I have sent them all of your plans and all of Trio's plans. So whatever they come up with is going to have to be what's required, and I don't know what that is today, so...

MR. MULHERE: I got it.

And by the way, I did talk to Mark Templeton with respect to that 6-foot buffer width. And, Heidi, he mentioned that we could still fit royal palms and a reasonable hedge in that width. So I did have a discussion with him, so we will still have a land -- it's just not going to be as wide.

MS. ASHTON-CICKO: Just as long as you know what you're approving. That's what my goal is.

CHAIRMAN STRAIN: Okay. So that will be from PUD boundary.

MR. MULHERE: Yes.

MR. JOHNSON: That's going to be on Page 6 of 31?

MR. MULHERE: It's adjacent to a public street, that setback; 20 foot measured from the PUD boundary.

COMMISSIONER EBERT: Bob? One quick thing. You said royal palms?

MR. MULHERE: Yes. You could put other palms, but --

COMMISSIONER EBERT: Royal palms in how big of an area?

MR. MULHERE: Six-foot planting area.

COMMISSIONER EBERT: Uh-huh. It won't work.

MR. MULHERE: I only talked to the landscape architect about it. I mean, he can use something else. He might have to put a smaller -- a smaller --

COMMISSIONER EBERT: Foxtail.

MR. MULHERE: -- species. Yeah, that's fine. That will work.

CHAIRMAN STRAIN: Well, whatever you put there that the landscaping department approves is what will happen, so...

MR. MULHERE: I have no problem.

CHAIRMAN STRAIN: And if they want to -- you should have a conversation with Mark and explain to him your concerns, and that might solve the problem.

MR. MULHERE: Yeah. No problem.

COMMISSIONER HOMIAK: They have them in the medians in the road there on Davis.

CHAIRMAN STRAIN: Yeah, I know.

MR. MULHERE: The next page is the master plan.

CHAIRMAN STRAIN: Which one? We have two pages. It's electronic page --

MR. MULHERE: I'm sorry. Sheet -- it should say Sheet 1 of 5.

CHAIRMAN STRAIN: Okay. That's Page 12 electronically.

MR. MULHERE: There is -- I failed to make one correction on that, and that is that on the side yards, so if you want to -- have you got that up? So if you look, the side yards are right there, and then the other side yards are on the other side. All the way over. Yeah, right there.

CHAIRMAN STRAIN: So you're taking the "zero or" off and leaving the "five feet"?

MR. MULHERE: In one location I left it. If you look up in the top, right there. So that has to be struck through.

There is a -- on Page -- Sheet 3 of 5, I made this correction in a few places, but I failed to make it here.

God bless you.

Under landscape standards, No. 6, at the very end, it says -- the last part of the sentence says, where the buffer abuts a right turn decel lane, and I think Heidi had made the comment in the PUD document to spell that out, and I'll spell it out here, too, deceleration lane.

MR. JOHNSON: It's on the overhead.

CHAIRMAN STRAIN: Yeah.

MR. MULHERE: So then the next two pages are the separated, now, exhibits depicting the building height, and it's a lot cleaner than trying to show all four ways of measuring the height on two separate exhibits.

No changes have been made to any of the renderings, landscape renderings or architectural renderings. There is a change on the legal description, which is Exhibit D. I have Page 23 of 31.

CHAIRMAN STRAIN: It is Page 27.

MR. MULHERE: If you'd turn to Page 28, I'm sorry, the next page. There is a typo one, two, three -- you're there? Oh, he's got it on the screen.

Thank you, Eric.

MR. JOHNSON: You betcha.

MR. MULHERE: Instead of "form," it's "from." And those -- you know, you've got to be careful with those caps. There's no spell check. So that's the legal description just a minor correction.

I'm now in Exhibit B, list of deviations from the LDC, Page 27 of 31.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: At the bottom of the page, No. 6, that same correction should be spelled out for decel lane.

MS. ASHTON-CICKO: And there is a typo in the citation, so we'll fix that.

MR. MULHERE: Thank you.

MS. ASHTON-CICKO: It's missing a little a, I think.

MR. MULHERE: Oh, yes. Thank you.

CHAIRMAN STRAIN: The following page, Bob, the open space, you need to drop that last sentence, remember.

MR. MULHERE: Yes. So that -- under open space, it will just be the first sentence. Yep, the second sentence will be struck through.

CHAIRMAN STRAIN: And you've got to do the same thing on that master plan page, too. Yeah.

MR. MULHERE: On the exhibit.

You know what, let me just turn back to that real quick and make note of that. Got it.

I think we were on -- we're now in Exhibit F, which is the list of developer commitments. I wanted to point out to you --

COMMISSIONER EBERT: Wait a minute.

MR. MULHERE: Yes, ma'am.

COMMISSIONER EBERT: I have a question on one of the deviations.

MR. MULHERE: Yes.

COMMISSIONER EBERT: The no building permit will be --

MR. MULHERE: So that's the timing.

COMMISSIONER EBERT: On the last of three, you don't even know if you're going to build three, you told us last time.

MR. MULHERE: Tell me where you're at because I'm --

COMMISSIONER EBERT: I'm on Page 11 of 13.

CHAIRMAN STRAIN: Eleven of 13? Okay.

MR. MULHERE: Is that the staff report? That's the staff report.

CHAIRMAN STRAIN: Yeah. You're not on the document. I was going to say, you're way outside the document. Maybe not. There it is on --

MR. JOHNSON: Page 4 of 31.

CHAIRMAN STRAIN: Page 4 of 31.

MR. JOHNSON: Note number 4.

MR. MULHERE: Four of 31. It doesn't matter how many buildings. It's the last tract. So if you build fewer buildings, it still applies. It's the last tract, not the last building.

COMMISSIONER EBERT: Well, you also mentioned that -- a three-story building.

MR. MULHERE: You mean in here?

COMMISSIONER EBERT: Yes.

MR. MULHERE: There was a place where I think it's a minimum.

MR. BELLOWS: Number 9.

MR. MULHERE: Number 9 says there should be a minimum of two multi-story buildings. There is -- I'll find it. Here. Number 5. What that says is no individual commercial use may be located in a building less than three stories in height. So let's use the movie theater as an example. That would be an individual commercial use. It could be the only commercial use in that building, but that building has to be a minimum of three stories in height. And it will be, because there will be parking underneath.

But that was all going towards the idea of this looking like what we suggested. Yeah, urban and multi-story with structured parking.

CHAIRMAN STRAIN: What page have you left off?

MR. MULHERE: I think we were on Page 29, and I don't have any changes to Page 29.

CHAIRMAN STRAIN: What -- that is your --

MR. MULHERE: I'm sorry. It's the developer commitments. I apologize. Exhibit F.

CHAIRMAN STRAIN: Okay. And I noticed on the developer commitments you dropped the transportation PM peak --

MR. MULHERE: Oh, thank you.

CHAIRMAN STRAIN: -- to 628. Now, just so we've got the right perspective, the project that was supposed to be produced had 210 residential units, 152 hotel units, 74,000 office retail, 60,000 office, and then there was some -- part of that could be car dealership, like we've described, a high-end car dealership and potentially a storage facility, and then you had ACLFs.

Now, that combined package, no matter what the mix-up is, will never exceed the intensity that was previously approved by the contract you guys have.

MR. MULHERE: That's correct.

CHAIRMAN STRAIN: Which that -- if you looked at just those purely as stand-alone, forgot the mixup, just say, okay, what do these come to? Six twenty-eight, that's the intensity you were already --

MR. MULHERE: That's correct.

CHAIRMAN STRAIN: -- you already all had discussed with the Board, and that's the intensity for that site.

Now, this is going to provide you with that flexibility you need to make the site work. And, basically, no matter what way you mix them up, you're never going to exceed the original intensity that was approved for that site. Is that what the --

MR. MULHERE: That's right.

CHAIRMAN STRAIN: Okay. That's the direction you're heading. That's what I thought, and I just

wanted to make sure it was clear.

MR. MULHERE: I just want to add, yes, that's the cap no matter what, so we're never going to exceed the trip cap that we would have otherwise been able to achieve in what you just described originally, but also we have agreed to a whole lot of other conditions, minimums and maximums.

CHAIRMAN STRAIN: Yeah. That's what this whole document's about.

MR. MULHERE: Yes.

CHAIRMAN STRAIN: Okay. That's what I wanted to understand. Make sure we were on the same page. Gotcha.

MR. MULHERE: Okay. I'm glad you -- I was going to raise that, so I'm glad you reminded me. So, really, the next significant change of any kind is on the last page of the PUD document.

CHAIRMAN STRAIN: Well, there is some -- I just want to make sure, Page 31, which is 31 of 31 --

MR. MULHERE: Yes.

CHAIRMAN STRAIN: -- and Page 35 electronically, the new -- the language from the Naples Airport Authority, now, are you all in agreement on this thing?

MR. MULHERE: Well, it's changed since that.

CHAIRMAN STRAIN: So what we're looking at is not what we're dealing with?

MR. MULHERE: No. We actually just had a final agreement, but it's very minor.

CHAIRMAN STRAIN: Well, why don't we address it as we go through the document then and catch it at the same time.

MR. MULHERE: Let me get this portable mike. Oh, here it is.

A couple of items with respect to this change. This change reflects the language, really, with maybe a few minor changes, but really reflects the language that the Naples Airport Authority requested in their March 26th letter for the PUD.

So there's -- as you can see, there's an opening sentence that talks about the Exhibit G, the declaration form, and then there's four paragraphs. This represents -- so there's -- I realize the -- I printed this on an email, and it didn't come out the same way it would in Word. But you can see there's a little i, double i, Paragraph 3 and Paragraph 4. This represents the language that the Naples Airport Authority -- and let me slide that up a little bit so you can see the last two.

MS. ASHTON-CICKO: If I can comment, the only change I would make is to remove the exhibit, because we don't -- you know, we don't attach restrictive covenants as part of the law.

MR. MULHERE: And we don't have an argument. We agreed to include it because we certainly wanted to resolve all the issues with the Naples Airport Authority. They'll probably speak to this issue, I would imagine.

CHAIRMAN STRAIN: But, Bob, you can include the reference, but just strike the parenthetical.

MR. MULHERE: Yes, we could.

CHAIRMAN STRAIN: That still says it's out there, right?

MS. ASHTON-CICKO: Sure. And then Exhibit G I would give to the court reporter so it's part of the record as to what the city was asking for.

MR. MULHERE: Okay. Well, I have a copy of their letter, so I would just --

MS. ASHTON-CICKO: And, you know, your client could state that he's going, you know, to assure that's going to be recorded when they ultimately own the property.

MR. MULHERE: And, you know, that's, I think, Heidi's call. I just know that the Naples Airport Authority wanted it in there. And we didn't object to that. I have a couple of other, I think, minor changes.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: I think Eric brought to my attention a couple of standard stipulations that somehow maybe didn't get in there and should, and they are right there. Pretty boilerplate-type language. And we would add those to -- I guess they'd be developer commitments, right?

MR. JOHNSON: I think Heidi wanted it to be No. 7 --

MR. MULHERE: That's what I thought, No. 7. Yep.

MR. JOHNSON: -- miscellaneous.

MS. ASHTON-CICKO: That's fine.

MR. MULHERE: Okay. I'm just making sure there's nothing else. I don't -- I think that covers it, from my perspective. I'm happy to answer -- and, of course, we have Norm here and Barry, and, of course, my clients.

CHAIRMAN STRAIN: Okay. Diane's got a question.

COMMISSIONER EBERT: Going back to the airport.

MR. MULHERE: Yes.

COMMISSIONER EBERT: That -- the purchasers of these condominiums or whatever they will be --

MR. MULHERE: Yes.

COMMISSIONER EBERT: -- they will get a -- they will have to sign something saying that they know they're within one mile so expect noise?

MR. MULHERE: Yeah. And I don't know if they have to sign it. They're going to get a declaration in the deed. There'll be a restrictive covenant on the property, which is typically how that's handled.

COMMISSIONER EBERT: Okay. Just double checking.

CHAIRMAN STRAIN: Anybody else have any questions?

COMMISSIONER FRYER: I have a number of them.

CHAIRMAN STRAIN: Ned? Okay.

COMMISSIONER FRYER: Going across the GMPA and the LDC, if I may.

MR. MULHERE: Okay.

COMMISSIONER FRYER: First of all, I certainly appreciate the efforts that have been made to reach an accommodation, and I also understand and completely agree that there's no question about the good intentions or the good faith of the developer here. And I am hopeful that if this does eventually get approved that those expectations will be fulfilled.

My concern, though, is that, as the advocates for the applicant have presented, it's been presented in terms of best-case scenario. And maybe it's my legal background that causes me to look at worst-case scenarios and consider those, particularly when it comes to balancing risks.

And, again, I have no doubt in my mind that if the economy continues booming, that the what we call high-end, first-class words that haven't found their way in, of course, would be exactly what was built, and everybody would be happy.

But what happens in the event of an economic downturn? And that's my concern. And I know you have endeavored to strike a fair balance between the reasonable needs on the part of the developer for some level of flexibility and the reasonable expectations on the part of county and the county taxpayers and residents going back to two years ago with the articles in the Naples Daily News that I mentioned either at the last meeting or the meeting before that. Expectations were raised quite high, I think, by that press coverage. Again, you don't control the press, but that's what was put out there.

And given the fact that there's -- nothing can be done with respect to Davis and the East Trail to widen it or somehow mitigate the consequences of any kind of a significant redevelopment program in the triangle or the mini-triangle, since inevitably there is going to be more congestion, my earnest hope would be that we could attempt to find a way that the congestion is caused by high-end, first-class uses and activities.

Now, back at the March 1 hearing, I had requested that the applicant consider in lieu of words like "luxury" and "high-end" and "first-class" calling out certain design, finishes, construction criteria, improvements, et cetera, that would exceed standard construction as a means of going some of the distance, at least, to fulfilling our expectations for the mini-triangle.

I take it this solution didn't appeal to you, though, because it didn't appear in the amendments, and that's fair. But I'm still struggling how to get to yes on the GMPA vote and perhaps -- I'd just throw this idea out as another idea. Perhaps a solution lies in increasing the minimum size of the residential dwelling units. If all 105 units were at least 700 square feet, that would go a considerable distance for me toward assuring that we're talking about higher-end occupancies versus B and Bs and rentals and the like. And so that's one thing I'd ask you to comment on.

And also, I'd like to suggest to you that with the transient lodging language that has found its way

into the proposal, it's awfully broad. And I have difficulty understanding how it would be -- how it would prevent a concern and eventuality that I'm concerned about. And let me say this: Your language says, a minimum of 228 hotel suites, rooms, or other transient lodging uses including, but not limited to, interval ownership or vacation rental suites may be permitted.

Well, if this is a subset -- if transient lodging is a subset of hotel rooms, that means that the square feet of these individual units, there's no lower limit to it, correct? It's not 700? It's not 500?

MR. MULHERE: No, I think there is a square-footage limitation, but it's relatively low.

COMMISSIONER FRYER: Per unit, per hotel unit?

MR. MULHERE: I'd have to look at the overall --

COMMISSIONER FRYER: I couldn't find it. In fact, I found language that indicated that they were not subject to --

MR. MULHERE: Typically they're not, hotel rooms, because they vary if it's an interchange hotel versus a resort hotel.

COMMISSIONER FRYER: Yeah. I'm concerned that in the event of a downturn, because I'm not suggesting for one second that this is anybody's current intention. I think we all have the best of intentions here. But in the event of a downturn, what, given the language that is in front of us now having to do with transient lodging, would prevent the construction of 228 units that were very small and identified as transient lodging, which is a subset of hotel which in my view would not be subject to the minimum square feet? All of a sudden you'd have 228 Airbnb potentials, and you'd have another 20 with your exemption from the 700 square feet that we've already talked about.

MR. MULHERE: I'm going to ask my client to speak to that issue. I have a couple of observations, but let me let him --

COMMISSIONER FRYER: Okay. Please. Thank you.

MR. STARKEY: Jerry Starkey, for the record.

There are some inherent attributes of our zoning that will assure that it's a higher-end, more luxurious project based on the fact that we have limited surface parking, we've required multi-story buildings, we are going to have structured parking. And when you look at the minimums, even the resulting minimums for 105 residential units and 37,000 foot of retail or commercial uses and 30,000 foot of office -- so that would be sort of, in your scenario, the downside, the smallest possible mixed-use development gets built.

It's still going to be multi-story. It's still going to be structured parking. So why do I bring this up? Well, in a structured parking environment, you're spending 20- to \$25,000 for every individual parking space; whereas, if you go build a home in a subdivision, you know, it's costing you 5- or \$6,000 a parking space, or if you're in a shopping center, the cost is much lower.

So the inherent nature of a mixed-use community that's multi-story like we have provided for just inherently has much higher construction cost, much higher infrastructure cost, which then pushes -- pushes your cost to a point that you have to reach a luxury point just economically.

The way that we arrived at when we transient -- that's actually been in pretty much from the beginning, but the thought actually came from high-end luxury. If you go to Aspen, Colorado, or you go to other ski resorts or some beach resorts, Ritz-Carlton, Four Seasons, and others are doing these members clubs where you actually pay a million dollars, a million and a half dollars, and you get the right to use the property for, say, six weeks out of the year.

In these residents' clubs, you're not even really getting a deed to an individual property. You're getting a right to use.

They're quite expensive. They're quite luxurious, but it would come into the transient zoning definition. Just like the way the used car scenario got into the code or our proposal is that someone from California came and said, we are -- we have a collection of Concours cars. It's a consortium of owners, and they have many cars, and they're looking for a home. And sometimes they'll sell these cars. Mostly it's a place to store the cars. These are cars that are a half million, million, you know, very expensive cars.

So we scratch our heads and we say, we'd love to have that. It would really be, to your end, luxury high-end, but it's not new car sales. We can't -- it won't work. But we wouldn't want to foreclose it. So that's when we, then, added "used car," and we thought, well, let's put a real high number because, you know, I

mean, a 2000 -- you know, 2008 Bentley or '9 Bentley is, you know, \$80,000.

COMMISSIONER FRYER: Pardon me for interrupting, but you've already won me over on that point. I came in here quite concerned about new and used car dealerships, but now we've taken it, we've de-pluralized it. It's now singular, and you've tacked onto \$80,000 -- so I'm okay with that. But I remain concerned --

MR. STARKEY: So on the residential, I think we have a limit to 20 percent of the units between 500 and 700.

MR. MULHERE: Yes.

COMMISSIONER FRYER: You do.

MR. STARKEY: So if we reach the minimum, you would basically have -- you would have 20 units --

COMMISSIONER FRYER: Roughly 20.

MR. STARKEY: -- that could be below 700, and you would have 85 units that would be above 700 feet.

So, again, I think because we've agreed to a percentage restriction as the project -- as the community scales up or scales down, I think we've accomplished your objective of protecting the risk on the downside of value.

COMMISSIONER FRYER: Again, pardon me for interrupting, but I want to be sure that you're focusing on the questions I'm asking --

MR. STARKEY: Sure.

COMMISSIONER FRYER: -- as opposed to things where I don't have a problem.

And the issue that I'm wanting to talk about now is the transient lodging which would create potentially 228 units without a lower limit on the square footage so it could be, let's say, 300 square feet. So now you've got 228 at 300 square feet and potentially 21 at 500 square feet. And your response so far, which again, it helps me understand, is your point of view that the parking limitations would push that toward the high end. There would be insufficient parking to jam in a lot of people.

MR. STARKEY: Well, I think the practical aspect is that it's not financially feasible to build a 250-square-foot hotel room in Naples, Florida, with the cost of structured -- and I don't know that there's a demand for that.

CHAIRMAN STRAIN: Why don't -- and something to help Ned's question. No matter what you build as transient lodging or others, no matter what size it is, you've still got to provide check-in services, housekeeping services, amenities such as dining facilities, meeting rooms and recreational facilities.

By the time you put those together, I mean, you're never going to make it work if you build something as small as that. I think that's part of what is the package that you're offering.

MR. STARKEY: The square footage for the room would be less than the square footage for the parking infrastructure. Plus, for every room you've got to have a housekeeping --

COMMISSIONER FRYER: In a solid -- and I saw that, too, and that gives me some comfort, the ancillary systems that have to come along with it.

MR. STARKEY: Sure.

COMMISSIONER FRYER: Although, presumably ancillary services would come along with the 21 dwelling units at 500 square feet. I'm just using -- again, I'm looking at worst case. That's why I call it 500 square feet versus 600 or 700.

And, again, in a solid market, this is what's going to happen. But in a downturn, usually you would expect business entities to identify ways of cutting costs and maybe not making as much of a profit but maybe -- or maybe losing money but trying to, you know, contain your losses and manage your losses. And those are the considerations that I'm worried about.

And what would the occupancies look like if -- with all of these control features like limited parking and the ancillary services, if you ended up with 228 very small efficiency units that resembled the 21 at 500, and I just -- I'm concerned about that, and it gets back to my point. It has nothing to do with questioning your good intentions. I'm convinced of those.

But my concern remains fair allocation of risk versus -- the county versus the developer. And I think

each of us needs to take some risk in this. And, from my perspective, we're just sort of haggling over where you draw that line.

MR. STARKEY: You know, I think the example I used at the last meeting was all of the 500- to 700-square-foot units in Olde Naples that are selling for 500 a square foot if they're 1960 vintage and not rehabbed or 800 a foot if they are rehabbed. And so, you know, there's plenty of those units along Broad and down on Third and in downtown Naples --

COMMISSIONER FRYER: Even though I live in Old Naples --

MR. STARKEY: -- and, you know, they're good --

COMMISSIONER FRYER: -- I don't have to worry about their zoning.

Let me transition to a different point and see if --

MR. MULHERE: Before we leave that, just a couple things.

COMMISSIONER FRYER: Sorry.

MR. MULHERE: The transient -- the form of ownership is really not -- you know, not in question here under the zoning. You have residential uses, and then you have transient lodging uses by definition. Hotel rooms are transient lodging uses. Time-share units are transient lodging uses. So all of those examples that we have in there parenthetically, all of those fall under the same restrictions and allowances as does a hotel, and they have to, as Mr. Strain indicated, operate in the same way.

There is basically a definition of a resort hotel and, presumably, this is exactly what this would function as, as a resort hotel, given its location.

The -- by definition, you have to have leasing periods of at least as little as one week. It doesn't necessarily have to be daily, but it has to be at least one week. So they're not permanent residential structures.

My second point is that the county has very stringent architectural standards -- because you spoke to the design element, the construction materials -- and probably some of the most restrictive design requirements in the state, and those dictate colors, they dictate -- or they prohibit certain colors, they dictate materials and, particularly, they address how long a wall can proceed without being broken up and how you handle the roof treatments. I mean, they are extreme. There's probably 20 or 30 pages of architectural standards and site design standards.

So, you know, I feel very confident that those are -- in addition to what we've put in here and in addition to the renderings we've provided, those will result in you getting what you want to get and what they want to build, so...

COMMISSIONER FRYER: My next question has to do with the use of the phrase "multi-story." That's two stories or more, I guess.

MR. MULHERE: I'm just going to get to the -- I want to get to the page where it's used or the context. I think it was in those conditions.

CHAIRMAN STRAIN: Notes to the table, I believe, Bob.

COMMISSIONER FRYER: It appears in numerous places.

CHAIRMAN STRAIN: Page 4.

MR. MULHERE: Yeah, that's where I'm at. So two multi-story buildings, yeah.

COMMISSIONER FRYER: That's two stories?

MR. MULHERE: Two stories or more, the way it's written, yeah.

COMMISSIONER FRYER: That surprises me, I guess, because first of all, the renderings, the images that you've submitted, I see two, possibly three high-rises.

MR. MULHERE: Yeah, 15 stories.

COMMISSIONER FRYER: Yeah. And that's a lot of -- that's a lot of variation from what pictures we've seen and the flexibility that you're asking for.

MR. MULHERE: Well, the intent wasn't to provide us with a great deal of flexibility, but we do think -- there is possible (sic) that a third building -- there may only be two buildings, or if there was a third building, it could be six or seven stories, say, just with the movie theater or with the movie theater and some other restaurant-type uses. I've got to defer to my client but, I mean, it's not our intent to build a two-story building, so, you know --

COMMISSIONER FRYER: Well, I'm sure it's not your intent at present.

MR. MULHERE: I mean, the thing is, one building -- I just want to make sure. One building could be lower. Certainly, we would go --

COMMISSIONER FRYER: Lower than what?

MR. MULHERE: Lower than, could be, three or four stories, and that's the discussions we've been having, with a couple floors of parking and a movie theater, for example, that could be three or four floors. Now, we still are going to build the other two, you know.

COMMISSIONER FRYER: Yeah, but you could -- and if market conditions pointed you in such a direction, you could build three, three-story buildings.

CHAIRMAN STRAIN: Well, first of all, they'd have to fit the minimums, and the minimums are going to cause them to have 105 units and the minimum amount of general medical and the other condition. So I'm not sure how you're going to get all that in three two-story buildings.

MR. STARKEY: The commercial and the office is 67,000 feet, which is one-and-a-half acres. That's almost half of the developable site. You can't do 100 parking spaces. In fact, to meet the parking spaces, if you did those in two stories, you wouldn't have enough parking on the rest of the land.

I mean, this is a mixed-use project in a 5.3-acre site, and to accomplish the minimums, multi-story will be required.

COMMISSIONER FRYER: That's not a great term to use, I don't think, with all due respect, because multi-story, as we've established, could mean two or more.

MR. STARKEY: Well, you're right. You couldn't do it in two stories. You couldn't build 100 acres -- you couldn't build 100 units on five acres in a two-story product with 67,000 square foot of other uses and parking of 5- or 600 cars. It's just impossible.

COMMISSIONER FRYER: The exhibits, which are exhibits to the ordinance, I guess, Exhibit C1, are the pictures that you've supplied. And there's one very prominent one, very attractive one that depicts what looks like two 12-story buildings, I guess, I don't know, and then maybe something that has different - roof levels.

MR. STARKEY: Those buildings are all 160 feet.

COMMISSIONER FRYER: Are they?

MR. STARKEY: Yes, sir; 150 plus.

COMMISSIONER FRYER: Maybe this question should be asked of staff or the County Attorney, but by -- and I know this is commonplace to do, but when a depiction like this is attached to the ordinance, is it in any respect obligatory on the developer to even come close to what has been depicted?

MS. ASHTON-CICKO: It depends on the way that the ordinance and PUD document is written. And there's nothing in this PUD document that states that the pictures have to look like the pictures (sic).

COMMISSIONER FRYER: Or even close.

MS. ASHTON-CICKO: So they're provided as reflecting the intention.

COMMISSIONER FRYER: Yeah, which is --

MR. STARKEY: We've always presented these as conceptual, and we like the architectural vernacular. Everyone in the community that's commented seems to really embrace it. But if at the end of the day the windows were shaped differently -- the railing now is popular to be glass. If next week it's bars again, you know, these are things that shape the way the community looks. But at the end of the day, you know, if you drive down Park Shore Boulevard, you have a variety of high-rise condos on the beach. They're all pretty attractive. Some of them I like. Some of them I don't, but, you know, they're different styles. It's a little bit like art.

So at this stage, you know, this has always been presented as conceptual drawings. We like it. This is what we're planning to do. If we bring in a partner on one of the buildings and they have a slightly different idea and it still keeps with the character of the overall community, then certainly, you know, it might not look exactly like this.

COMMISSIONER FRYER: And there's really no obligation at all for you to even substantially match or be similar to the drawings that are exhibits to the ordinance.

MR. STARKEY: Well, we definitely have to follow the ordinance. We have to follow the architectural --

COMMISSIONER FRYER: Yeah, but these are exhibits to the ordinance, and I think the County Attorney said that the way this particular one was drafted, it just reflects your present intent.

MR. STARKEY: Right. These are conceptual.

COMMISSIONER FRYER: Yeah.

MR. STARKEY: Yes, sir.

COMMISSIONER FRYER: And so they don't really obligate you in any respect at all.

MR. STARKEY: That's correct.

COMMISSIONER FRYER: Right. Okay.

Traffic. We -- and I went through and looked at the TIS and didn't see any redlining or indications of strikethroughs and add-ins, so I assume that this is the same TIS that we saw in February.

MR. TREBILCOCK: For the record, Norm Trebilcock with Trebilcock Consulting Solutions, professional engineer and certified planner. We prepared the Traffic Impact Statement for the project.

And based on the guidance from our last meeting, this was a major update of the overall thing that we used the 10th edition of the ITE manual, so that would change all the numbers for the project, so -- but that's the main thing there. And we also used --

COMMISSIONER FRYER: I tried to familiarize myself with the difference between the 10th and 9th, and there is a matrix online, Google. And are you saying that as a result of using the 10th now rather than the 9th, you were able to get the projections down from 875 to 628?

MR. TREBILCOCK: No. The 875 was based on gross trips for the project, which would not deduct for internal capture or pass-by. And as the Planning Commission, you had requested that we provide the trip cap based on the net external. So we did those subtractions.

So the gross trips using the 10th edition is 841 trips for that same that was 875 under the 9th edition of the traffic study. So it's -- this is a parallel traffic study with the exception of the updates for the 10th edition trip generation rates that are in the appendix of that, and also we did use the 2017 AUIR as well. So we updated that, because I know that's been a concern of yours in the past.

So instead of having the whole thing struck through, the document is prepared with that specific information. But it runs parallel to the exact same document that you were provided before.

But, again, from a gross trip standpoint, it changed from 875 to 841. And then we used the net new based on your guidance, because -- and you-all made a good point, because what net new really requires is it requires it to be a mixed-use where you get the internal captures and the benefits of having those different mixed uses interact with each other. So I think that was a beneficial point that you had made at the last meeting, and that's why this isn't based on gross trips.

COMMISSIONER FRYER: I think that's the only traffic question I had.

MR. TREBILCOCK: Okay. Thank you.

COMMISSIONER FRYER: Going back to the permissible uses, 5, 6, 7, 8, 9, the way they're numbered, in that fashion. We've talked about the new car, new/used car dealerships, and I'm satisfied or more satisfied that that's been favorably resolved.

But I want to talk now about No. 6, which strikes me as ambiguous, or at least I'm not smart enough to understand what it means. It says, indoor air-conditioned passenger vehicle and/or self-storage. Now, what exactly does that mean?

MR. MULHERE: I hear your question. I just was a little -- I was a little confused about the number that you said, because you said 6. I show --

MS. ASHTON-CICKO: He's looking at the GMP language.

COMMISSIONER FRYER: GMP language. Yeah, sorry.

MR. MULHERE: Awe, that helps. Either way it's --

COMMISSIONER FRYER: Same language.

MR. MULHERE: So what is your -- I think we should go to the PUD because it's much more specific, and your question is about specifics if I -- your question is what does that mean, right?

COMMISSIONER FRYER: Well, if this, what I just read, is the language that is proposed to go into a GMPA, why don't we talk about it?

MR. MULHERE: Well, that's fine.

CHAIRMAN STRAIN: Well, the specificity of our code is supposed to be in the LDC. It's the implementing code for the GMP. So we're supposed to be vague in the GMP and then we're supposed to refine that in the LDC.

COMMISSIONER FRYER: Vague, okay.

MR. MULHERE: General.

COMMISSIONER FRYER: Confusing, not okay.

MR. MULHERE: So I'll go to the GMP. I definitely don't want -- I'm not trying to be argumentative. Let me get to the GMP language. Okay. Here we are. Okay.

COMMISSIONER FRYER: The words that I'm most concerned about, there's an and/or, and between the words -- hyphenated word and/or, there's the word "vehicle" and the word "self."

MR. MULHERE: Yeah.

COMMISSIONER FRYER: So are they to be juxtaposed one against the other?

MR. MULHERE: No, it could be either or both.

COMMISSIONER FRYER: But what does -- so it's either passenger vehicle storage or self-storage?

MR. MULHERE: Or both.

COMMISSIONER FRYER: Or both.

MR. MULHERE: Let me -- passenger vehicle, as Jerry explained, is that there has been a market and there is a market for indoor protected storage of, generally, pretty expensive vehicles. You wouldn't spend that money to put the clunker in there, you know.

So there could be a market even generated by this project or, perhaps, generated from, you know, some folks in Olde Naples for storage.

COMMISSIONER FRYER: So if I store my expensive car, that is not considered self-storage? That's considered --

MR. MULHERE: Well, it is self-storage, but it's actually very specific when we say vehicle storage.

MR. BELLOWS: For the record, Ray Bellows. It is a form of self-storage. They're leasing a space for an individual property owner to store personal belongings, whether it's a car or anything else.

MR. MULHERE: And you're right, that overall use when we get to the PUD, I forget the number 80 -- I don't remember the SIC code number. That use, that self-storage use, also allows for vehicle storage. We just didn't want to have any confusion moving forward as to what our intent was.

COMMISSIONER FRYER: All right. I think I understand what you're saying.

So that takes us back to the entire storage capability or function could be consumed by non-vehicle self-storage.

MR. MULHERE: Yes, it could be; yes.

COMMISSIONER FRYER: Okay. And that could be in a -- housed in a two-story building as long as there was another use associated with that same building; is that correct?

MR. MULHERE: I think -- I've got to get to the language. Let's see what it says here. No individual commercial use may be located in a building less than three stories in height. So to answer your question, three.

COMMISSIONER FRYER: Okay. So a three-story -- it could be in a three-story building. Would it then have to be neighbored by another use, or it could all by itself, three-story?

MR. MULHERE: You can have -- well, let's see what it says here. Let me just -- other than -- it also says other than office and hotel, no single tenant stand-alone commercial uses are permitted in an individual building. So to answer your question, yes, it would have to be -- there would have to be another use in the building.

COMMISSIONER FRYER: Okay. Let's see. I think I have just two more. Oh, the catch-all use -- and I don't have it squarely in front of me.

MR. MULHERE: I know what you're talking about.

COMMISSIONER FRYER: Any and all other uses that are comparable. That's -- I've objected to the use of "comparable" before but, of course, our code is loaded with that word --

MR. MULHERE: Yeah.

COMMISSIONER FRYER: -- so it has to mean something, but it's awfully broad.

MR. MULHERE: It is broad. If it gives you any sense of comfort, it's determined by the BCC. So most likely you would see it and the Board of County Commissioners would see it in order to determine whether we can demonstrate that it's comparable and/or compatible.

COMMISSIONER FRYER: Gives me some comfort.

Then come to this question about the Emergency Management division asking for a generator.

MR. MULHERE: Yes.

COMMISSIONER FRYER: And I understand that that was a fairly easy one for you to concede. And it certainly is sensible in all respects with the possible exception of it being maybe an exaction.

And my concern -- and this was expressed by Commissioner Schmitt I think at the last meeting -- that whatever we might agree to now on these generators in order to resolve any differences that we have today doesn't close the door on a class action two or three years from now where all kinds of petitioners or applicants who've had to supply the funding for this now sue for restitution and the county has to disgorge itself of all that money, so --

MR. MULHERE: I'm sure nothing can stop some form of class action suit under any circumstance.

CHAIRMAN STRAIN: Did someone present this to you as a demand?

MR. MULHERE: Well, what happens is the statute just -- the statute says --

CHAIRMAN STRAIN: No, no. Did you -- are you putting a generator in because someone said that if you don't put it in, I'm going to object to your project?

MR. MULHERE: No, it was recommended --

CHAIRMAN STRAIN: Okay. So you did it voluntarily to be cooperative with the emergency services?

MR. MULHERE: Well, it was recommended as a means of --

CHAIRMAN STRAIN: I'm just trying to understand the basis for a lawsuit if you think you have one.

MR. MULHERE: May I say it was like any other condition that the county puts on us.

COMMISSIONER FRYER: Good point.

MR. MULHERE: It's to mitigate for the impacts. I just wanted to say the statute says that you can increase the density in the Coastal High Hazard Area as long as you mitigate for the impacts, and that's why we went to see the Emergency Management.

COMMISSIONER FRYER: So your client did it voluntarily?

MR. MULHERE: Yes. We can put that on the record. Sure.

COMMISSIONER FRYER: All right. Oh, here, one other. On Page 44 of 137 on the electronic copy, there's a reference, all necessary utility infrastructure improvements will be the developer's responsibility to design, permit, and construct.

MR. MULHERE: Yes.

COMMISSIONER FRYER: I assume also to pay for?

MR. MULHERE: Yes. It's at the developer's expense, yes.

COMMISSIONER FRYER: Okay. That wasn't in there, but...

MR. MULHERE: I think it's implied, and we know it, and we know the county's not going to pay for it. Any upgrades -- they have capacity. They have capacity to serve the project, both water and sewer. Water's the city; sewer is the county. There is capacity. There is a question as to whether the infrastructure is adequate to provide that treatment and/or water. And if there are any improvements necessary to achieve the delivery of water and the treatment of sewer, those will be the obligation of the developer.

COMMISSIONER FRYER: I think that this next one will be my last one. I'm sorry for dragging this out.

Over the lunch break I had a conversation with a Naples City Councilor, and this councilor wanted me to ask, in connection with your discussions with the city going back two years ago, were the discussions exclusively with staff or senior staff, or did they also involve the City Council?

MR. MULHERE: I didn't have any discussion with City Council. I don't know -- I mean, we sent an invite to make a presentation to them.

MR. STARKEY: I think Bob read it into the record.

CHAIRMAN STRAIN: You're going to need to -- Jerry, you're going to have to come up to the microphone, identify yourself, and use the mike.

MR. STARKEY: Jerry Starkey.

Earlier Bob read an email that was from Fred's assistant to City Manager Bill Moss where they -- memorializing a conversation they had the day before and sending a copy of our filing and presentation and asking him to share it with each of the council members and in -- offering to come and present or discuss with the City Council. That was done at the same -- within a week of us signing a contract for the property.

COMMISSIONER FRYER: Okay. How about discussions after 2016 as the project evolved?

MR. STARKEY: I think Bob has had conversations with staff, and we've had individual conversations with individual councilmen.

COMMISSIONER FRYER: You have?

MR. STARKEY: Indeed.

COMMISSIONER FRYER: You've had conversations, okay.

MR. STARKEY: With individual councilmen, yes.

COMMISSIONER FRYER: Okay. That's all I have, Mr. Chairman.

CHAIRMAN STRAIN: Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: And you-all have responded to and answered all my questions that I have. So pending public comment, I may have some after that.

Diane?

COMMISSIONER EBERT: I know you don't want to hear me, but you're going to anyway. The density of these, can you show me in the county where we have 39 per acre --

MR. MULHERE: I can show you --

COMMISSIONER EBERT: -- or we have 75 per acre?

MR. MULHERE: There are places where the -- I'm sure that the net density -- the net density, a high-rise on a two- or three-acre parcel equals that number.

MR. STARKEY: I've -- excuse me.

COMMISSIONER EBERT: I'm asking --

CHAIRMAN STRAIN: Well, no. He's the applicant. He can answer the question. Go ahead, Jerry.

MR. STARKEY: If I could, respectfully. I've probably built 40 high-rises in Naples ranging from 100 to 250 units in a building each time on one or two acres, and I know that along Park Shore there have been many, many similar buildings built like that.

So almost all of the coastal development and the high-rises in Bay Colony, Pelican Bay, Park Shore are all -- buildings sitting on their lots between 75 and 150 units per acre.

COMMISSIONER EBERT: Boy.

MR. STARKEY: I mean, it's the nature of a 15-story building. So in the one conversation we're having, we want to make sure it looks like this. Well, if you build a 15-story building and you put condos in it, that net density there is going to be, you know, the 30, 40, 50 acres per unit (sic) for the whole community. And if you look at it on just the one acre that it sits in, then it's going to be, you know, significant, but not -- you know, unlike a lot of other developments that we have in Naples. They just tend to be the beach.

COMMISSIONER EBERT: But this is a multi-use. Those -- what you're kind of saying is residential. There is a difference in these. And I don't know. I've not seen 39 or 70. I mean, when this was done with the special overlay, this was -- they upped it to 12 units per acre. And, I mean, that's more than three times that amount.

MR. STARKEY: And I would respectfully say that that's probably one of the reasons over the last 20 years no development occurred because there was the idea in the overlay that you could go up to 112 feet or 125 feet with the density or with the height, but the density at eight or 12 units per acre, you know, you only need to go three or four stories to accomplish that; two stories, frankly, at eight units, 12 -- you've got 12 units per acre in quadruplexes.

So the initial overlay that said it wanted transformative, iconic, it wanted stimulative, all of the ideas

of not having a limit on commercial, not having a limit on other uses was very good, but to have vitality, you've got to have residential or hotel density.

And so, economically, there just wasn't a plan that would work because of the pricing. I mean, the proximity, it's really close to downtown. It's close to the beach. It should be a really good location but, unfortunately, the county had a set of parameters that just didn't work economically.

So we were asked, along with the rest of the public, to make a proposal for a catalytic project, and so we proposed our project. We were selected by the CRA and the Board of County Commissioners. We've gone through this process. And based on all of our public meetings, the people that show up are excited, they can't wait to see it built, and they want to see the restaurants and the movie theaters and the activities and the office and the people living there. And so, you know, density equals vitality.

And so I think that, you know, what you're asking for -- when we talk about make sure it looks like this, well, if it looks like this, that's the density that's going to occur.

COMMISSIONER EBERT: You also are going to try and set a precedence with the height of this building. You could not go across the street and build it because it's in the City of Naples. That's 42 feet.

MR. STARKEY: Yes, ma'am, and that's --

COMMISSIONER EBERT: Here you are -- here you are -- it's like taking -- if you're coming out in the City of Naples, it's like hitting a brick wall. I mean, I'm looking at this, and I'm going, yes, it's going to be glass, so it won't be a brick wall. But I'm going, here's 112 feet, and you're going to 168. I think the height is excessive for what's in here, and it will set a precedent. I'm not -- I am just really not pleased with that portion of it at all.

And the traffic also bothers me, but I will ask Norm about that.

MR. STARKEY: One thing I will offer on the overlay --

COMMISSIONER EBERT: Okay.

MR. STARKEY: -- is that, you know, without our height deviation, the height could have been 112 plus -- like, so, 125, I think, is what Trio's going to be. That is limited to the 13 acres that is between Commercial Drive, 41, and Davis. So whatever precedent is set, whether it's 112 or 168 -- and all we're focused on is our 5.3 acres -- it will be contained in that one special area that was desired to be a catalytic project.

COMMISSIONER EBERT: Well, we don't have anything down here. I did ask the airport authority what are the tallest buildings down here. This building you are in right now, the county center, these are 100 feet. If you go out in that parking lot and look up, that's quite high. Now you add 68 feet on top of that.

MR. STARKEY: Are you angry at me?

COMMISSIONER EBERT: No, no. But you have to --

MR. STARKEY: I only want to build something to make this a beautiful community.

COMMISSIONER EBERT: -- something, my feelings are on my sleeve. I show my feelings. And I'm just a very emotional person when it comes like that. And I just don't see where there's this much density in an area.

And I'll just go to Norm. I mean, we were given this, Norm. We changed kind of the way we -- unadjusted trips to trip cap, but I don't even know how -- I feel sorry for you, because I don't even know how you do it when you have a minimum and a maximum. What do you take to do their traffic analysis?

CHAIRMAN STRAIN: We explained that earlier. He took the basis of the contract that he has with the Board of County Commissioners to establish the maximum intensity based on that contract, and the mix would never exceed that. It doesn't mean he's got to recalculate a thousand different varieties of mixes. It doesn't matter. The mix that the contract was for was the basis for the intensity. We'll never ever exceed that. That contract was signed by the Board of County Commissioners. It's done.

So I'm not sure what the debate is with Norm coming up with different scenarios. They're never going to exceed 628 -- and, by the way, you said that's new external trips.

MR. TREBILCOCK: Yes, sir.

CHAIRMAN STRAIN: Did you subtract from that number the external trips already existing from the uses that are on the site?

MR. TREBILCOCK: No. We treated this --

CHAIRMAN STRAIN: Okay. So it's not new external trips. It's greater than new external trips.
(Multiple speakers speaking.)

MR. TREBILCOCK: Correct. It's --

CHAIRMAN STRAIN: That's what I thought.

MR. TREBILCOCK: We said from a basis of zero and didn't -- you're right.

CHAIRMAN STRAIN: I understand. I just wanted to make sure. So to get to Diane's point, they're not as conservative with that number as they could be if they took off all the existing trips for the amount of acreage and businesses on that location.

MR. TREBILCOCK: Sure.

CHAIRMAN STRAIN: They didn't do that, to leave it a little more conservative, so I'm --

MR. TREBILCOCK: Right. And we excluded the conversion matrix, because that seemed to be confusing and really will be --

COMMISSIONER EBERT: Yes, it was.

MR. TREBILCOCK: -- based on actuals, which I think is a good thing for you. You know, it's more intensive for us in terms of an effort. But you see it each time as we do a Site Development Plan, so it's very manageable.

COMMISSIONER EBERT: Yeah. I didn't like the conversion matrix.

MR. TREBILCOCK: Correct. Yeah. And I respect that. Thank you.

CHAIRMAN STRAIN: Your question, if that conversion matrix was still here, it would have been a harder issue to deal with, and that's one of the reasons it's gone.

MR. TREBILCOCK: Yeah.

CHAIRMAN STRAIN: And we did that last meeting.

COMMISSIONER EBERT: I know.

MR. TREBILCOCK: Thank you. Is there anything else I can help with?

COMMISSIONER EBERT: No.

MR. TREBILCOCK: Thanks.

CHAIRMAN STRAIN: Anybody else have any questions before we go to staff? And before we go to staff, there's this tough guy to deal with in the county that wants to speak. And since he's so busy, I thought we'd fit him in.

And, Nick, it's all yours, sir.

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

MR. CASALANGUIDA: For the record, Nick Casalanguida, Deputy County Manager.

I worked on the purchase and sale agreement for this property. And while the contract buyer is here, it's county property. So I want to make sure we cover a couple things.

I spoke to David Weeks, Comprehensive Planning manager. There may be a possibility this deal doesn't happen because of an issue with the cell tower and a lease and the reconstruction of that cell tower or not.

What I have on the viewer is the location of the leased parcel. What I want to do is make sure on the record we understand that the contract buyer may not close on this, but the zoning would stay in place that we have today. If there were any changes by the county later, we would have to come back not as part of the GMP because it sets the ceiling, according to Mr. Weeks, and we'd have to modify sections of the PUD if we needed to go back out to the market again.

What I do want to put on the record also, is -- this is an opinion. I believe the cell phone tower company is being opportunistic in this relocation process, so I think it may jeopardize the sale.

What I'm concerned about is if we go forward, that if the buyer does take possession of the property -- and there are restrictions regarding how they develop and what intensity and these ratio of uses -- that we potentially consider allowing a phasing of some of those projects that come online so -- if they could build something in Phase 1 and leave the tower in place and wait for a period of time for Phase 2, because I think there are some restrictions in there regarding ratios of uses.

So I just want to make sure, you know, we allow ourselves the flexibility to do that and that the county has on the record that we are the owner. And, going forward, we may just keep possession of the

property if it doesn't close.

CHAIRMAN STRAIN: Well, the opportunity for the applicant would be to build -- leave the third parcel unbuilt, and that would be the parcel that would sit there until they work out the situation, if it needs to be.

MR. CASALANGUIDA: Right. But I want to make sure -- there were some ratios of what they can build, so if it can be done in phases, then we're in good shape. Okay.

COMMISSIONER FRYER: Question for the Deputy Manager.

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER FRYER: Mr. Casalanguida, the contract that has been referred to, the cell tower contract, now there seems to be an agreement that it would be temporary in nature and would terminate the privilege of -- being located at the current location would terminate when the contract expires.

MR. CASALANGUIDA: That's correct.

COMMISSIONER FRYER: When I looked at that, it occurred to me the contract, though, could be extended indefinitely and, therefore, not expiring.

MR. CASALANGUIDA: The county has no plans to extend that contract.

COMMISSIONER FRYER: Okay. But if the parties agreed to extend it under the current language, it could be extended and extended and extended indefinitely.

MR. CASALANGUIDA: Commissioner, I can tell you, the county has no plans to extend that contract. And it's an encumbrance on the property. It provides very little value to us in terms of a return. We've had several conversations with the owners, Crown Castle. We've offered a fair, I think, relocation offer, and it's not working out that well.

And I want to be prepared for contingencies with the Board should those settlement agreement relocation talks with Crown Castle fall apart.

COMMISSIONER FRYER: Thank you.

MR. CASALANGUIDA: You're welcome.

CHAIRMAN STRAIN: Anything else, Nick?

MR. CASALANGUIDA: That's it.

CHAIRMAN STRAIN: Okay. Thank you.

And with that, we'll turn to the staff report. And, Eric, what I'd like to do is understand from your -- you had five recommendations. Based on what you've heard today, we need to understand what changes to those might be applicable.

MR. JOHNSON: Will do, Mr. Chair. For the record, Eric Johnson.

CHAIRMAN STRAIN: And I think Bob -- Bob needs to hear this, because he's probably the one that's going to have to debate it with us, so...

MR. MULHERE: Yes.

CHAIRMAN STRAIN: Okay, Bob. I've asked Eric to readdress his five recommendations to see what extent they're needed or need to be --

MR. MULHERE: Okay.

CHAIRMAN STRAIN: -- changed or modified.

MR. MULHERE: Hopefully he got them all.

MR. JOHNSON: Sure. Let me provide a little context.

After the last time we met in this, we received a PUD dated March 16th. I routed that through the relevant staff and heard back from them except for Ms. Lockhart, who works for the school district. I still didn't receive a response from her yet. I don't think it's too much of an issue because I was looking through my email archive, and when I sent her the PUD document that was dated -- or the email that was back in October of 2017, the maximum of square footage -- or the maximum number of dwelling units was 400 dwelling units, and I think the maximum number of dwelling units of this is a little bit lower. So I don't think anything has changed in that regard, if I had to speak on her behalf.

Then prior to printing -- that generated a 13-page staff report, which you have in your packet today.

I just wanted to point out that there are some scrivener's errors, I believe, on Page 1 of the staff report --

CHAIRMAN STRAIN: Eric?

MR. JOHNSON: Yes.

CHAIRMAN STRAIN: I mean, are they significant? What I'm suggesting is, do you still recommend approval for the project?

MR. JOHNSON: Oh, yes.

CHAIRMAN STRAIN: After what you've heard today?

MR. JOHNSON: Well, I just want to make sure -- after what I heard today and speaking with staff beforehand, I believe we can eliminate Condition of Approval No. 1.A, 2, 3, 4, and 5.

CHAIRMAN STRAIN: Okay. So the only thing you're saying you need to leave is 1B and C?

MR. JOHNSON: That's correct.

CHAIRMAN STRAIN: Okay. That's what I wanted to understand. Thank you.

MR. JOHNSON: May I continue?

CHAIRMAN STRAIN: Yeah.

MR. JOHNSON: Okay. So with the staff report, which is Page 36 of your PDF, instead of it being 5912, I think it needs to be 5921, No. 3; summary of changes Exhibit A of the PUD document, No. 3. We worded A.1.B.2 to include the following limitation on 5921.

And then on Page 46 of your PDF, or Page 11 of the staff report, this language that I'm showing on the visualizer would change with the March 26th version that Mr. Mulhere provided in the packets as well as what we discussed today. And then --

MR. MULHERE: Can we be clear? That language is reflected in the March 26th --

MR. JOHNSON: Yes. My staff report would change to reflect the same language that's on the March 26th version of the PUD document. I wanted to say that for the record.

Yes, Heidi.

MS. ASHTON-CICKO: So these are your changed findings. Can you give a copy to the court reporter for the record.

MR. JOHNSON: Yes.

MS. ASHTON-CICKO: Thank you.

MR. JOHNSON: And then on Page 4 and 15 -- I have it on the visualizer. It's February 15th rather than February 14th. Again, these are very minor.

Page 4, and this is Page 5, February 15th in lieu of February 14th.

I had the opportunity to circulate the March 26th changes that were provided to us. I believe that the changes were made on Pages -- on Pages 2, 3, 4, 10, and 31, and I received feedback from Comprehensive Planning from our landscape reviewer and our architectural reviewer. I'll let Heidi speak on behalf of the County Attorney's Office.

But I hadn't heard back from the transportation reviewer, and I think, if I'm looking at Mike Sawyer right now, you didn't have a -- did you have any issue with the changes?

CHAIRMAN STRAIN: Well, while he's walking up, Eric, in your recommendations, 1.B I believe is included on Page 2 of the thing where it says service areas including service drop-off and pickup shall be located fully within the building. It says, vehicle delivery, showroom, car washing areas, overhead access doors, vehicle access overhead doors, all that in that bullet says it will be fully located within the building and not visual from a public roadway or a driveway internal to the project. So does that meet your 1B requirement?

MR. JOHNSON: I'm going to put it up on the visualizer. I believe this is what you're talking about?

CHAIRMAN STRAIN: Yes.

MR. MULHERE: As we amended it.

CHAIRMAN STRAIN: That's what I thought.

MR. JOHNSON: I'm getting the thumbs up from Mr. Shawinsky. Yes, 1.B can go away.

CHAIRMAN STRAIN: Okay. So the only thing left that you have in your recommendations is 1.C, which says basically, locations for offloading of vehicles will be internal to the site. That is actually -- isn't that the yellow that you have on the last of this page? I mean, doesn't that -- is that what you're trying to say, or do we just need to change that so we can have met all of your recommendations, is what I'm trying to get

to?

MR. MULHERE: The way I had it worded, I had offloading of vehicles is prohibited on any public street. The way you have it worded, shall be internal to the site.

CHAIRMAN STRAIN: Same difference.

MR. MULHERE: I'm happy to, you know --

CHAIRMAN STRAIN: Are you satisfied it's the same thing?

MR. BELLOWS: For the record, Ray Bellows. It's fine.

CHAIRMAN STRAIN: Okay. So then all the staff recommendations have been met, and we don't have to deal with them at the meeting at this point because they're all consistent.

MR. BELLOWS: Correct.

CHAIRMAN STRAIN: Thank you.

Okay, Diane.

MR. MULHERE: I'm sorry. I thought Mike was going to speak.

COMMISSIONER EBERT: I have one question for you.

MR. MULHERE: Yeah, sure.

COMMISSIONER EBERT: When you talk about these -- the 60,000 square feet of vehicle or storage, is this for people who live there, or can people from the outside store something in there?

MR. MULHERE: It would be -- it would be potentially for both.

COMMISSIONER EBERT: So, in other words -- which I'm very familiar with, this is kind of a man cave?

MR. MULHERE: I mean, that use is allowed under self-storage, yes. I mean, we're not even suggesting we're going to do it. We just want the flexibility to do it.

CHAIRMAN STRAIN: Well, it's probably a good location for it. They're a quarter-million-dollar units plus a quarter-million-dollar cars. I mean, it reaches that threshold of luxury that we've been looking for.

COMMISSIONER EBERT: But we had it with the man cave, too, but...

CHAIRMAN STRAIN: No, we -- it didn't get voted in.

COMMISSIONER EBERT: I understand. But -- so I just wanted to clarify that.

MR. MULHERE: Yes.

COMMISSIONER EBERT: So you can be outside and rent one of these --

MR. MULHERE: Yes. It would be --

COMMISSIONER EBERT: -- for storage? Okay. Thank you.

CHAIRMAN STRAIN: Okay. And, Eric, you had wanted Mike to address us with something?

MR. JOHNSON: I just wanted to make sure that he didn't have any issue with the changes that were made between March 16th and March 26th.

CHAIRMAN STRAIN: Mike, do you want to tell us if you had or not?

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

We did review the various documents that were sent to us, and we didn't have any issues with the changes.

CHAIRMAN STRAIN: Okay. Stan?

MR. JOHNSON: That's all for my staff report.

CHAIRMAN STRAIN: Okay. That's the staff report. We're going to go to public speakers after break. Before we take a break, David might have something he may want to add.

MR. WEEKS: Commissioners, for the record, David Weeks, Comprehensive Planning staff.

For the Comprehensive Plan amendment, I just wanted to mention that you had been provided with a staff report addendum which identified five items to be addressed. And I just want to say on the record that staff is recommending approval of the petition. All five conditions have been -- well, four of the five have been addressed. The fifth one we are withdrawing, and that specifically is that -- I'd identified the preference to have minimum thresholds in the subdistrict itself.

But given that the subdistrict requires that this be a mixed-use project and requires that the PUD contain the minimums of the different types of land uses and contains trigger mechanism, as well as the fact

that this was in the redevelopment area and the other things that have occurred here, the contract with the county and so forth, staff is finding it acceptable not to have the minimum thresholds in the subdistrict itself.

And I wanted to specifically state that on the record because we may, some day in the future, get another request for an amendment for a mixed-use project, and I'm not so sure that staff would support not having the minimum thresholds for subdistrict itself.

Last point I wanted to make, which was touched on earlier but not provided in our original staff report or the supplemental, is that the Conservation and Coastal Management Element, Policy 12.1.2 reads very similarly to what Bob Mulhere stated as being in Florida Statutes, and that is that a Comprehensive Plan amendment that increases density within the coastal high hazard area, which is the Category 1 hurricane zone, must provide -- well, let me read it directly. It's one sentence.

This is Policy 12.1.2. Land-use plan amendments in the Category 1 hurricane vulnerability zone shall only be considered if such increases in densities provide appropriate mitigation to reduce the impacts of hurricane evacuation times, and that has been accomplished by the commitment in the PUD to provide a generator.

With that, I'm done.

CHAIRMAN STRAIN: Thank you.

Diane?

COMMISSIONER EBERT: Yes. I'm going to mention one thing, because this came up before, because I've asked Mr. Summers about this. At times he would rather have the money, but they cannot accept it. It's something that we will have to start doing since the hurricane went through.

So you do have to provide the equipment, and so that way it's not monetarily. It's that you're giving the equipment is -- from what I understand from him.

CHAIRMAN STRAIN: But there's no standardization to it, and that's the problem.

COMMISSIONER EBERT: Yeah.

CHAIRMAN STRAIN: These guys are getting hit for a 45 -- 47KW generator. Another group said --

COMMISSIONER EBERT: Sixty cots.

CHAIRMAN STRAIN: -- you've got 240 -- no, it was 50, I believe. But regardless, they're just going to provide a handful of cots.

The rational nexus to determine how we establish a set fair, equitable way of getting this into an exaction that's legal and regulatory, that's the piece that's missing, that's the piece we don't have, and that's the piece, I think, that's troubling me the most. And I know Joe Schmitt last time expressed that.

David, I appreciate your clarification on that. It just says something can be obtained, but I think it needs to be standardized so government is not seen as unfair from one party to another.

MR. WEEKS: You're right. It's done on an ad hoc basis right now, piecemeal, one project at a time.

CHAIRMAN STRAIN: Thank you, sir.

With that, let's take a break. We'll come back at 2:42, that's 10 minutes from now, and we'll resume. We'll go to public speakers.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay. Before we went for break, Heidi had indicated that she wanted to talk about some additional language she saw as a possibility to the Naples Airport Authority, and she had to step out for a moment, and Eric said I'm not supposed to tell you where she is, so I'm not going to. And she'll be back shortly.

And with that, we'll turn to the first public speaker. Eric, will you call the first registered public speaker.

MR. JOHNSON: Speaking on Item 9B, as in bravo, Robin Singer.

CHAIRMAN STRAIN: What will happen is between public speakers, when Heidi gets back, we'll go right to her issue. Oh, she's back.

MS. SINGER: Do you want to take her comments first?

CHAIRMAN STRAIN: No. Go ahead, Ms. Singer. That's fine. Thank you.

MS. SINGER: Good afternoon. I'm Robin Singer. I'm the planning director for the City of Naples.

I wanted to start by saying there is cross communication between the county staff and the city staff relevant to projects that are within a half mile of the city's boundaries with the county.

And in this instance, whenever I get a package of materials, it is distributed to staff and, basically, we're looking at technical review, utilities, because a lot of those projects are going to fall within the city's utility service areas.

And then I do share them with the City Manager, but that doesn't necessarily mean that they get shared with City Council on a regular basis. And I think also, because sometimes they are technical documents, the City Council wouldn't know, absent a presentation, what they were looking at.

So I think that's an area for improvement that we can work on that when there are neighborhood meetings, we make sure those notices get out to the elected and appointed officials so they can attend those meetings.

CHAIRMAN STRAIN: You may want to slow down a little bit on your speech. She's got to type as fast as you talk, and you're a little bit like me in talking fast, so...

MS. SINGER: Sorry about that.

With respect to this particular project, I think it's less about what could be built, because we don't dispute your staff's review of the project and what they find under the code and under their Growth Management Plan, what could be built, but it's more a matter of maybe the nuances of what should be built.

And some of the concerns that we have with this project being on the boundary with the city and particularly at the end of Fifth Avenue South, is that a lot of this project -- and we think it's probably one of the main amenities for building at this location -- is access to Fifth Avenue South and all the amenities that the city provides in that area, and that includes the beach, that includes Cambier Park and the activities that occur there, that occurs -- that also includes the commercial establishments along Fifth Avenue South, the shopping and dining, dog parks, other kinds of amenities that the city offers in close proximity to this project. And part of the issue with that is this project tends to be sort of an island, and the only way off the island is by vehicle.

Now, you are providing for a bus transit stop, and I think that's a good thing, particularly if there are other transient improvements that allow for people to take advantage of that and would maybe encourage them to take advantage of that, but also we're looking at possibly some pedestrian improvements particularly at the intersection of, you know, the tip of the triangle.

I don't know what might have been approved for the other project to the west, but if there weren't already some crosswalk improvements proposed for that area, definitely we would encourage you to do so. If all the residents from this project decided they wanted to go and take advantage of an event that was happening down on Fifth Avenue, they could easily fill up both the structured parking garages on Fifth Avenue.

So it's really our -- the city CRA paying for those parking garages at the expense -- you know, at their expense when it's a -- the project that is benefiting it's benefiting the county CRA. So it's kind of a tradeoff of the two CRAs and making sure that the amenities that make this project attractive in terms of their proximity, that they don't denigrate those amenities by overuse.

And so one of the things, I think, is pedestrian access. Limiting and reducing your vehicular traffic off the site definitely would be a benefit. I know there's some internal trip capture, but it's likely not going to be enough to -- you know, people are still going to want to come to events at Cambier Park.

I think also looking at other --

COMMISSIONER EBERT: Just slow down. She's --

MS. SINGER: Okay. Other kinds of county amenities in terms of proximity to this project, for example, Sugden Park and East Naples Park, improvements that could be considered for those parks that, as the population increases in the county, particularly close to the city, that you can look at other kinds of events and activities and improvements to those areas that can provide amenities to keep some of the county residents happy in the county as well as using the city amenities so that there's a tradeoff and there's some -- the need is kind of expanded and it's -- and the use and the provision of those services are expanded throughout the county and in proximity to a development with the density and intensity that this project has.

And some of the other things that I think have already been alluded to do, and Ms. Penniman

indicated, the city has a charter amendment that limits the height of buildings, nonresidential buildings, to 42 feet and three stories, and that is what would -- the maximum what would occur across the street from this development.

This is going to be a very tall, very dense project. It is going to stand out. It's kind of an interesting conversation to hear today that you're almost wondering if it's big enough, and that's not a conversation we often have in the city.

I think, you know, we're looking for something that blends nicely with the city. This is a gateway project for us as well. I think it's definitely a needed project, but I think considering the impacts on the community and particularly on the city -- that's what I'm here to speak about, and I appreciate any consideration that the county can give towards those kinds of improvements that will reduce vehicular traffic, reduce the parking demand in the downtown of Fifth Avenue South, and also reduce the use and demand for other city amenities, recreational and entertainment and the beaches and otherwise.

So with that -- also I have one question. It was about the timetable of the project, because -- I mean, it's probably been covered a number of times, but I just didn't know.

MR. MULHERE: You know, it's a little bit hard to answer that because there are -- we expect to close, potentially close, as long as all of the conditions in the contract -- maybe late summer. You know, then when we own the property, we can go through the site planning and permitting process.

But before you can do that, you've kind of got to make sure that you've got your tenants, at least your initial tenants lined up and things like that. So I don't really believe we have a formal schedule. I defer to Jerry.

CHAIRMAN STRAIN: Well, you do have one attached to your contract. Do you believe that's still involved in the process or not? I mean, you've got a --

MR. MULHERE: I'll defer to --

CHAIRMAN STRAIN: Your RFP response had a schedule, a bar chart, that provided general times. I don't -- I'm looking it up trying to figure out what your general dates were for breaking ground.

(Multiple speakers speaking.)

MR. STARKEY: I think within a year of closing we would be breaking ground on some aspect of the project, probably before that, the infrastructure, and then if we provide -- if we're able to hit the market and build all three buildings at once, I would say it would be a three-year project.

And if we end up phasing it a little bit because of demand, then maybe it's a five-year project. So complete -- you know, start really soon, and the market will dictate the pace.

MS. SINGER: Are any of the entitlements or approvals time limited?

CHAIRMAN STRAIN: Not land use. From the land use perspective, they go with the land. They'll stay with the land. And if they don't close, then the county will end up having the property zoned, so...

MS. SINGER: So there's no commencement requirement?

CHAIRMAN STRAIN: No. Well, not that I'm aware of, no. If they were to come in for an SDP, there's a deadline for an SDP to be enacted upon. Their SDPs, originally, by the original schedule, were supposed to be applied for at about 12 months after contract. We're well beyond that now, so I think it's been delayed because of the processes you're going through.

And your construction time frames do vary by phase, there's three phases, and they were starting about two years from the initiation of the contract, which would be, what, May of next year? Yeah, something like that.

MS. SINGER: All right.

CHAIRMAN STRAIN: And the stuff that you just talked to us about, the concerns that you had, have you expressed those -- and the reason I'm asking this is because these two roadways are controlled by the DOT. I've actually been in touch with a Mr. Wheeler with the DOT -- he's got all the plans on this project -- to ask him, take a look at this, and hopefully if there's issues that he feels his department needs to address, they'll be addressed.

Do you go to the MPO meetings, or do you reach out to the DOT yourselves on these?

MS. SINGER: Our staff from our Streets and Stormwater Department staffs the MPO.

CHAIRMAN STRAIN: Okay. Because if you are working with the MPO and there is guidelines to

improve the walkways and things like that that are needed from that level, they've still got to go through all the SDP process and stuff, and that will be a good timing to get that stuff on the books.

MS. SINGER: Okay.

CHAIRMAN STRAIN: So, thank you.

COMMISSIONER CHRZANOWSKI: Can I ask something?

CHAIRMAN STRAIN: Ned, did you have something? And then Stan.

COMMISSIONER FRYER: Yes. Ms. Singer, have you had a chance to look at the Traffic Impact Study?

MS. SINGER: Gregg Strakaluse is also going to get up to speak. He's the director of our Streets and Stormwater Department, and I believe he has looked at the Traffic Impact Study on that. I have not, in detail, looked at it.

COMMISSIONER FRYER: Okay. I'll hold my question, then, for him.

CHAIRMAN STRAIN: Stan?

COMMISSIONER CHRZANOWSKI: It's a while since I really paid attention, but Goodlette and 41, Grand Central Station, has anything been built there?

MS. SINGER: Yes. Currently, there's two buildings out of the Naples Square project, that's in the area of the D downtown, and it's the -- two of the buildings -- there's 300 units that are approved for that project over about 16 to 20 acres, so it's --

COMMISSIONER CHRZANOWSKI: Out of how big a site?

MS. SINGER: That's what I'm saying, about 16 to 20 acres over the whole site.

COMMISSIONER CHRZANOWSKI: That whole site is 15 to 20 acres?

MS. SINGER: Yeah.

COMMISSIONER CHRZANOWSKI: Oh, okay. So there's --

MS. SINGER: That includes a commercial component. So it's -- I think the density is somewhere around 24 units per acre.

COMMISSIONER CHRZANOWSKI: How tall a building?

MS. SINGER: I believe -- those are residential-only structures, so I'm trying to recall. I think they're four stories over parking. They're about 59 feet.

COMMISSIONER CHRZANOWSKI: So what used to be Grand Central Station is now going to be entirely residential?

MS. SINGER: Not entirely residential, no. There is a mixed-use component to it. There is going to be a commercial component, and we're also talking about a performing arts facility that's going to be located at First Avenue South and Goodlette Road.

COMMISSIONER CHRZANOWSKI: Cool. Thank you.

MS. SINGER: All right.

CHAIRMAN STRAIN: Okay. Our next registered speaker.

MR. MULHERE: Can you hold off? I have just a couple of comments.

CHAIRMAN STRAIN: No. You'll get a rebuttal when all the speakers are done.

MS. ASHTON-CICKO: Mr. Chair, would you like me to put the language on the --

CHAIRMAN STRAIN: Good point, yes. I'm sorry, Heidi. I forgot you came back, yes. Let's talk about your language to the Naples Airport Authority issue.

MS. ASHTON-CICKO: During the break I did speak with some representatives from the Naples Airport Authority and Mr. Mulhere briefly, and I think everyone is in agreement with the language that I put on the visualizer. So 6A, the first sentence would read, the developer shall record a restrictive covenant, comma, using the Naples Municipal Airport agreement and declaration of height restrictions and covenants, and a form approved by the Naples Airport Authority, comma, in the public records of Collier County that stipulate. So that would be --

CHAIRMAN STRAIN: Okay.

MS. ASHTON-CICKO: -- the change that we're recommending.

CHAIRMAN STRAIN: Okay. And, Bob, you guys have no problem with that?

MR. MULHERE: We're fine.

CHAIRMAN STRAIN: Okay. Of course, the Airport Authority's probably going to speak. Go ahead.

MR. STARKEY: The Airport Authority is here, and that's referencing the agreement we have in place. Thank you.

CHAIRMAN STRAIN: Okay. Thank you.

Okay. Next register speaker.

MR. JOHNSON: Item 9B, Gregg Strakaluse.

MR. STRAKALUSE: Good afternoon, Mr. Chairman and Commission. Thank you for this opportunity to speak on behalf of the Streets and Stormwater Department for the City of Naples.

There are concerns as to the density and intensity as they relate to traffic and stormwater, particularly upon U.S. 41 and intersecting streets within the downtown Naples area.

As of March 2018, just last month, U.S. 41, over the Gordon River Bridge, had 65,633 trips in the peak season peak day over that section of roadway. That's a lot of trips. Methods used by reviewing agencies don't typically look at the peak hour peak season, the worst-case scenario, but, really, that's what most motorists demand that we improve.

The city just completed a downtown mobility study with the assistance of the Florida Department of Transportation, Collier County, and the MPO. They collected vast amounts of data over an 18-month period. And it was determined that -- the data collected, it was determined that the level of service impacts to U.S. 41 were actually at 20 percent higher in terms of what is typically used by DOT in terms of adjustment factors to look at level-of-service impacts on a roadway.

So what this means is that traffic planners likely will see a 20 percent more road capacity than there really actually is in the peak season. So what I'm saying is that there's less capacity than what we might see when you look at it through the formulas in the math that DOT uses.

So, therefore, on behalf of the Streets and Stormwater Department, we ask that you carefully consider conditions of approval that minimize or eliminate methods that are currently allowed by the trip generation manual for internal capture rates or pass-by trips that are allowed to reduce the total trip generation for the site.

Moving on to stormwater. There are concerns about, again, the intensity and density as they relate to stormwater. Naples Bay is an impaired water body and, typically, the regulatory agencies, the South Florida Water Management District or the DEP, will require 50 percent more water quality volume improvement for their stormwater systems for discharges into impaired water bodies. That's not necessarily a guarantee, but that's typically what they accept.

So as this commission moves forward, it may wish to consider certain conditions of approval that require the additional 50 percent water quality volume treatment by this site. It may wish to consider not allowing any other county stormwater facility or feature that already exists that's helping water quality in Naples Bay apply credit for that to this particular site, and it may also wish to consider additional best-management practices for development of this site, such as pervious pavements.

Thank you.

CHAIRMAN STRAIN: Thank you. And I think there was a traffic question. Go ahead.

COMMISSIONER FRYER: I have. Yeah, you've looked at the TIS.

MR. STRAKALUSE: I have.

COMMISSIONER FRYER: Okay. Do you have any comments or, going beyond what you've already said with respect to 65,000 trips, any additional comments that you would offer as to the impact on the North Trail and Fifth Avenue South?

MR. STRAKALUSE: We think the internal capture rates and the pass-by trips that are being allowed to deduct from the total trip generation may not be the proper reduction of trips. We think that -- we think that we should start at zero with no pass-by or internal capture and then move up from there. I think Collier County is unique, especially between the months of January and March, where all bets are off in terms of internal capture and pass-by rates for trip generation.

COMMISSIONER FRYER: Thank you.

CHAIRMAN STRAIN: Okay. Anybody else? Stan?

COMMISSIONER CHRZANOWSKI: Yeah, question.

If I'm looking at the proposed plan correctly, the district doesn't usually worry about quality runoff from roofs, right? It's mostly from asphalt paving?

MR. STRAKALUSE: They allow a rooftop exemption or adjustment.

COMMISSIONER CHRZANOWSKI: Yeah. And this is going to be mostly roof, from what I've seen. So you're not going to get a lot of runoff from the asphalt. So I'm not sure the quality is going to be one of your problems. Quantity may be. But the district is -- I don't really have an objection to his request for, you know, something extra with the quality, but I don't think you're going to get anything out of it.

MR. STRAKALUSE: Well, I'm not familiar enough with the project to understand if there are recreational facilities on the rooftops. Typically in some Naples projects we do have pools or entertainment areas on the rooftop, and we don't qualify them as the standard rooftop for exemption in terms of water quality. We'll ask them to count that area. And I'm not familiar enough with this project to know if that's applicable here.

COMMISSIONER CHRZANOWSKI: Yeah. I'd be thinking even those areas aren't a big problem. All you're going to get up there is bird crap maybe.

CHAIRMAN STRAIN: Bob, you're going to have rebuttal, so no.

COMMISSIONER CHRZANOWSKI: Okay. I was -- just a thought. Thanks, Gregg.

CHAIRMAN STRAIN: Okay. Next registered speaker?

MR. JOHNSON: Item 9B, Katie Cole.

MS. COLE: Good afternoon. I think, actually, I should have written 9C because it's the language in the MPUD. Katie Cole representing Crown Castle International who has the wireless tower on this site, and we appreciate the inclusion of the interim use and look forward to continuing to work with staff with respect to the termination of the existing lease and reaching an agreement on that as best we can.

Yes, ma'am.

COMMISSIONER EBERT: Katie, I have a question for you. When does this lease expire?

MS. COLE: 2026.

COMMISSIONER EBERT: Oh, okay. Makes a big difference. Okay. That's -- and am I correct, I believe I talked to you before, that it's 182 feet tall?

MS. COLE: That's what we have in our records. I believe the FAA clearance is 196 because of certain antennas and towers. So they give us a little bit extra room.

COMMISSIONER EBERT: Is the lighting on there or is it extra?

MS. COLE: The height that we have internally is 182, but the FAA clearance letter that you-all would see is 196 because of how the FAA measures things.

COMMISSIONER EBERT: Thank you.

CHAIRMAN STRAIN: Thank you, Katie. Appreciate it.

Next registered speaker.

MR. JOHNSON: Last registered speaker, Item 9B, C, and D, Chris Rozansky.

MR. ROZANSKY: Good afternoon. Chris Rozansky, executive director for the airport authority. I submitted my card before County Attorney's Office proposed those changes to that language pertaining to the covenant and agreement.

Just for the record, developer and the NAA have already satisfactorily negotiated the agreement, and we appreciate consideration of inclusion of County Attorney's language.

So thank you.

CHAIRMAN STRAIN: Okay. Thank you.

There are no other registered public speakers?

MR. JOHNSON: No others.

CHAIRMAN STRAIN: Okay. Are there any members of the public here who have not spoken that would like to speak?

(No response.)

CHAIRMAN STRAIN: Okay. With that, we'll move to the rebuttal for Mr. Mulhere, or whoever on the team would like.

Bob, in your rebuttal I need you to address -- there was a couple things from the last meeting that I hadn't -- wasn't sure if they were addressed in your package or not. One is, we asked for no shooting ranges.

MR. MULHERE: Yeah, that's --

CHAIRMAN STRAIN: And then prohibiting sexually orientated businesses. And I didn't see --

MR. MULHERE: I don't think I specifically added that. I took out the shooting ranges, but I don't think I specifically used normal language. I will add that to it.

CHAIRMAN STRAIN: Okay. Thank you. Okay. Go ahead.

MR. MULHERE: I don't have any really substantive rebuttal. I think those were constructive comments. We appreciate those comments. You know, we're always -- we're always willing to work with any jurisdiction. As a member, long-standing member of the Regional Planning Council, I'm used to working with other jurisdictions.

I point out on the aerial the site. You can see that right now there's probably -- I don't think there's any water-quality treatment right now. After we complete the project, there will be significant water-quality treatment, and we will meet whatever the requirements are, or exceed them. And to the degree that we can --

COMMISSIONER FRYER: Bob, your voice dropped off. You said after --

MR. MULHERE: Meet or exceed the requirements.

COMMISSIONER FRYER: After the project is done, you will meet or --

MR. MULHERE: Yes, yes. There's little out there now.

And the other thing I wanted to say just was that I'm sure that anything that we can do to help in the process, which is bigger than just us, of helping to facilitate pedestrian traffic, makes sense. We want to get, you know, people across Davis and 41, too, safely. So thank you.

CHAIRMAN STRAIN: I would suggest when you do your SDPs, work with the DOT to see if you can improve the crosswalks, because if I was staying in the facility, the last thing I'd want to do is get in my car. And if those crosswalks are adequate, it would be a nice walk into the City of Naples to utilize their facilities there if there's something going on, so...

MR. MULHERE: Agreed.

CHAIRMAN STRAIN: Okay. Well, that's rebuttal then, and we'll -- at this point is there any other questions of anybody before we close the public hearings?

(No response.)

CHAIRMAN STRAIN: Okay. Then we'll close the public hearings, and we'll go into discussion to start with.

I've made some notes. I don't know what the intent of the Board is. But I'll read the notes I've made. They've agreed to add the language to prohibit sexually oriented businesses. They've required the language that was introduced by the County Attorney's Office to record -- to address the FAA issues, would have -- would need to be accepted, and we would require the recordation of covenants that meet the intent of the airport.

The stipulations of staff are all met, so there's no further stipulations there, except for there's two standard stipulations that we usually put in PUDs that were on the overhead. Those need to be added.

And then those are the notes that remain based on what I've seen here today. So I'll leave the rest up to the rest of you.

Anybody else have any discussion points?

COMMISSIONER FRYER: Well, I do.

First of all, I have complete faith in the good intentions and high expectations that the applicant and the applicant's agents have for this project. And believe me, if this passes at the Board of County Commission level, which is really the only level that matters, I'm going to be right in there hoping with you for an outstanding project.

I -- since the beginning I have not had a problem with the greater intensity and density because I accept the concept that in order to have a viable mixed-use development in an area such as the mini-triangle, you're just going to have to have greater intensity and density. And when combined with the fact that there can be no expansion of the two adjoining roads, Davis and 41, we're going to have more congestion, that's a given and with that congestion is going to -- in that area is going to come flow-through problems into the City

of Naples.

But in order for the county to have a first-rate, excellent downtown area which, to me, is properly located in East Naples, we're going to have to accept more intensity, more density, and more traffic.

The only problem that I have is the same problem I had all along: I don't think we've struck a proper balance, though, between the reasonable need on the part of the developer for flexibility and the reasonable expectations of those in the county for a high-end, first-class development.

And recognizing that some of the expectations were set by forces outside your control, i.e., the media -- and you shouldn't be held responsible for that, but the fact of the matter is whoever set those expectations, they do exist today. And before our February and our March meeting, I heard from a lot of homeowners who remembered vividly how the project had been portrayed to them and had hoped that it would remain at that very high level.

So, for that reason, not without trepidation and not without misgivings, I'm still going to have to vote against it. Thank you.

CHAIRMAN STRAIN: Anybody else?

COMMISSIONER EBERT: Yes. I'm sorry to say, so am I.

CHAIRMAN STRAIN: Well, there's not been a motion made, so we're not voting against anything yet.

COMMISSIONER EBERT: I know. I know. We're just -- our opinion.

I've spent a lot of time on this project and, you're right, we've met here three times trying to go through all of this. It's very difficult. Change from the matrix. We've done several things.

I did not see the contract with the developer and the city, but all I'm really -- to me, if I had to tell someone what this project is, I really couldn't. There is no reliability. You're only talking flexibility. And I'm going, wow, how do I say what this really is?

It's just too difficult. It's too many things. The height bothers me more than anything because that sets a precedent.

And I noted in the minutes, the NIM meeting minutes, that people were very concerned about the height. And the comment was, well, we've had a cell tower there, and that's 196 feet, and it's been there forever. Well, a cell tower and huge buildings are different things.

So that's my reading on this also.

CHAIRMAN STRAIN: Anybody else?

COMMISSIONER HOMIAK: No. I'm going to make a motion -- are you going to say anything?

CHAIRMAN STRAIN: No. I've just got something to say because we've been -- this is the third meeting. The applicant has gone a long distance to finally get to a point where we -- now, unlike you, I have and can describe this project.

I know the variables. I know what it means. I know what they're going to have to do to make something minimal there. And even if it's a shallower building because the market dictates it, it will be a better quality building than what we started with. So I'm pretty confident we're going to see something better there.

And as the CRA looked at it, they approved it in the manner in which it is, but they also realized -- and I asked one of the CRA members this specifically -- well, what if it was less of a building? Any new structure there from their perspective is an improvement to redevelopment, and they want to see that improvement there because that will hopefully start a sweep of the area.

I share Ned's -- not concerns, but Ned's belief on the density. That's the reality of the urban area. If we want to stop urban sprawl, we're going to have to look at doing density in a different way. This project does that.

I also went back and looked at the history of this particular project. It went through an RFP that was publicly vetted. It went to the Board of County Commissioners. The Board awarded this applicant the RFP and the contract for the land. Not only that, the Board did an addendum to the contract that was very specific, and it was approved on 9/27/16 for the height, for the intensity we're talking about today. That has not waived on this project since we started.

The only thing that's waived is the ability not to have it so minimal it wouldn't work for what we

envisioned but putting enough in it so that we've got a better product and a multitude of different buildings to the extent that they're described.

I'm very comfortable with it at this point, and I would strongly urge a vote in favor of this particular project.

So, Karen?

COMMISSIONER HOMIAK: I'd like to make a motion, because I think --

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER HOMIAK: -- this is something East Naples is looking for and it's something the CRA is looking for to happen. And shall I do them all separately, Growth Management Plan?

CHAIRMAN STRAIN: Well, let's start -- well, let me read them. I'll read off. The first motion we should have is for the GMP amendment, and it's 9B. It's PL20160003084. It's the mini-triangle mixed-use subdistrict. Is there a motion for that item?

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

COMMISSIONER CHRZANOWSKI: I'll second.

CHAIRMAN STRAIN: Motion made by Karen, seconded by Stan. Is the motion made to the --

COMMISSIONER HOMIAK: To all the changes that happened --

(Multiple speakers speaking.)

CHAIRMAN STRAIN: -- any changes in the addendums that we've just discussed here?

Okay. Second agree to that, too?

COMMISSIONER CHRZANOWSKI: Yes.

CHAIRMAN STRAIN: Okay. Any further discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

COMMISSIONER FRYER: Nay.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Motion carries, 3-2.

Next item is 9C. It's PL20160003054. It's the mini-triangle MPUD portion of this particular project.

Is there a motion?

COMMISSIONER HOMIAK: Motion to approve with the changes that we --

COMMISSIONER CHRZANOWSKI: Second.

COMMISSIONER DEARBORN: -- we had today.

CHAIRMAN STRAIN: Motion to approve with the changes --

COMMISSIONER CHRZANOWSKI: With the changes.

CHAIRMAN STRAIN: -- by Karen, and seconded by Stan. Discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

COMMISSIONER FRYER: Nay.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Two opposed, three in favor. Motion carries.

The last item would be LDCA-PL20610003642. It's amending the LDC 04-41 to exempt the mini-triangle subdistrict from a portion of that particular section of the Land Development Code. Is there a motion?

COMMISSIONER HOMIAK: Motion to approve.

COMMISSIONER CHRZANOWSKI: Second.

CHAIRMAN STRAIN: Motion to approve. Seconded by Stan. Discussion?

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: All in favor?

COMMISSIONER EBERT: May I ask a question? Was this Jeremy's portion of this right here?

CHAIRMAN STRAIN: It's the one that's in our packet.

COMMISSIONER EBERT: That would --

CHAIRMAN STRAIN: I haven't got yours. I only have my electronic one. It's the one that's in --

COMMISSIONER FRYER: This is the height, I think.

CHAIRMAN STRAIN: Yeah. It's the LDC element that's in the packet. Okay. A motion's been made. All those in favor, signify by saying aye.

COMMISSIONER CHRZANOWSKI: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

COMMISSIONER FRYER: Nay.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Motion carries 3-2. And that wraps it up. I want to thank the applicant for working with us for three meetings. We'll look forward to see the results from the Board of County Commissioners.

MR. MULHERE: Thank you.

CHAIRMAN STRAIN: Thank you, all.

MR. MULHERE: Appreciate all the time. Thank you.

CHAIRMAN STRAIN: And that takes us to, I think, the end of our meeting, but let me double-check. Yes. New business; we don't have any listed. Old business; we don't have any listed.

Is there any members of the public here for public comment?

(No response.)

CHAIRMAN STRAIN: Seeing none, is there a motion to adjourn?

COMMISSIONER EBERT: Make a motion to adjourn.

CHAIRMAN STRAIN: By Diane.

COMMISSIONER FRYER: Second.

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRYER: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: We're out of here.

April 5, 2018

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 3:14 p.m.

COLLIER COUNTY PLANNING COMMISSION



MARK STRAIN, CHAIRMAN

ATTEST
DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 5-3-18, as presented or as corrected _____.

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