

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida, August 15, 2019

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  
Karl Fry  
Edwin Fryer  
Karen Homiak  
Joe Schmitt

ALSO PRESENT:

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

PROCEEDINGS

CHAIRMAN STRAIN: Good morning, everyone.

Now that Karen has shown up, welcome to the Thursday, August 15th meeting of the Collier County Planning Commission.

If everybody will please rise for Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

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

COMMISSIONER FRYER: Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER FRYER: Mr. Chrzanowski?

COMMISSIONER CHRZANOWSKI: Here.

COMMISSIONER FRYER: Mr. Fry?

COMMISSIONER FRY: Here.

COMMISSIONER FRYER: I'm here.

Chairman Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER FRYER: Vice Chair Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER FRYER: Mr. Schmitt?

COMMISSIONER SCHMITT: Here.

COMMISSIONER FRYER: Mr. Dearborn?

COMMISSIONER DEARBORN: Present.

COMMISSIONER FRYER: Chairman, we have seven.

CHAIRMAN STRAIN: Thank you.

Addendum to the agenda. The Item 8A is a consent item. That is going to be heard first today, although the carryover from the previous meeting said it would be following land-use items. Since it's consent and we don't have public participation in consent, we will hear that first. It will be rather short, and then we'll move right into the regularly scheduled item.

That takes us to Planning Commission absences. Our next meeting is 9/5.

And, Ray, I assume we've got items scheduled for 9/5.

MR. BELLOWS: We have three items on the 9/5 agenda.

CHAIRMAN STRAIN: Okay. And does everyone know if they're going to make it or not for 9/5?

(No response.)

CHAIRMAN STRAIN: Anybody not going to make it?

COMMISSIONER SCHMITT: 50/50 right now. I'll let you know.

CHAIRMAN STRAIN: Okay. Heads-up for the 9/19 meeting, which is the second meeting in September.

COMMISSIONER SCHMITT: I'm here.

CHAIRMAN STRAIN: You're here. That one will start at our regular time, but we will have to stop at 4:00. Now, I've already seen the agenda for that one, and I would expect that we're not going to finish that day. So we'll just roll the others over till the next regular meeting. But the 19th, plan on being here till 4:00 that day. It's going to be a long meeting, unless something changes between now and then.

So if you know -- anybody know they're not going to make it on the 19th? Stan, I know you may have to leave at noontime. So with that -- other than that, I think we'll have a quorum.

That takes us into approval of the minutes. We were sent the electronic versions of the July 18th minutes. Does anybody know of any changes? If not, is there a motion to approve?

COMMISSIONER FRYER: Move approval.

COMMISSIONER FRY: Second.

CHAIRMAN STRAIN: Seconded by -- Fryer and Fry. All those in favor, signify by saying aye?

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRY: Aye.

COMMISSIONER FRYER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER DEARBORN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

BCC report and recaps, Ray. They're not here, so you don't have anything, do you?

MR. BELLOWS: That's correct.

CHAIRMAN STRAIN: Okay. Chairman's report: I don't have anything either. We'll just move right into the consent item.

At staff's request, we are going to hear this early, and it was sent to us in our packet. It is consent. The purpose of consent is merely to -- for this panel to acknowledge that the writeup that staff has now formalized is consistent with the direction we gave them at the last meeting.

With that in mind, does anybody have any comments, changes, or corrections to the consent item?

(No response.)

CHAIRMAN STRAIN: And I had looked it over. It was as we instructed. So with that in mind, is there a motion to recommend approval?

COMMISSIONER DEARBORN: So moved.

CHAIRMAN STRAIN: So moved by Pat. Seconded by?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: By Karen. Any discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRY: Aye.

COMMISSIONER FRYER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER DEARBORN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

Anita, is that fast enough for you?

MS. JENKINS: Thank you.

CHAIRMAN STRAIN: Anita had some other things she needed to do and asked to move it forward, so that's no problem. Thank you.

MS. JENKINS: Appreciate it.

CHAIRMAN STRAIN: \*\*\*And that takes us to our first and only -- we have two advertised public hearings. They're going to be discussed concurrently, voted on separately, both for the same area and same items.

Under public hearings, 9A, the first one is PL20180003372/CPSS2019-2. This is for the Vanderbilt Beach/Collier Boulevard commercial subdistrict, and that's the small-scale plan amendment. The second item that we'll discuss concurrently is PL20180003366, same Vanderbilt Commons Planned Unit Development. That is the rezone -- the zoning part of the small-scale plan amendment.

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

MR. EASTMAN: None.

CHAIRMAN STRAIN: Okay. Stan.

COMMISSIONER CHRZANOWSKI: Other than correspondence, none.

CHAIRMAN STRAIN: Okay. Karl.

COMMISSIONER FRY: Correspondence.

CHAIRMAN STRAIN: Ned?

COMMISSIONER FRYER: Same disclosures.

CHAIRMAN STRAIN: And I wasn't here last time, so I don't know what you-all disclosed, because this was going to be heard last time. But then and now I've got a series of emails that -- I forwarded all of them to staff. Some I guess were in our packet. One I received late yesterday. I have not had time to read it.

I had talked to some of the residents on the phone. I had met with the applicant. In fact, the basis -- and I know the audience was -- some of the people in the audience were upset that the last meeting got continued. That was not the applicant's fault. That was mine. In my meeting with them prior to the last meeting, I found things that were not caught by staff that needed to be corrected, and they took the time to correct those. And so that's part of what -- the reason why it was continued.

With that, I think that's all the disclosures I have.

Karen.

COMMISSIONER HOMIAK: Nothing. Just emails.

CHAIRMAN STRAIN: Joe.

COMMISSIONER SCHMITT: Likewise, numerous emails, both forwarded by staff and then separately to my email, Collier gov email.

CHAIRMAN STRAIN: Patrick.

COMMISSIONER SCHMITT: Just the usual emails.

CHAIRMAN STRAIN: Okay. With that, whoever's representing staff -- or the applicant wanting to make the presentation.

MR. WRIGHT: Good morning, Commissioners, Mr. Chair. I'm Jeff Wright with the Henderson Franklin law firm here on behalf of the applicant.

I have here with me our team: Ralph Cioffi, applicant's representative; Lindsay Robin/Alexis Crespo is our planning team; Jim Ink from Waldrop is our engineer. Mr. Trebilcock could not make it, so he has sent Ciprian Malaescu with his firm to be here for our traffic consulting; and Natalie White with Studio Plus.

CHAIRMAN STRAIN: Okay.

MR. WRIGHT: Just a quick overview to give you an idea where this is at. It's at the northwest corner of Vanderbilt Beach Road and Collier Boulevard. This is -- what you see on the screen there, there's a square that's right at the immediate corner. That's the original subdistrict that we're seeking to amend.

A few years back it was expanded, so now it has kind of an "L lying on its back" type of a shape. And as you see there, what we're before you today on is the white area that's Lots 5 and 6 within the PUD.

Obviously, we're giving our presentation via PowerPoint, and we're going to distribute those to the stenographer, County Attorney, and staff. We also have extra copies if anyone else cares to have one.

MS. ROBIN: Do you want me to pass that out now?

MR. WRIGHT: Yes, please.

I want to thank you for giving us a chance to present today and our continuance the last time we were here. I know this meeting wasn't originally scheduled, so we do appreciate the accommodation.

COMMISSIONER SCHMITT: I need Troy to come and fix -- I don't know which button to push for it to show on my screen; if Troy's out there. Usually there used to be a button.

MR. WRIGHT: So as I mentioned, our goal here is simple. The GMP currently imposes a configuration mandate for the mixed uses. It requires residential on top and commercial on the bottom. We want to eliminate that configuration mandates to allow construction of a residential apartment building with 58 units on Lots 5 and



6.

CHAIRMAN STRAIN: But just -- you're actually asking to eliminate the requirement to have commercial on the ground floor so you can have residential on all floors, right?

MR. WRIGHT: Correct.

CHAIRMAN STRAIN: Okay.

MR. WRIGHT: Again, here's -- the subdistrict itself is -- we're not changing the boundaries of it, and you see it there in green. The yellow is the expansion area which is co-extant with the PUD boundaries. And that's the companion item we'll be discussing next.

Just an overview. It's a small-scale amendment involving just a little over two-and-a-half acres at the northwest corner of Collier Boulevard directly north of Vanderbilt Way. The mixed-use PUD is approved for 200,000 square feet of commercial uses and up to 581 dwelling units, residential.

We believe that this change is appropriate because there is residential to the north and commercial to the south, and we believe that it's more compatible to have residential abutting the residential than it is to have commercial abutting that residential.

This is an aerial to give you an idea of some of the surrounding uses. One thing I wanted to highlight is the preserve area to the north of that yellow rectangle. That yellow rectangle is the Lots 5 and 6 that we're here for today. But just north of that is a preserve. It's about 300 feet, 280 to 300 feet directly behind the Lots 5 and 6, and that's the adjacent residential that I referred to. We believe that the commercial that fronts Vanderbilt with a residential in between that commercial and Black Bear Ridge is a good transition of uses coming away from the arterial road there.

Staff recommends approval. We agree with them. We think -- not just think. It's a fact that removing the first-floor commercial uses is more compatible with the adjacent residential development.

The preserve, we're going to have a six-foot-high wall between our property and the property to the north, the residential. And the subdistrict's not going to change as far as density and uses. It still will provide a healthy mix of uses with multifamily close to a lot of amenities.

We can get into the various amenities near by. But safe to say that the commercial use is a good supporting use for the residential.

And as you'll see in the next item, this request is identical with our PUD amendment request. We're just trying to remove the configuration mandate.

And with that, that concludes the presentation, and our team's here for any questions, and we would request your approval. Thank you.

CHAIRMAN STRAIN: Okay. Planning Commission? Karl.

COMMISSIONER FRY: Jeff, where do the -- where would prospective residents of the apartment complex park?

MR. WRIGHT: The way we have it now, we haven't finalized the design, but there will be 10 ground-floor units that will have garages in the units, and the rest of them will be parked in the -- behind the -- to the north of the building.

COMMISSIONER FRY: To the north. Between the preserve --

MR. WRIGHT: Yes.

COMMISSIONER FRY: Between Black Bear Ridge and the preserve and the building.

MR. WRIGHT: Yes.

COMMISSIONER FRY: What is the use immediately to the west, the building that's immediately to the west?

MR. WRIGHT: I need to make a correction. Although our focus on parking was in the northern aspect of the property, we will have parking around the building.

COMMISSIONER FRY: On all sides.

MR. WRIGHT: Yes.

COMMISSIONER FRY: Okay. The next question was, what is the use -- what is the building immediately to the west? What is the use of that? You have a water retention area between the subject parcel,

and then there's a building to the east that's still part of that MPUD. What is that?

MR. WRIGHT: That's a storage facility; 75,000 square feet of storage.

COMMISSIONER FRY: Self-storage?

MR. WRIGHT: Yes.

COMMISSIONER FRY: Self-storage, okay.

CHAIRMAN STRAIN: Actually, it's 93,000 square feet.

MR. WRIGHT: Excuse me.

COMMISSIONER FRY: So you had 200,000 square feet of commercial and 58 units. I guess, how does this -- since you're not going to utilize the bottom floor for commercial, how does this impact the density of the commercial through the rest of the MPUD?

MR. WRIGHT: It should have zero impact on density for the commercial or the residential.

CHAIRMAN STRAIN: Now, you have 200,000 square feet allocated to the site as a whole for commercial.

MR. WRIGHT: Right.

CHAIRMAN STRAIN: You have 164,000 square feet built. You've got 35,594 square feet left to build of commercial. Does that answer what you're looking for?

COMMISSIONER FRY: Yes. Where would that go? I guess is that --

MR. WRIGHT: Well, there is -- we don't own the other property within here, so we're not sure where that commercial would be. Theoretically, we could put the commercial on Lots 5 and 6, and -- but we're choosing to do an all-residential building. So as far as the placement of the commercial, there's a few options there, including our lots, but we don't intend to use commercial there.

COMMISSIONER FRY: Okay. I believe, just in reading some of the clients' concerns -- I'm sorry, some of the nearby residents' concerns, what was the process initially that resulted in the commercial first-floor residential above? Because the resistance that I see from the residents is it has to do with the change from -- the change in nature of that. Was that -- it obviously sounded like it was a negotiated agreement.

CHAIRMAN STRAIN: I could probably answer that better than you.

MR. WRIGHT: Well, I just know I looked at the transcript from 2005, and it was almost in passing, and I think it might have been a hot topic to have mixed use configured that way back in '05. But there was no discussion, I don't believe, at the planning level as to why that configuration was --

CHAIRMAN STRAIN: Yeah. It started at the planning level. The Planning Commission -- and I was on the Planning Commission at the time. We had a member of our Planning Commission who was an architect, and he felt that it would be useful to encourage more mixed use by providing the mixed -- ability to do residential above commercial on this particular project.

It wasn't something the applicant had asked for, but I remember questioning the applicant, do you want this. And they said, well, we're not going to turn it down. So they went ahead and got that as an added use with the limitation on the units that we had, and it was to be at that time suggested that it be a mixed use with commercial -- I mean, with commercial on the ground floor, and that's how it originated. And if they went to residential, they could go to so many floors above the commercial.

No one at the time thought it out other than the fact it was allowed because of the general area, and that's how it came about.

COMMISSIONER FRY: One of the concerns from residents was spillover from the residential units on the first floor having lawn chairs and barbecues out in the areas that were intended to be in front of commercial areas. Initially, what -- is there a response or a mitigation of that?

MR. WRIGHT: Yeah. We don't -- first of all, we're going to have a property owners' association that will impose rules against that type of activity, and also, the way we're leaning towards the design-wise, there won't be the ability to do that. There will be enclosed units, and they won't have outdoor areas to lay their lounge chairs in the public areas.

Now, within their own units, they can do whatever they want to. If they were to do what they are suggesting that they might do, that would be a violation of the property owner regulations and be enforceable

against whoever's violating those.

COMMISSIONER FRY: Thank you. That's all I've got.

CHAIRMAN STRAIN: Okay. Joe and then Ned.

COMMISSIONER SCHMITT: Jeff, I guess I'm looking for your assessment. Why the significant angst over the conversion from commercial to residential? Residential is less intense use, and I -- what is your assessment?

I've read several -- numerous letters. Most of them are the same letter that were submitted, but what is -- as the applicant, what is your sensing from the community as to why they would object to residential than commercial?

MR. WRIGHT: Well, that's a good question because on its face, it's going to be a more compatible configuration.

COMMISSIONER SCHMITT: Yeah.

MR. WRIGHT: To be honest with you, I think it's -- there's been some bad blood and some bad history with this development. We are not associated with the prior developer at all, but I think that Black Bear Ridge -- I don't walk in their shoes, but I know they've been through a lot getting to this point. And it seems like -- and I sympathize with their situation because the PUD, they fight, fight, fight, and then it comes back and gets amended some more, and usually for a good purpose like this.

But from their perspective, I think maybe battle weary would be the right word, but I don't know of a logical reason why you wouldn't want a more compatible use next door.

CHAIRMAN STRAIN: Okay. Ned.

COMMISSIONER FRYER: I have some concerns about this. First of all, I'm concerned anytime the Growth Management Plan is to be amended, even a small-scale amendment, because I think it alters the expectations that others have reasonably established for themselves, what's going to take place, what will be in the neighboring areas.

And to me the commercial under residential -- excuse me -- yeah, the commercial under residential is more transitional. It may not be more compatible with either of the uses, but it would serve to provide, I think, more of a transition from commercial to single-family residential.

So I think that if it's a transition that's being looked for -- and, frequently, I think that's what we talk about in mixed-use developments, what you're going for, what you're asking for will be less transitional. Also the various statutes and rules talk about the changes to the GMP should be based on studies and data. Not really specific about what the contents of those studies and data should be.

But what I found in the materials submitted as to studies and data, really, at best, in my judgment, it shows perhaps a lack of harm in certain areas like traffic. And I would concede that point. I don't think traffic is going to be a major problem here. But for the most part, the studies that have been proffered along with the application are market studies, and I think the bottom line of those is is that the argument in favor of this the developer is making is that it's a higher and better use from a standpoint of his investment. There will be more return on the investment that way. I don't see anything in the record that would establish a benefit to the neighboring community or to Collier County as a whole, and I find that troubling.

Now, the other thing that is of concern to me, in the attachment to Exhibit A to the GMP proposed ordinance, you're wanting to strike the residential uses over commercial uses parenthetical, but what we're talking about here is the intent, the original intent of the people who drafted and who enacted this GMP. And you just can't rewrite history that way. It was their original intent to have residential uses over commercial uses.

So it seems -- well, perhaps "disingenuous" is the wrong word, but somewhat misleading to want to rewrite history in that fashion. Then I see that the owner, Cioffi -- is that how he pronounces it?

MR. CIOFFI: Cioffi.

COMMISSIONER FRYER: Cioffi. I'm sorry. Mr. Cioffi opines that there's plenty of commercial near by, and I think reasonable people could differ on that point. I think the neighbors disagree.

Also, Mr. Cioffi, you mentioned that you're planning on going a little bit above the county's landscaping requirements. You said that in the NIM. Would you be in a position to describe in greater detail what you're

prepared to do?

MR. CIOFFI: I'd leave that up to my engineer.

CHAIRMAN STRAIN: I'm sorry, sir. You won't be able to comment from the audience. You'll have to come up and identify -- if you've not been sworn in, you're going to have to be sworn in and then identify yourself for the record and use the microphone. Although I would -- I assume your representatives can answer the question for you, and you don't have to if you don't want to.

MR. CIOFFI: Well, exactly. I mean the engineer and the architect.

CHAIRMAN STRAIN: You have to be sworn in. I'm sorry.

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

MR. WRIGHT: We have Jim Ink coming up, our engineer.

CHAIRMAN STRAIN: Has he been sworn?

MR. INK: Yes.

CHAIRMAN STRAIN: Thank you.

MR. INK: Jim Ink, for the record, Waldrop Engineering, and I have been sworn in.

The landscape plan would just be a betterment plan with a higher level of trees and shrubs around the area -- the green areas to enhance over the minimum Land Development Code.

COMMISSIONER FRYER: Thank you. Could you be more specific?

MR. INK: It's in design right now, so it's hard to be more specific.

CHAIRMAN STRAIN: The problem is, if you've said you're going to do something --

MR. INK: Yeah.

CHAIRMAN STRAIN: -- and that's part of your commitment to get approval, we've got to specify what it is you're going to do. We can't specify that it's in planning. So if you're going to add more trees, you're going to increase the caliper, you're going to increase the height, you're going to decrease the spacing, all those things that are enhancements need to be spelled out so they become stipulations. And if you don't tell us what they are, then we don't have anything to deal with. That's how we've always done it, and that's how we will continue to do it.

MR. INK: I understand that part of it.

CHAIRMAN STRAIN: Okay. Well, then you know I've got to -- we've got to have an answer, if that's the route you're going to go, before the day's over.

MS. ROBIN: Lindsay Robin, Waldrop Engineering. I'm a planner on this project.

I just wanted to clarify at the NIM Ralph did state that we were going to be doing additional plantings to supplement a deviation we were requesting at the time. We no longer need that deviation, so we are no longer providing the additional palms that were mentioned at the NIM.

COMMISSIONER FRYER: Well, here's exactly what he said, actually. He said, we'd like to go a little bit above the county's landscaping requirements. So that's no longer being offered?

MS. ROBIN: I think what he meant is the project is going to provide a very nice landscaping plan. It's not going to be your code minimum, as some people do.

MR. WRIGHT: I would add that we would like to go beyond the county's landscaping requirements, and we hope to do so, but we're not prepared to commit today because we haven't yet designed the facility to know exactly where the plans were. But it is an aspirational commitment, not an enforceable commitment at this time.

COMMISSIONER FRYER: I frequently make those, too, when I can get away with it.

MR. CIOFFI: Could I make one comment?

COMMISSIONER FRYER: Yes.

MR. CIOFFI: The benefit, if you will -- if we were to have the ground floor all commercial, I'd have to reduce the apartment count significantly probably by the number of units that are on the ground floor. So we'd go from -- actually, the zoning allows 58 units, but I've already committed to reduce them to 53 to make them bigger, which was one of the issues that the Black Bear Ridge people had.

If I were to do all commercial on the bottom, I'd have to reduce that count probably by 10. And with the notion that, you know, the county's looking for rentals, we'd be actually reducing the residential count.

COMMISSIONER FRYER: Okay.

MR. CIOFFI: Because that commercial takes up additional parking.

COMMISSIONER FRYER: All right. Also in the NIM it was stated that minimum rental period would be for 12 months.

MR. CIOFFI: Correct.

COMMISSIONER FRYER: Is that going to be an enforceable commitment of some kind?

MR. WRIGHT: That's an enforceable commitment.

COMMISSIONER FRYER: Where will that be found; in an exhibit to the ordinance?

MR. WRIGHT: Yes.

COMMISSIONER FRYER: All right. The size of the units is relatively small. It does not appear that they're being offered up as affordable housing. I would expect younger families would be attracted to those units at market rate conditions, yet there would be no amenities provided, playgrounds or the like, for the children. And I think one of the things that the neighbors are worried about is a spillover that would result: Kids trying to find things to do lacking furnished amenities.

MR. WRIGHT: Right now they're allowed to put 58 residential units, so that could be a concern even if we didn't have this request before you.

But I would point out that the nature of mixed use is to have a lot of things near by, and there's a lot of things near by here. For children, you know, the North Collier Regional Park is not too far away. It's about a five-mile drive, about three miles as the crow flies, but near by there's a lot of facilities --

COMMISSIONER FRYER: That's a long way?

MR. WRIGHT: Yeah, it is.

COMMISSIONER FRYER: Thank you.

MR. WRIGHT: Obviously. But in the neighborhood, if you look at the aerial, in fact, the one that's right on the screen here, all of the roads that are adjacent to this project have dual sidewalks on both sides, and all the facilities, the commercial facilities, have bike racks. So there is an opportunity to bike in this extensive bike network with sidewalks on both sides that have recently been improved, so they could go right out of their place on their bike and go biking up the bike path as long as they want to. So there are recreational activities near by. It's just that given the mixed-use nature, we can't have all that stuff on this site.

COMMISSIONER FRYER: Okay. I may have some other questions after the public, Mr. Chairman.

MR. CIOFFI: Can I comment on the amenities?

COMMISSIONER FRYER: Yeah.

MR. CIOFFI: On the frontage that goes along Vanderbilt Beach Road, there's 164,000 square feet of commercial, and then in Mission Square, directly adjacent to the east, I'm not sure how many thousands of square feet, but you've got the Winn-Dixie, you have Dunkin' Donuts, you have a gas station, you have L.A. Fitness. Within Vanderbilt Commons commercial that's there, you have restaurants, Five Guys, there's a veterinarian --

COMMISSIONER FRYER: Are you suggesting that these are places where kids can play?

MR. CIOFFI: No, I'm not suggesting that. I'm saying those are amenities. That's commercial. It's significant. It's already there.

There was some discussion about a playground, but there was, I guess, pros and cons, noise and what have you.

What I did do, again, in response to that, is we planned in or the architect and engineer were able to come up with, I think, 9-by-10 or 10-by-11 patios that would be enclosed with landscaping and dividing walls on the front. But there will be a lot of working professionals. There may be children but, I mean, I can't prevent renters from having children.

COMMISSIONER FRYER: That's certainly not what I was suggesting.

MR. CIOFFI: No, I know that, but...

COMMISSIONER FRYER: Okay. That's all I have for now.

CHAIRMAN STRAIN: Anybody else?

(No response.)



CHAIRMAN STRAIN: A followup to one of Ned's comments. The people who wrote the GMP didn't count on this as a use. That was instituted and recommended or suggested by the Planning Commission. So to say that the GMP historically had this in there and someone had thought about it, no, it was kind of off comment at the Planning Commission level. At the time it seemed like a good idea. We have -- we do do housing mixed with commercial differently today than we did then. That may have -- would have had some bearing on how this would come out.

The focus today is strictly whether that ground floor should be residential or commercial, from what I can see.

And as a followup I do have some questions. You were -- at the NIM you had mentioned the 12-month rental period. You also talked about garages will be provided for the ground-floor units. And I think I heard you say how many -- all of them going to have garages or just a certain number on the ground floor, if the ground floor were to have residential?

MR. WRIGHT: Ten units on the ground floor will all have their own parking, and they will be oversized units.

CHAIRMAN STRAIN: Then you said the units will be two- to three-bedroom, the two-bedroom being a minimum of 800 square feet and the three-bedroom being a minimum of 1,200 square feet. Is that consistent with your understanding?

MR. WRIGHT: It is consistent with my understanding. I'm looking to Ralph to make sure.

CHAIRMAN STRAIN: No, again, you can't talk from the audience. You have to come up to the microphone. And I'm sorry, but that's the process; otherwise, you don't get recorded. So if you'll identify yourself for the record.

MR. CIOFFI: Ralph Cioffi.

CHAIRMAN STRAIN: Thank you.

MR. CIOFFI: When we reduced the count from 58 to 53, we increased the sizes. So the minimum size for the two-bedroom is 865, I believe. The minimum size for the three-bedrooms, which are on -- well, the ground-floor three-bedrooms will be 1,407 square feet with 257-square-foot garages. So plenty of storage within the garage units.

The three-bedrooms on the second and third floor, I believe, ended up being 1,265 square feet.

I think that's the actual square footage, so...

CHAIRMAN STRAIN: Yeah. I just wanted -- what we typically do and what the Board sees as recommendations, if you do something at a NIM, that becomes what we have to incorporate in the stipulations.

MR. CIOFFI: Right.

CHAIRMAN STRAIN: And I'm just trying to make sure that you said 800 and 1,200. That's what the transcript read, and if you're not disagreeing with that, that's what we'll end up considering.

MR. CIOFFI: I'm not disagreeing, though they should be larger.

CHAIRMAN STRAIN: Okay. And then the other thing you said, there will be no exterior balconies; is that correct?

MR. CIOFFI: We removed the balconies.

CHAIRMAN STRAIN: Okay. And I heard a discussion earlier about a concern -- I don't know who brought it up -- about outside chairs and barbecues and things like that. If that's the case and that is a concern, then how could we possibly expect them to have play areas for children outside? Wouldn't that be kind of the similar concern? I mean, what, the parents are going to watch their kids play but can't sit down?

MR. WRIGHT: It's something that we struggle with. Either way, with or without this amendment, we're going to have 58 units authorized on this --

CHAIRMAN STRAIN: I know. I'm trying to respond to the -- you guys said you're going to write into your docs.

MR. CIOFFI: Well, the leases -- it will be the leases.

CHAIRMAN STRAIN: Okay. That they can't have outside activities. But that kind of dovetails with the concern that Ned brought up about what -- let me finish -- about what -- if there are children, what are they going

to do? But if -- it's almost a double-edged sword. You say you're not going to do these outside things, but then if you do put them in, as some people think are needed, you're going to get hit for that, too. So I'm just wondering if that's --

MR. CIOFFI: What would be in the lease is they're not going to be allowed to barbecue out in the parking lot or have barbecue grills anywhere on site, and they're not able to put lawn chairs out in front of the building.

CHAIRMAN STRAIN: So if someone wanted to go out exercise -- do something around the outside of the building, it's going to be very limited to what they're --

MR. CIOFFI: Well, no. People can walk around the building, but we don't want -- I don't want lawn chairs in the parking lot or in front of the building or -- I don't want people barbecuing in the parking lot or that sort of thing.

CHAIRMAN STRAIN: Okay. I just wanted to understand what you're -- how that fits together.

Then I have a question about one of the items in the actual document. It's on Page 21. It's the Item F on the top of the page, Page 21 of the Planned Unit Development. And what it says is no public access or circulation drives shall be provided to, from, or within, and I'm trying to figure out -- I don't think you intended this, but it looks like you've crossed out 4, 5, and 6. I think on that one you only mean 5 and 6 because you have no control over 4, and it's already done. And if I'm not mistaken, it's got a drive around the back. It's a storage facility. I mean, fire code requires it. So we can't tell them you can't do it. So I'm just wondering, on this one, you're just taking out 5 and 6 even though it really doesn't apply to 4 because 4's built, and I think it's got a driveway around the back.

MR. WRIGHT: I agree 100 percent. We only want this to apply to 5 and 6.

CHAIRMAN STRAIN: Okay. That's all I wanted. That's the only clarification I think I needed. And we'll move to -- anybody else have any questions? If not, we'll move to staff report. David?

MR. WEEKS: David Weeks of the Comprehensive Planning section. Commissioners, staff is recommending approval of the plan amendment. We see it as a mixed-use project, and it's just a different version of what is currently provided -- excuse me -- currently required.

Mixed-use development can be a residential and commercial mix within a building, it can be commercial and residential mixed on a site but in separate buildings, or a combination of the two. And so materially we don't see a difference.

The net effect is there is still the allowance for the mixed-use development on this site, and we recommend approval.

CHAIRMAN STRAIN: Questions of the Comprehensive Planning staff? Go ahead, Stan.

COMMISSIONER CHRZANOWSKI: If I were going to make a comment before, it would have been exactly what David said: I don't see the difference, so that's it.

CHAIRMAN STRAIN: And, David, I noticed that Corby wrote the staff report. His conclusions said the following: In summary, the proposed small-scale GMP engagement to allow residential uses on the first floor of buildings on Lots 5 and 6 will create a more compatible development and upholds the intent of mixed-use development in the Vanderbilt Beach/Collier Boulevard commercial subdistrict. This amendment does not request an increase in density or intensity previously approved through Ordinance 1747.

So my understanding is the -- and from -- especially my recollection, the 58 units are basically vested from a prior approval.

MR. WEEKS: In the PUD, that's correct.

CHAIRMAN STRAIN: That's correct, yes.

And from a GMP provision, we've done mixed use like this before. In fact, we just completed approval of Baumgarten. We've got Magnolia Square, which is over on Pine Ridge Road and Goodlette Road which just converted in the same manner, and those are all stand-alone residential buildings. Is that -- I believe those are correct.

The actual issue here is the restriction on the first floor, and that's in the GMP, but if I remember correctly, those are the kind of details that you have always preferred not be in the GMP.

MR. WEEKS: As a general rule, that's correct. What happens is these Comprehensive Plan amendments typically are site specific, such as this one. We're talking about a single tract. Go back to the original amendment of about 15 acres or so. And so, rather than a broader view, the perspective is focused right on this piece of property. And so we sometimes end up with development standards or site specific restrictions such as this within the Comprehensive Plan.

But I agree with you, the preference would be not to get into that detail in the Comprehensive Plan.

CHAIRMAN STRAIN: And part of the reason is is we're now changing two documents instead of one, which would have been just as effective in regards to how we're doing this today.

MR. WEEKS: Yes.

CHAIRMAN STRAIN: Okay. I don't have any more questions of staff. Anybody else? Go ahead, Ned.

COMMISSIONER FRYER: On Page 4 of the 1,944 pages, I guess, is the document we got the first time around. It's referenced in the staff report, it says, Lots 5 and 6 comprise 10 acres within the 47.94 plus or minus. I assume that that's a typo. That it's really like 2.5 acres, right?

MR. WEEKS: That's correct.

COMMISSIONER FRYER: Okay. And there was also a reference to Buckthorn, but you mean Buckstone, right? That's the name of the street; correct? There's a reference in the staff report to Buckthorn, but the street is called Buckstone, I believe.

MR. WEEKS: I'll accept that correction. I mean, it will be factual. It either is or it isn't, so I don't know that, but I accept your correction.

MR. CIOFFI: One other comment. Ralph Cioffi again. In the NIM, I mentioned that I'm going to be the owner of this property. I have no plan of selling it. So I'm the developer, but I'm also going to be the owner of the property after it's developed.

My two sons will be the property managers. We will coordinate with the commercial uses to use probably the same landscape people and what have you, but this will be a property that I own.

And the other point I'd like to make is the commercial on the first floor isn't going to negate children and people outside and playing and running around. There's still going to be people on the second and third floor with children. So the commercial use doesn't negate that.

CHAIRMAN STRAIN: Okay. Any further questions of the panel from -- of staff?

(No response.)

CHAIRMAN STRAIN: I have one of the applicant. The distance between the back of your building and the back of the nearest residential building to the north is how much? Do you have that?

MS. ROBIN: The distance varies as you go across the Lots 5 and 6. It's between 260 and 280 feet as measured on the Property Appraiser.

CHAIRMAN STRAIN: Okay. And it looks vegetated.

MS. ROBIN: Very heavily, yes.

CHAIRMAN STRAIN: Have either of you stood in the back of that Lots 5 and 6?

MS. ROBIN: Yes. Actually, in my PUDA presentation, I do have some compatibility slides with pictures to show.

CHAIRMAN STRAIN: Did we -- oh, you're still -- you've got another presentation besides --

MR. WRIGHT: Our plan was to do these as two separate agenda items with --

CHAIRMAN STRAIN: We never do that. We always do them concurrently. So why don't we see your other one now, because you're not going to have another chance.

MR. WRIGHT: A lot of this stuff is familiar. Obviously, some overlap between the two applications. But the yellow bounded area there is the location map for the PUD. And in the upper right-hand corner of that yellow bounded area are Lots 5 and 6.

As we mentioned, we're trying to amend the PUD to allow for a stand-alone residential building on Tracts 5 and 6. And then at this point I'm going to turn it over to Lindsay to go over the planning concerns of the PUD amendment. Thanks.

MS. ROBIN: Thank you.



Good morning, everyone. Lindsay Robin here on behalf of the applicant.

Jeff has given a great overview of the location of the project and our request, so I'm going to not belabor that. I'm going to go ahead and skip around here. He's also covered our surrounding land uses. So I'm going to skip that, too. Skip right to our PUD request.

The applicant is requesting to amend the Vanderbilt Commons Mixed-Use Planned Unit Development to remove the requirement to provide commercial on the first floor on the Lots 5 and 6. We are removing Deviation 2, which was deemed unnecessary, and we're also revising the master plan to reflect our amendments.

And I just want to note we are not seeking any request to increase density or intensity and, as our client, Ralph, just mentioned, he's actually reducing the density from 58 units to 53 units. All we are requesting to do is to remove the commercial requirement from the first floor to allow the residential-only buildings.

And here's an aerial over -- the master plan over an aerial for some context here. Lots 5 and 6 are outlined in yellow for you. And consistent with our currently approved master plan, the project will get access from Vanderbilt Way.

We have a 10-foot Type A buffer and a six-foot wall provided along the north boundary where Lots 5 and 6 abut the Black Bear Ridge preserve.

We have a 20-foot Type D buffer provided along Buckstone Drive to the east and a 10-foot Type D landscape buffer along Vanderbilt Way to our south.

The amendment request, essentially, reduces the intensity of the project eliminating the additional commercial uses adjacent to Black Bear Ridge.

The proposed residential-only development program for Lots 5 and 6 is consistent with the surrounding development pattern. Landscape buffers and a six-foot-high wall are provided to the north for additional screening purposes, and a significantly wide preserve is adjacent to the Black Bear Ridge and our Lots 5 and 6 that provides the contiguous habitat and the visual screening.

COMMISSIONER FRYER: Ms. Robin, pardon me for interrupting. While we're talking about geographies here, just so that I can get clarity, I drove by this site some weeks ago, and there is construction in progress directly south of Lots 5 and 6 on the other side of Vanderbilt Way -- yeah, Way.

It appears to me that that's going to be exclusively commercial; is that correct? Will there be any residential, like, on an upper level there?

MS. ROBIN: My understanding is that is exclusively commercial development.

COMMISSIONER FRYER: Thank you. Sorry to interrupt.

MS. ROBIN: No worries, thank you.

Okay. So we have the significant preserve between us and Black Bear Ridge, and then also, again, we are not requesting to increase any density on this project.

Okay. So the purpose of this slide here is to illustrate the significant separation. The visual screening that is provided between Lots 5 and 6 in the Black Bear Ridge community to our north. As you can see here, the preserve areas do range in size from 265 feet all the way up to 280 feet in width, and that was using the Property Appraiser measuring tool. And I'd also like to point out on the west side of Black Bear Ridge there you'll note the Portofino Falls multifamily residential development is approximately 90 feet to the nearest lot with a heavily traveled roadway, Pristine Drive, in between the two developments.

And here's a couple more photos further demonstrating our compatibility to the Black Bear Ridge community to our north. This view is from Lots 5 and 6 as you're standing looking into the on-site and off-site preserve areas to our north and west. Very expansive preserve there.

This photo here is standing looking directly north through the thick preserve areas toward Black Bear Ridge. And then this photo here shows the view looking north and east toward those preserve areas.

COMMISSIONER FRY: Lindsay, are we standing on the south edge of the property?

MS. ROBIN: Yes.

COMMISSIONER FRY: We are, okay.

MS. ROBIN: Yes, you are.

Okay. And to conclude, it is my professional planning opinion that the amendment does meet the

requirements for approval, and I am in agreement with staff's recommendation of approval. This request is removing the first-floor commercial uses, making this project more compatibility with the residential development to the north than mixed-use building would be, and I'd also like to note that it is also my professional planning opinion that this does represent transition of density and intensity going from straight commercial to multifamily to single-family.

The intent of this mixed-use project will be upheld by the existing and future commercial uses within the MPUD, and, lastly, our request is consistent with the Collier County Growth Management Plan as proposed to be amended and the Land Development Code.

And just to -- I'd like to just recap a few changes that have been made to our PUD document since the last time we were here on August 1st. We are removing the strike from other site alterations from the Development Standards Table. We are adding where commercial is developed after the commercial design standards section just to clarify that those requirements would kick in for commercial buildings, which we are residential only, would not have to comply with that section.

We are removing what was a previously proposed Deviation 3 for building foundation plantings, as that was also found to be unnecessary. And we are revising our PUD master plan just to reflect those changes.

I'm happy to answer any questions.

CHAIRMAN STRAIN: Anybody have any questions of the applicant? Joe.

COMMISSIONER SCHMITT: Yeah. I just questioned regarding the statement about lawn chairs going out in front. Was that going to be in the documents -- the rental documents, or was that language that's being proposed in the PUD?

And my concern is if it's in the PUD, then it's -- it could be a code issue, and certainly Jeff is well aware, I don't think we want to send code enforcement people out to police lawn chairs in front of an apartment building. I don't believe that's what I would call a very good use of Code Enforcement. So I'd prefer that not be in the PUD documents but it be in the rental documents, if that is the intent.

MR. WRIGHT: I believe the intent is to put them in the rental documents and also in the private covenants that govern this property.

COMMISSIONER SCHMITT: Okay. It's not a PUD covenant then?

MR. WRIGHT: Correct.

COMMISSIONER SCHMITT: Correct. Okay, good. Thank you.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. With that, we will move to public speakers. And, Ray, if you'll start --

COMMISSIONER FRY: May I ask a question of Mr. Weeks? We were in the middle of the staff when we went back to the applicant.

CHAIRMAN STRAIN: Oh, I thought we finished. No problem.

COMMISSIONER FRY: I'm sorry. I just had a quick question.

David, if this is approved, as Chairman Strain said, it would leave over 35,000 feet of undeveloped commercial uses in the overall PUD, and I guess five residential units still within the cap on the PUD. What are -- what are the potential -- are there any potential development avenues for that square footage of commercial and the additional five residential units, or would this basically build out the PUD so that those would -- the caps would never be reached?

MR. WEEKS: It looks to me like it would build out the PUD. It would be a matter of future redevelopment or some other change. For example, reducing their preserve area to accommodate more land area. But physically it appears they'll be built out, and that will be what we sometimes refer to as ghost density for residential or ghost square footage for commercial.

MR. KLATZKOW: And one approach would be to reduce that in this PUD.

CHAIRMAN STRAIN: Except that the owner of that remaining density and intensity isn't here today.

MR. KLATZKOW: I understand that. I'm just saying it's one approach, because these ghost units are going to be problematic.

CHAIRMAN STRAIN: Right. But I mean, they're not part of the application. That's the only --

MR. KLATZKOW: Well, no, but you've got the ability to do that. What I'm saying is, you know, we talk about these ghost units, and we say, well, it's just redevelopment. And that's nice now, but years from now when we start this redevelopment, we're going to get denser and denser and denser because of it, and we won't have the infrastructure to handle it. It's just one approach to think about. Not necessarily for this PUD, but on a going-forward basis.

These ghost units, whether residential or commercial, are a ticking time bomb.

CHAIRMAN STRAIN: Thank you.

COMMISSIONER FRY: Jeff, to Chairman Strain's question, though, do we have the purview today to amend the overall PUD beyond just the applicant's section of the property?

MR. KLATZKOW: You'd have to continue the item at this point in time and get the approval from everybody to do this. But, yeah, it could be a condition.

COMMISSIONER FRY: Thank you.

COMMISSIONER CHRZANOWSKI: Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER CHRZANOWSKI: One of these days, going with Jeff's comments, I'd like to get into a little discussion about the term "build out" because it's always been a question when you leave units on the table, can they come back and do it, can they cut out pieces of golf course? Can they take down other stuff?

We should really talk about this some other time. It gets fairly complex when you look at, like Jeff said, all the stuff, it's a ticking time bomb.

CHAIRMAN STRAIN: Well, that density is worth an awful lot of money. Take a look at Pelican Bay. They had about 12 -- 1,000 to 1,200. They came in for a PUD amendment. They negotiated some of the density down. I think it's 800 today. The units in there are selling between 5 and 6 million apiece. So you try to take that density away when it could be used for redevelopment for them to inquire -- resell issues, it's going to have a dramatic effect on how we're able to do that or not. We're talking substantial sums of money involving that vested hidden density. So I'm not saying Jeff's wrong. I'm just saying to get there is going to be a challenge.

MR. KLATZKOW: Right. But when these people come in, they ask you to change the Comp Plan or they ask you to change the PUD, that's the time that you open it up.

CHAIRMAN STRAIN: And we have.

MR. KLATZKOW: I understand that. All I'm saying and it's probably -- and I agree with Stan -- something for a later discussion to figure out how many ghost units we have out there. You're not eight-laning roads. I mean, you know, you've got a certain infrastructure that's being built out right now and, you know, we get to redevelopment time, that means larger buildings, that means more people, and you won't have the infrastructure to support that.

CHAIRMAN STRAIN: And I don't disagree with you. It's just something that -- it takes a little -- there's a different side to it you've got to be considerate of, because that's the argument that's going to be put forth if they come forward.

COMMISSIONER CHRZANOWSKI: Theoretically, concurrency was based on those ghost units and, theoretically, the infrastructure should be there to serve all that stuff. Theoretically, the roads should not be traffic bound. Theoretically.

MR. KLATZKOW: Yeah, but you take concurrency and throw it out the window because --

COMMISSIONER CHRZANOWSKI: Yeah.

MR. KLATZKOW: -- you know, that was -- everybody's got the right to develop, and it's not just, well, I came in first, so I met the concurrency. Well, you know, we don't have any concurrency; you can't develop. We're going to be developing. I'm just saying that be very careful about these ghost units on a going-forward basis, because decisions you make today 30 years, 40 years, 50 from now are going to bite us. That's all I'm saying.

MR. WRIGHT: Mr. Chairman.

CHAIRMAN STRAIN: Yes, sir.

MR. WRIGHT: We're going to commit today to eliminating these ghost units and reducing the density from 58 to 53. So we can only speak to the residential, but the ghost units would be gone. The ghost square footage for commercial would remain, and we can't really speak to that. But that's one thing we do have control of and we are willing to commit to today, reducing the density from 58 to 53 residential.

CHAIRMAN STRAIN: So you're -- you're -- can I -- you're testifying that you have control of all 58 units and that you can make this commitment?

MR. WRIGHT: Correct.

CHAIRMAN STRAIN: Okay. Heidi?

MS. ASHTON-CICKO: Your client is the contract purchaser, or do they own it?

MR. WRIGHT: He's the owner.

MS. ASHTON-CICKO: Okay. When he bought the property, did it assign any density as part of the contractor deed?

CHAIRMAN STRAIN: That's the question I just asked. So, I mean, he's got to have control of those by contract and deed or whatever means you've got it, and I thought you said you did.

MR. CIOFFI: We do.

MS. ASHTON-CICKO: But over the commercial? Do you have control --

CHAIRMAN STRAIN: No, they're not addressing commercial. They're only addressing the units.

MS. ASHTON-CICKO: That's correct, but if the deed assigned him, like, 20,000 square feet of commercial or so many of residential, that's what we need to know, whether or not he's got the ability as --

CHAIRMAN STRAIN: He's only offering to reduce the units from 58 to 53. I don't think you're venturing into the commercial, are you?

MR. WRIGHT: Correct, we're not.

MR. CIOFFI: Correct. You know, one point -- maybe the staff can comment. There's virtually no way to add 34-, 36,000 more square feet of commercial anywhere on that PUD. There's not -- there's not enough parking. There's not enough space. The only way to do it would be to get rid of the apartment building altogether that I'm proposing and building 34,000 square feet of commercial there.

The frontage is fully -- is going to be fully built out, which you don't see on the photograph is -- this is almost complete.

CHAIRMAN STRAIN: You've got to stay with the mic, I'm sorry.

MR. CIOFFI: And if you look in the photograph, what looks like a cleared lot now is almost fully complete.

CHAIRMAN STRAIN: But I think if we focus on the question, if you're -- you have agreed to reduce what you control from 58 units down to 53.

MR. CIOFFI: Correct.

CHAIRMAN STRAIN: You don't control any commercial, right?

MR. CIOFFI: Correct.

CHAIRMAN STRAIN: It doesn't matter then.

MR. CIOFFI: Well, I mean, the commercial I do develop is what I could develop on the ground floor.

CHAIRMAN STRAIN: So you have some control of commercial?

MR. CIOFFI: I could build up --

CHAIRMAN STRAIN: I think that's what Heidi's asking. You said no. Now you're saying yes.

MR. CIOFFI: My point is I could build, in theory, the remaining commercial on Lot 5 and 6.

CHAIRMAN STRAIN: Then you have control of that by contract?

MR. CIOFFI: I mean, I don't know -- I mean --

CHAIRMAN STRAIN: I think that's Heidi's point, which I thought you answered you didn't. Now you're saying you could.

MR. CIOFFI: The answer is I don't know how it works. I mean, there's the commercial in the front, there's the commercial under the -- you know, the self-storage. I don't know how it works.

MR. KLATZKOW: Well, could you build nothing but commercial on that lot?

MR. CIOFFI: I could, yes.

MR. KLATZKOW: Up to the limit of the PUD?

MR. CIOFFI: Yes.

MR. KLATZKOW: I think that answers the question.

CHAIRMAN STRAIN: So Heidi's point was correct. You guys -- when I asked the question, you said you had control of the units but not the commercial, but apparently you have control of the commercial, too.

MR. CIOFFI: To the extent no more could be built across the front. I mean, I don't want to speak for Welsh companies, but whatever remaining commercial there is to be built would have to be built on 5 and 6.

CHAIRMAN STRAIN: That puts us in a strange dilemma. You have a contract that gives you the commercial and gives you the residential.

MR. CIOFFI: Correct.

CHAIRMAN STRAIN: So if you were to be approved for this residential 53 units today, could you commit to not completing -- not providing -- not needing the balance of the commercial available on the site?

MR. CIOFFI: Correct.

CHAIRMAN STRAIN: Okay. Thank you, Heidi. That's exactly what I think you were trying to get to. It's a different answer than we started with.

I don't know -- my -- I pulled up the CTS program database for the county, and that's where I got the 35,000 from. It says on that database you have 164,000 square feet of commercial with about 35,000 left. I don't know how accurate the database is. It's updated regularly. The lady that does it's pretty definitive. She's good at what she does, so I'm assuming it's in the ballpark.

But for this basis, for this stipulation today -- and I appreciate Jeff and Heidi's interest in getting rid of the ghost density -- would you have any objection to a stipulation to reduce the 58 units to 53 and acknowledging that if residential is built as proposed today on this site, you will give up the rest of the commercial?

MR. WRIGHT: Yes. We're willing to commit to both of those.

CHAIRMAN STRAIN: Well, that helps a lot. Thank you both, Heidi and Jeff, for jumping in on this.

COMMISSIONER FRY: I had one more question for Mr. Weeks.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER FRY: You had something to say?

MR. WEEKS: I just wanted to comment. As long as -- I had a concern, because as Chairman Strain identified, I'm not sure how accurate the CTS tracking is. And I just had a conversation with a staff member over there earlier this week, and they expressed that concern that we not put too much weight on that -- unrelated to this project. So I would -- I like the way it was phrased that no more commercial built as opposed to tying their hands to a specified square footage because, theoretically, you might specify a square footage that, in fact, is removing some of what has already been built if our numbers are not precisely accurate. That was my comment.

CHAIRMAN STRAIN: No, I wasn't going to tie it to a -- I was worried about the same thing. I mean, Laurie does a great job in keeping up with this, but I'm not sure how -- an SDPI or SDPA may have come in and modified something a little bit, and we don't want to be off on that. So I would look at some general language that basically said, if residential's built on this site, the remaining commercial would not be built outside of that currently approved on the remaining sites.

MR. WRIGHT: We're comfortable with that, Mr. Chairman.

CHAIRMAN STRAIN: Okay.

COMMISSIONER FRY: David, for other projects that have been approved elsewhere where there are residential units above commercial, Commissioner Fryer brought up the concern about where do the kids play, what about amenities for the kids, what about barbecues and that type of things. How have those types of issues been balanced previously? Because it appears on this site there is no room for them to put a children's playground or barbecue area, anything like that. But how are those typically addressed in those other developments?

MR. WEEKS: I can't think of any Comprehensive Planning provision that addresses that detail. It's more of what you read here, just it's an allowed mixture of uses, specify the intensity, how much square footage of commercial, what types of commercial uses, what density of residential, and maybe the type of residential



because some specifically limit to apartments.

Beyond that, all those details of recreational uses and where they're going to go on the site, not in the Comprehensive Plan. And I respectfully submit it doesn't belong there either.

COMMISSIONER FRY: Thank you.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. With that, Ray, let's call the first public speaker, and we'll take a break at 10:30, if we're not finished with public speakers by then, just for 15 minutes. But in the meantime, let's go forward, Ray.

MR. BELLOWS: Terrie Abrams followed by Steve Abrams, and I believe Steve is ceding time.

MS. ABRAMS: Good morning. My name is Terrie Abrams, and I live at 7213 Acorn Way in Black Bear Ridge.

And before we get going here, I just want to clarify a couple things that I heard. First I heard there's no place to put any kind of outdoor living stuff but yet they're having open patios. So there's a little discrepancy in that comment.

The other comment is about landscaping, that they want to put more landscaping, but when I talked to Ray yesterday, the companion to this thing is about getting rid of landscaping surrounding the building. So there seems to be a little bit of --

CHAIRMAN STRAIN: They withdrew that. They withdrew that getting rid of the landscaping. They withdrew that application. That was Deviation No. 3, I think it was, that's been withdrawn.

MR. BELLOWS: They made that motion this morning.

MS. ABRAMS: Okay, okay. And then just one other bit of clarification on this. There is a section that there will be no wall because there is a preserve -- a kind of scraggly preserve on their area so the wall is not going to go across the back of the building. So just to clarify that -- and I'll get into what I originally had to say.

When our residents purchased their homes, we believed the land in front of the community would be built out as defined in the PUD.

When the developers purchased Vanderbilt Commons, they also knew the PUD restrictions and compatibility requirements, yet they continue to request deviations that only serve them.

The developers continue to chip away -- I call it salami slicing for those who know marketing terms -- at the original intent defined in the PUD, and now we have compatibility issues. They asked to build a storage unit when there were no residents to produce that. We're still living with the lights today that shine into Black Bear Ridge. The building owner, who is part of this group today, refused to make the proper corrections.

They tried to open a drive-through fast-food restaurant, which is not allowed in the PUD. They allowed a non-approved business to open and was told by the magistrate to shut it down.

They're now asking to remove the stipulation requiring commercial to be built on the ground floor of a building on Lots 5 and 6.

The request completely changes the compatibility of the plaza with the residents of Black Bear Ridge and undermines the original PUD intent. Per the PUD, residential was to be integrated into multiple buildings, 1.6 in the PUD.

2.2.E clearly states residential to be located on second or third floors of mixed-use buildings. Plural. Plural.

2.3 defines each tract. The PUD states these lots will have medical and professional and some residential, which is in keeping with the spirit of the PUD, and provides compatibility with Black Bear Ridge.

Lots 5 and 6 in the PUD read, "Loading and unloading should be from the front," and that was done to be compatible with Black Bear Ridge.

So why now it is okay to have a road, parking, garages backing right up to the community?

During a meeting with the developer, he was asked and admitted, this is a workaround to a parking issue. So to solve a problem, an incompatibility issue should be created. No. He needed to put in the number of units of residential over commercial with the available parking spaces.

So there is no compromise on their end. We've talked to them, and there is absolutely no compromise on their end.

The issues are as follows: Completely changes the intent of the PUD. Residential was to be integrated, not a stand-alone building. This concept of residential over commercial is vibrant in Naples as well as other parts of the country. Mercato. Both sides of Fifth Avenue are examples. In Minneapolis, Excelsior and Grant attracts those wishing to have access to restaurants and other businesses.

Orlando has several of these types of developments.

Lights will be glaring into Black Bear Ridge. Noise levels will increase. The PUD again states no loading and unloading behind the building, yet this calls for an access road with garages and parking behind the building, and that's directly in front of us.

No pole lighting is allowed in the PUD, yet when we saw their site plan, there was pole lighting.

Daily living will spill into the development. They're saying there's going to be a property management company that's going to stop that. Go look at Falls of Portofino. Nobody's stopping what's going on there. It's, like, horrible.

This is about these units being jammed into a five-pound sack when it should be in a 10-pound sack.

Less than two years ago we were in this room, and during the meeting you helped us write the PUD language. We stopped the meeting, and you guys helped us to ensure the request the developer was making then remained true to the PUD and compatibility with not only Black Bear but the rest of the plaza. If I was the rest of the plaza, I wouldn't be happy with this either but, again, they all work in the same building. These developers are all connected.

We are asking for the integrity of the PUD to remain as it was intended, which is to be compatible with Black Bear Ridge and supports the look and feel of the plaza. This request serves no current residents or future in Collier County and only undermines property values and quality of life to those in the surrounding areas.

Thanks for your time.

CHAIRMAN STRAIN: Thank you.

Next speaker, Ray?

MR. BELLOWS: Robert Martin.

MR. MARTIN: Thank you. My name is Robert Martin. I live in Black Bear Ridge, 7330 Acorn Way.

I also wanted to address the compatibility of this project. It was obviously intended to spread out the 58 units. As a matter of fact, the PUD for Vanderbilt Commons states that it should be no more than 4.3 units per acre. Combining them all into one area like they're doing is going to create -- first we have to remember that's only two-and-a-half acres. They're talking about putting in first 58, now 52 (sic) units. And the parking that's going to be required for that is also going to have to go in the same place.

The size of the units, two- and three-bedrooms, it's going to make a tight, cramped area with a lot of people all jammed into the one corner.

Right now there's not much access to that entire L commercial property, the Collier/Vanderbilt L. That one small section on the intersection -- even this morning I was sitting past Vanderbilt Way coming out of Black Bear Ridge just waiting to make a right-hand turn. These stores aren't open yet along Vanderbilt Way. Once they open, all access for that new development, the new extension onto the Collier/Vanderbilt commercial area all has to come off of Vanderbilt Way. That's the storage unit and all the stores in the frontage area.

Adding to it an apartment building with the parking necessary for that apartment building is going to make that whole area a disaster. Also the same road is the access going west -- going eastbound on Vanderbilt Road, that's the only access into the Winn-Dixie and the other commercial properties. That entire L is almost entirely built out; 90 percent built out. There's only these two lots left, and I believe three acres on the other area.

It's all commercial. There is no residential in any of that. There is no residential contiguous to the property. The closest they get to residential is what they show there is where they're backed up to our preserve area. They want to put parking there by the preserve area. I don't really know that that's really conducive to -- actually, the preserve area's there for the wildlife. Putting parking back by a wildlife area I don't really think is going to be a great idea either.

It's also going to be a playground for children. They have no place to go. You have a retention pond and another retention pond. And then you have this big grassy area. And I know as a boy, that's my playground. You know, I could see forts and everything else in there. But the problem being that the same conditions could result in somebody getting injured or fire or -- especially in a tinderbox like we are here in Florida.

I have -- the density, I have nothing really against an apartment building, which basically this is. They're not talking about a mixed-use building anymore. They're just changing a commercial property into a real estate property. And I don't really have that much against the idea if you were going to keep the numbers lower than they're talking about. And we're talking about a density of 58 units for two-and-a-half acres, roughly about what, 26 units per -- 27 units per acre. Yeah, 26 units per acre. That's extremely high, especially in Collier County.

In downtown Chicago, yeah, I could see it, but not here, and especially not in a corner and not with the traffic flow that we have over here. If we had wider streets or the ability for people to move around a little more, if we had wider sidewalks, if it was more pedestrian friendly, but it's not. People coming out of that apartment building are going to be walking into their parking lot. They'll have a parking lot that goes across to a little green strip and to a sidewalk, then another green strip and a street that has to be used by all of these commercial properties over here.

I don't really see that as being a good environment to have children or just about anybody walking around. Basically, that's all I have for you. I thank you for the time.

CHAIRMAN STRAIN: Thank you, sir.

Next speaker, Ray?

MR. BELLOWS: Steve Bracci, and he has been ceded, from three other speakers, their time.

MR. BRACCI: Good morning. Steve Bracci. I don't think I'll need the other -- all three of the other speakers' time.

COMMISSIONER FRYER: Sir, how do you spell your name?

MR. BRACCI: It's Bracci, B-r-a-c-c-i. And I'm a counsel to Black Bear Ridge.

And I wanted to touch on a couple things. One is the history and the other was just the intent, both of the land use element as well as the MPUD.

The Future Land Use Element, when it was first -- when it was drafted, it specifically said that the intent is to provide convenient shopping, personal services, and employment for neighboring and Golden Gate Estates residential areas as well as to promote mixed-used development, and then it said, in parentheses, residential uses over commercial uses. That is proposed to be stricken. And while you can agree that that's simply a parenthetical, it's also a very specific parenthetical which goes to the heart of what the land use element was going to be.

Understood that, as Mr. Weeks said, from a planning standpoint, you typically wouldn't put that detail in a future land use; you'd put it in the zoning part. But nevertheless, it did exist, it does exist, and the Comp Plan, as we know, is a -- more of a stronghold that the surrounding residents can rely on than the zoning itself. So that's being proposed to be taken out.

If you look at the MPUD intent, it's stated at 2.3.A that this -- the Vanderbilt Commons Mixed Use PUD, which are Lots 5 and 6 as well as the commercial south of it, this was intended to create a pedestrian-friendly atmosphere that encourages area residents to work and shop there as well as on-site workers to walk to other services.

The next -- that same section also says that the north tract, which is the part north of Vanderbilt Way, including Lots 5 and 6, is expected to be more office and service oriented.

There is no office nor is there any service at this point. There's been so many amendments to this PUD over the last couple years that there is no office that will be offered at the north end, nor is there any service. The first amendment was back when the storage facility was allowed. I think that was actually as an unsubstantial change, and it was argued whether that was to be allowed. Once that went in, the developer said, well, geez, this is a passive use. Nobody goes there. The traffic -- it doesn't generate any traffic, so we should be allowed to increase our intensity by 50,000 square feet. Well, why does nobody go there? Because it's not a service -- it's not pedestrian friendly. You can't bring your couch to your mini warehouse facility walking with it on your back.



So Lots 5 and 6 really are the last opportunity for this developer or these related developers or successors to developers to actually achieve the intent of the MPUD, which is to create office and service-oriented mixed use on the north side. That's not happening.

It's sort of -- when asked at the beginning the question was, you know, to what extent -- why does Black Bear Ridge oppose first-floor residential rather than mixed-use commercial? And the question was, well, I don't really know. It's just illogical.

Well, why is that the standard? Why is it the standard that when these community -- these projects come in to residential areas, that the -- that it's not sufficient simply for the surrounding residents to want to hold true to the intent of what was originally pitched? Because this is something that's happening more and more as we do get denser and we do have more pressure of land availability when people are trying to bring uses into residential areas. Because what's happening then is over time they get winnowed down.

In this particular case, there's now proposals -- for instance, if there's residential on the first floor, the question is, again, is this pedestrian friendly? Is it a destination? It's not a destination.

So you have warehouse that's not a destination. If you have simply residential, that's not a destination. But then the question becomes one of compatibility with residential living spilling out into the -- into the area. The solution here is proposed that there would be a private covenant either by the owner of the land enforcing it through their leases or through a property owners' association. But the county is, what I'm hearing today, saying, well, we don't want to be involved in that. We don't want to have Code Enforcement involved in that and, yet, if it's just simply a private covenant, Black Bear Ridge, Falls of Portofino, Raffia Preserve, all those other residential areas have no ability themselves to enforce the compatibility with respect to residential life spilling out.

Now, one proposal that -- to dust off our law school books, it's something that hasn't been done recently but might be a good solution for these situations where you have infill coming into residential communities is to have the developer agree to record a restrictive covenant in the public records of Collier County that give the surrounding residential communities, Black Bear Ridge, Raffia Preserve, others, give them the ability to privately enforce a covenant if the county wants to stay out of it. So that's another solution that could be proposed here.

If they're true -- if they truly want to have no residential spilling out into their -- into the outside areas, they should be willing to record a restrictive covenant in the public records of Collier County for Black Bear Ridge and others to enforce.

I want to clarify one thing about this as well. The planner for the applicant stated that this application reduces intensity. It does not reduce intensity. This application, as written, gives the developer/landowner an option to go with residential on the first floor. It doesn't take away their right to keep commercial on the first floor. This was brought out today by Ms. Cicko and Mr. Strain -- Chairman Strain's back and forth.

But I wanted to clarify that point. And it's important for another reason. If you look at Section 5.8 where they're proposing to take out restriction on Lots 5 and 6 -- and that's the one where Chairman Strain said No. 4 should stay in there -- well, 5 and 6 you're proposing to take out the restriction on rear circulation. And number one, as Ms. Abrams said, that's a concern to Black Bear Ridge from a compatibility standpoint, but also, you're taking that away and yet the option for the developer to go with commercial still exists.

So you're basically saying they can now build commercial and have rear circulation, which was the exact safeguard that Black Bear Ridge was trying to avoid in the first place. So that needs to be addressed.

I believe that's all I have. Thank you.

CHAIRMAN STRAIN: Well, you cut your time short. Thank you.

Ray, do we have any other public -- registered speakers?

MR. BELLOWS: Last speaker, Beverly Smith.

MS. SMITH: Good morning. My name is Beverly Smith. I'm a resident at 7278 Acorn Way in Black Bear Ridge.

First I would like to agree with many of the comments already made today. I guess at this point my only comment is to the Commission: We've been here before, and I have a feeling we're going to be here again, but I don't understand that there's no site plan submitted. There is no building plan submitted. You have no idea what the end product is going to be. So how can we come here logically and say something is compatible? We don't

know what that is going to be.

We have no idea what their final plans are going to be for parking, for lighting, and that is a major issue with us, as we know from the warehouse.

You have no factual information. No factual information was given to us at the NIM. There was nothing shown to us. The only thing we did get at a private meeting that we had with Mr. Cioffi and two representatives from the engineering company and Ms. Abrams and myself was a drawing of a building showing patios and showing some parking.

When pushed, they finally showed us a site plan and showed us complete parking on four sides with garage entrance on the back. And I said, is this a final plan? And, no, they weren't sure. It's conceptual. Everything is conceptual.

How can something go through Planning Commission, be approved, change a PUD when we don't know what the end product is going to be?

I think it's imperative that we know what they want to do, that we know what they're going to have on that lot, and then we know what the actual effect is going to be on us. This is just pie in the sky right now.

And, you know, I appreciate what this Planning Commission does. I know how hard you work. We appreciate everything you did. We just want a fair shot at this. We want to know what he's going to do and how it's going to affect us, and we don't know at this point because he's not given anything -- giving us anything to look at to say, this is what I'm doing. Everything is conceptual.

Thank you, and thank you for all your hard work.

CHAIRMAN STRAIN: Thank you.

Any other registered speakers, Ray?

MR. BELLOWS: No other speakers.

CHAIRMAN STRAIN: Is any member of the public here -- sir, just be patient. Any member of the public here who has not spoken that would like to speak? Please raise your hand if you are.

(No response.)

CHAIRMAN STRAIN: Okay. No other public speakers. And then what we'll do is we're going to have a rebuttal opportunity by the applicant as we typically do, but it's a good time for a break. So let's take a break till 10:35. That's 15 minutes. Then that way the court reporter can rest her fingers.

(A brief recess was had.)

CHAIRMAN STRAIN: Welcome back from the break, everyone. We're going to resume the meeting where we left off, and that was with the opportunity for the applicant to rebut any testimony or comments that they heard prior to just now.

So, Jeff, if you're going to be leading the charge, it's all yours.

MR. WRIGHT: Okay. Thank you, Mr. Chairman.

Again, Jeff Wright for the applicant.

We listened intently to the comments from the public, and we've been hearing them for many months now. Beginning last year we offered to meet with them. We met with them in the neighborhood information meeting and then again a followup meeting to show them a little bit more detail on our plans. We tried to get an understanding of where we can meet in the middle, and we have tried to be good neighbors in that regard and find out what would be acceptable to them.

One thing I want to highlight is this is still going to be mixed use. It's still going to meet the intent of mixed use. Residents can walk into the goods and services that are located within the mixed-use PUD and to Winn-Dixie and the Mission Hills restaurants and shopping centers there. It's very much meeting the intent of the GMP. Your staff agrees.

One important thing I want to point out, highlight, is that by eliminating one of the existing deviations, we are making this project more compatible -- more compliant with the Land Development Code. Also, by reducing the number of units and committing to residential in this location, we're making it more compatible with the neighbors to the north.

I heard a comment that -- I think it was Commissioner Fryer said that he didn't see any benefit to the

county or to the neighbors, and I just wanted to point out that having an adjacent property become more compliant and more compatible with your property is a good thing. And also, the county, you hear it all the time, there's a shortage of housing. And, in fact, this week I heard Charles Chapman, the city manager for the City of Naples, saying they have a critical need for housing. A lot of Naples employees don't even live in Collier County. They come from Lee County. So they're looking for housing.

There's a critical demand for exactly this type of housing. And I think in that regard it would be a benefit to the county to meet that demand, not to mention the increase in taxes that would result from having this property developed versus vacant.

So those are just some of the things I wanted to point out. We're here to answer any questions, but I just wanted to make sure that the Commission was aware that this is a more compliant, more compatible project, and your staff agrees with us.

Thank you.

CHAIRMAN STRAIN: Okay. Questions from the Planning Commission on rebuttal? Anybody?  
(No response.)

CHAIRMAN STRAIN: Okay. Jeff, thank you. I think that's all we need.

MR. WRIGHT: Thank you.

CHAIRMAN STRAIN: Your -- sir?

MR. CIOFFI: Ralph Cioffi. I just want to clarify one thing that Terrie said. The patios will be buffered, and they will be landscaped. And we added the patios to deal with the ground-floor units where those people would have an ability to walk out of the units and sit on a patio. We also added dividing walls between each unit. So each unit will have a separately buffered patio. It will be south side of the building, not on the north side.

And then the last point I'd make is she kept -- Terrie kept referring to they, they, they. I had nothing to do with the commercial that Welsh Company built. They negotiated the permitted uses. This is really my first time here. So I'm not the cause of any of their previous issues.

CHAIRMAN STRAIN: Okay. Karl?

COMMISSIONER FRY: Mr. Cioffi, I guess this question is for you. What -- you know, the concerns of the residents -- and in our packet there are 230 pages of -- and there may have been a boilerplate, but 230 pages of objections from the neighbors.

And so I came into this wondering, what is -- why so much -- and I think Commissioner Schmitt summed up my question when I walked in. Why so much angst from the neighborhood on what seems like the same number of units and -- you know, why would they be upset?

So I've been trying to glean what are their main objections, and I think it's partly that they believe there's a change in the nature of it from a Mercato type of thing where you can float all the buildings, and there might be residential up above, which is kind of a cool feel.

The change in the nature of the part north of Vanderbilt Way, which was supposed to be services and offices, that type of thing, and they have a storage unit and now apartment complex. I feel like one of the main concerns they expressed is the parking in the back, the additional traffic and parking in the back, garage entrances in the back.

I guess my main question for you is, why the change? Why did you find the change necessary from what was in the GMP and the PUD with the commercial on the first floor to the fully residential apartments? The difference to you is, as you said, about 10 units -- oversized units with patios and garages on the first floor versus commercial. So why is it so important to you as a developer to do it this way rather than what was in the original plan?

MR. CIOFFI: Well, I don't believe there's a need for more commercial there, number one. I want it to be all residential. I just thought it was a better project for the community than adding more commercial on the ground floor.

And, by the way, there's no minimum amount of commercial that has to be put on the ground floor. And so -- and if I did build the commercial on the ground floor, I'm still going to have up to 58 units on the top two floors.

As a developer and an owner, which I will be -- I'm not selling this or flipping it -- I felt the apartment building, the 53 units, was something that was -- call it more compatible. I just thought it made a hell of a lot more sense for the community and what I wanted to own long term. I didn't want to deal with commercial. And there's so much commercial already on that corner and in front of my property.

COMMISSIONER FRY: So you're saying that you could -- you felt you could have put commercial on the first floor and then 58 additional units on the second and third?

MR. CIOFFI: Well, yeah. The PUD allowed me to do that without having to, you know, make any changes.

COMMISSIONER FRY: Without having to be here.

MR. CIOFFI: Exactly.

COMMISSIONER FRY: Thank you.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. Do you have something you want to say before I close the public hearing?

COMMISSIONER FRYER: No.

CHAIRMAN STRAIN: With that, we will close the public hearing, and I'll turn to discussion with the Planning Commission members. I do have a list of items that we've discussed at some point. If someone wants me to read that, I'll be glad to. But in the meantime, Joe.

COMMISSIONER SCHMITT: Just a discussion on mixed use. And I appreciate the comments that were made regarding mixed use and in comparison to the Mercato and other developments such as Orlando and elsewhere. But the real issue with mixed use, it has to be in the right location, and there has to be a draw. The Mercato certainly was built, and the restaurants there, what drew the population to go there, the public to go there. In fact, they really did have a difficult time selling the units. They didn't have a difficult time in selling the commercial area.

I would think if this stayed mixed use and there were restaurants below, it would be probably even far more obtrusive than residential units. I really find no problem with having this become simply a residential building. I don't see it as any detrimental impact. And, as far as I'm concerned -- I'll hear Mr. Strain's list. I won't add to it because I know he's taken meticulous notes, but I find no problem in approving both petitions as proposed, subject to the amendments or the discussions from Commissioner Strain.

CHAIRMAN STRAIN: Ned.

COMMISSIONER FRYER: I'd like to perhaps ask you, Mr. Chairman, to revisit, to the extent of your recollection, what was behind the explicit parenthetical that found its way into the GMP. I understand that usually we don't get that specific, but it stuck out to me that since -- in view of the fact that we don't usually get that specific there, that we did, that there must have been some intentionality or some thought process behind it that would be lost if we remove that language. Could you help me?

CHAIRMAN STRAIN: Now, remember, last meeting I couldn't remember who I even talked to when I came into the meeting, so you're at risk here.

It was, what, 13 years ago, 2005? Yeah. So it's been a long time. At that time -- I think I was chairman at that time. That was the first or second year I became chairman, and Brad Schiffer was one of the members of our Planning Commission, and he was an architect. So we got through a lot of discussion on the project, and they didn't have a neighborhood around it like it does today. It was more sparsely built out.

And as we were wrapping up, they talked about the commercial uses, and Brad brought up the idea that, well, we ought to encourage mixed use, and this would be an opportunity to do it. Even though the developer didn't ask for the density, why don't we allow them to add the density as residential units and let them do it above the commercial. That way it still stayed commercial, and they had the mixed-use ability.

That, basically, is the extent I can recall it. I remember the developer saying -- when we asked the developer if they had any objection to that -- and I think it was almost comical, why would we object to adding something to our PUD or something -- some term like that. So in the end that's how it all happened. It was pretty

informal.

COMMISSIONER SCHMITT: Mark, I'll follow up on that. I was the administrator for Community Development at that time. And we had just been through the Community Character Plan, as David remembers, and Ray, and -- much of the Community Character Plan, and there was significant promotion of mixed-use developments in the Community Character Plan.

Brad brought it up as part of the Planning Commission, and exactly right. I remember this. He said -- and everybody said, yeah, okay, we'll add it. And there was no objection. It was simply just more, I think I remember, in trying to meet some of the objectives of the Community Character Plan.

CHAIRMAN STRAIN: Yeah. That's how it came -- that's how I recall it. I mean, it wasn't as stringent of an idea as far as development standard that we're talking about now, but it was just something that we thought would be a good thing to add to incentivize it.

David?

MR. WEEKS: I could just comment along with what Commissioner Schmitt said that that was something that was being brought up. This isn't unique. This is not the only subdistrict that has the allowance for residential. As others came in either new or for amendments, that was something that was on the radar. I cannot answer the specific question of why it's referred to as a mixed-use building.

COMMISSIONER FRYER: That's helpful. Thank you.

CHAIRMAN STRAIN: Anybody else? Karen.

COMMISSIONER HOMIAK: In 2005, there were 64 units, so they're dwindling away.

CHAIRMAN STRAIN: I didn't remember the number. I don't even know how we got at the number, to be honest with you.

Stan.

COMMISSIONER CHRZANOWSKI: As the former county engineer and development review manager, I kind of remember some of the early discussions where -- sorry -- where are we going to put mixed -- not mixed use, but where are we going to put high-density residential apartments, and somebody said, why don't we put them over commercial like everybody else does.

COMMISSIONER SCHMITT: Right.

COMMISSIONER CHRZANOWSKI: Because at the time we weren't allowing anything like that. And everybody was like, oh, yeah, it's a great idea. And then all of a sudden it started getting to be, well, let's do real high-class residential over commercial. But at first we were just looking for someplace to put residential.

COMMISSIONER SCHMITT: Right.

CHAIRMAN STRAIN: Okay. Anybody else? Karl?

COMMISSIONER FRY: Yeah. I guess I look at our job here as balancing. If an amendment is to be made to the management plan, there should be a reason. The neighborhood is saying that they bought based on what they assumed would be there based on what was in the plan, so there should be a justifiable reason to change it.

We owe the neighborhood to listen to the concerns, but I think our job up here also is to balance whether -- ultimately, what is the impact to the neighboring neighborhood if this plan is approved. You have -- I mean, I see both sides of the coin. I'm a little bit torn on this -- but both sides of the coin. You've got less commercial than you would have had if the PUD was built out. You have less residential than you would have had if the PUD was built out.

You have -- even if you had units on the second and third floor, you still have those same issue with people spilling out into the field with their pets, their kids playing. You just have 10 less units which would be replaced by commercial.

The only real difference I see if you've got parking on the back of the building and maybe cars entering in the back and maybe less -- a couple less restaurants or offices that you might visit.

So I think the -- it's difficult to see, for me, a real detriment to the community if this goes in. And sitting up here -- I'm the newest member. Sitting up here I see people coming come in, and we have to try to evaluate whether the perceived detriment to the neighborhood is really what it is or whether it might be less than intended.



I'm tending to believe that the detriment to the neighborhood, if any, is less than, perhaps, is perceived. And I look at this in my own neighborhood as well.

And this developer is not the same owner that you've been dealing with for the last few years. He's a new owner, as I understand. So I'm tending to support this as being a somewhat nonmaterial change that actually reduces the density that would have been allowed in the PUD.

CHAIRMAN STRAIN: Well, if no one has any other comments, I can go ahead, and I'll read the stipulations that I've been acquiring as we've been talking.

There's seven of them: The first one would be a 12-month rental period would be minimum. Second one, the garages will be provided for the ground-floor units. Third one, units with two to three bedrooms -- will all have two to three bedrooms. The two-bedrooms units will be a minimum of 800 square feet. The three-bedroom units will be a minimum of 1,200 feet.

There will be no exterior balconies. The unit count will be reduced from 58 to 53, and that -- and this one needs to be worked out a little bit before it gets to the Board of County Commissioners, and I'm going to state that: If all residential is built on Lots 5 and 6, the remaining commercial would not be built outside of that currently approved on the remaining sites subject to developer verification of actual square footage reduction at the BCC meeting.

And the reason I worded it that way is because I don't know how accurate the number I used that's in the current CTS program. Knowing Laurie, it's probably pretty accurate. But I would also suggest in looking at this from a practical viewpoint, the developer would be probably wrong to give up the exact number of square footages left, because what if they have a little bit remodeling or a little expansion on something that they can do within the development standards that are there?

So my suggestion would be probably about 5,000 square feet less than what the actual number is. That leaves a little play room for future as the years go on. But, anyway, that's part of the discussion.

And the last item on No. 7, the ground-floor patios that are going to be provided are all going -- will not be -- will be on the south side of the building.

And that's the comments I heard from the developer, and those are the -- that's a followup also from the NIM. That's everything I heard us really hit on other than -- well, that's just about it.

So does anybody have anything that they think needs to be added, changed, or modified? And if not, then is there a motion for any -- for or against?

COMMISSIONER FRY: I would yield to you in terms of language of this, but I know one of the concerns of the residents was the lighting spilling over into Black Bear Ridge. Can we do anything in that regard --

CHAIRMAN STRAIN: We could, but it's not necessary. Let me read to you what's in the document: 5.15, lighting. Lighting provided at the rear of any building and structure adjacent to Black Bear Ridge subdivision for developments on Lots 5 and 6 as shown on the Vanderbilt Commons Subdivision plat recorded shall be in the form of shielded structure mounted sconces. These shielded structures will be placed no higher than 10 feet measuring from the finished floor of the building or structure. The areas identified shall be free of pole lighting. So what else --

COMMISSIONER FRY: Thank you.

CHAIRMAN STRAIN: I mean, that seems pretty practical. That was worked out the last time we had this discussion.

COMMISSIONER FRY: You were prepared for that question.

CHAIRMAN STRAIN: Yes, I heard it asked.

Anybody else?

(No response.)

CHAIRMAN STRAIN: Is there -- Tom?

MR. EASTMAN: Do the landscape supplements remain aspirational?

CHAIRMAN STRAIN: You know, Tom, with 280 feet of preservation, I'm not sure what good another bush and a 15-foot buffer's going to be worth. So I'm not -- I don't see that as a practical solution to anything, so I

wasn't going to go there.

Anybody else? Is there a motion to either --

COMMISSIONER SCHMITT: I make a motion to approve both the Growth Management Plan and the PUD subject to the stipulations as proposed by Commissioner Strain.

COMMISSIONER DEARBORN: Second.

CHAIRMAN STRAIN: Motion made and seconded. Is there any further discussion?

COMMISSIONER FRYER: This would not need to come back by consent, would it?

CHAIRMAN STRAIN: No.

COMMISSIONER FRYER: Would you be able to review it?

CHAIRMAN STRAIN: I will -- yeah, the staff will have it to me for review of the language I just wrote that we just read.

COMMISSIONER FRYER: Thank you.

CHAIRMAN STRAIN: Any further discussion?

(No response.)

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRY: Aye.

COMMISSIONER FRYER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER DEARBORN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0.

Thank you all for your attendance today. I'm sorry. That was for -- Joe, that was for the GMP amendment, right?

COMMISSIONER SCHMITT: Well, I said both at the same. We want to take a second vote?

CHAIRMAN STRAIN: Well, we should revote on them separately. Let's just do it one more time. The GMP is PL20180003372. The motion would be the same as you just previously made?

COMMISSIONER SCHMITT: Yes.

CHAIRMAN STRAIN: Seconded by Pat?

COMMISSIONER DEARBORN: Second.

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRY: Aye.

COMMISSIONER FRYER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER DEARBORN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries.

MR. WEEKS: I don't think you would want to include those stipulations in the GMP amendment.

COMMISSIONER SCHMITT: Right, in the GMP amendment, we would --

CHAIRMAN STRAIN: To the effect they're needed. If there's density listed in the GMP, this would have to revise that density, and we usually do it to the effect it's needed, so...

And the second item is PL2018003366. It's the PUD ordinance. Is there a motion based on the previous

reading?

COMMISSIONER SCHMITT: Yes, I make the motion.

CHAIRMAN STRAIN: Seconded by Pat?

COMMISSIONER DEARBORN: Second.

CHAIRMAN STRAIN: All in favor?

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRY: Aye.

COMMISSIONER FRYER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER DEARBORN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0 on both counts.

That takes us to the new business. There's none listed.

Old business. Anybody?

(No response.)

CHAIRMAN STRAIN: Is there any public comment?

(No response.)

CHAIRMAN STRAIN: Hearing none, I know you don't -- I don't have to do this, but I'd like a motion to adjourn.

COMMISSIONER DEARBORN: So moved.

COMMISSIONER FRYER: So moved.

CHAIRMAN STRAIN: Second?

COMMISSIONER FRY: Second.

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

COMMISSIONER CHRZANOWSKI: Aye.

COMMISSIONER FRY: Aye.

COMMISSIONER FRYER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER DEARBORN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: We're out of here. Thank you.

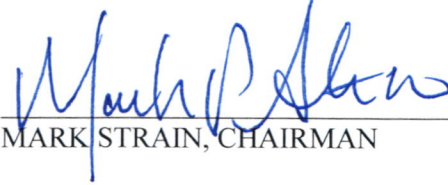
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August 15, 2019

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 10:54 a.m.

COLLIER COUNTY PLANNING COMMISSION

  
MARK STRAIN, CHAIRMAN

These minutes approved by the Board on 9-19-19, as presented  or as corrected \_\_\_\_\_.

TRANSCRIPT PREPARED ON BEHALF OF U.S. LEGAL SUPPORT, INC., BY  
TERRI LEWIS, COURT REPORTER AND NOTARY PUBLIC.