

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida, October 15, 2020

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:

Edwin Fryer, Chairman  
Karen Homiak, Vice Chair  
Karl Fry  
Joe Schmitt  
Paul Shea  
Robert L. Klucik, Jr.  
Christopher T. Vernon  
Tom Eastman, Collier County School Board Representative

ALSO PRESENT:

Raymond V. Bellows, Zoning Manager  
Anita Jenkins, Interim Director  
Jeremy Frantz, Land Development Code Manager  
Jeffrey Klatzkow, County Attorney  
Heidi Ashton-Cicko, Managing Assistant County Attorney

PROCEEDINGS

CHAIRMAN FRYER: Good morning, everyone. Take your seats. And welcome to the October 15, 2020, meeting of the Collier County Planning Commission.

Will everybody please rise for the Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN FRYER: Will the secretary please call the roll.

COMMISSIONER FRY: Thank you, Mr. Chairman.

Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER FRY: Mr. Shea?

COMMISSIONER SHEA: Here.

COMMISSIONER FRY: I'm here.

Chairman Fryer?

CHAIRMAN FRYER: Here.

COMMISSIONER FRY: Vice Chair Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER FRY: Mr. Schmitt?

COMMISSIONER SCHMITT: Here.

COMMISSIONER FRY: Mr. Vernon?

COMMISSIONER VERNON: Here.

COMMISSIONER FRY: Mr. Klucik?

COMMISSIONER KLUCIK: Here.

COMMISSIONER FRY: Mr. Chair, we have a quorum of seven.

CHAIRMAN FRYER: Seven. A full house. Thank you, Mr. Secretary.

So now we want to find out if there are any addenda to the agenda, and I believe there are. And I believe Mr. Frantz is going to present on that.

Jeremy?

MR. FRANTZ: Good morning. Jeremy Frantz, for the record.

These items were noted on the agenda, but just for everyone's awareness: Item 9A3 is going to be heard at 3:00 p.m. today. Items 9A4 and 9A5 are being continued to the November 5th Planning Commission meeting.

CHAIRMAN FRYER: Okay. Is there a motion to continue those last two items?

COMMISSIONER HOMIAK: I'll make a motion to continue the last --

COMMISSIONER VERNON: Vernon seconds.

CHAIRMAN FRYER: Any further discussion? If not, all those in favor, please say aye.

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously.

Thank you, Mr. Frantz.

All right.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, sir.

COMMISSIONER KLUCIK: I realize we can't really speak to each other in between meetings, and so I would like to propose something, and I'm sorry to catch you by surprise. But could we have a prayer before our meeting?

CHAIRMAN FRYER: What's the wish of the Planning Commission?

COMMISSIONER HOMIAK: No.

CHAIRMAN FRYER: I'm pretty neutral on it.  
County Attorney?

MR. KLATZKOW: Your problem with a prayer is that the Board of County Commissioners are falling within some rather strict guidelines based on federal court decisions where we have rotating clergy come through, and that practice has been upheld. Unless you guys are going to want to start getting rotating clergy come through your Planning Commission, it's a terrible idea.

COMMISSIONER KLUCIK: Okay. Mr. Commission, then I just say I would like to ask the Lord to bless our proceedings here; that they be for the common good of our county.

MR. KLATZKOW: Okay. I understand what you're doing, and --

COMMISSIONER KLUCIK: And I'm done.

MR. KLATZKOW: No. I appreciate that, but when you're doing that, you don't get the emails that the commissioners get from all these First Amendment types, all right.

COMMISSIONER KLUCIK: I've already said my prayer.  
(Simultaneous crosstalk.)

MR. KLATZKOW: I understand that, but what I'm asking you is please don't do that.

CHAIRMAN FRYER: Okay. Planning Commission absences. Our next meeting is on November 5. Does anyone know whether he or she will not be able to attend that meeting?

(No response.)

CHAIRMAN FRYER: Good. Looks like we'll have another full house.

Then we will be meeting -- our second November meeting will be on November 19, 2020. Same question: Does anybody know that they will not be able to be here?

(No response.)

CHAIRMAN FRYER: Excellent. Perfect.

Approval of minutes; we don't have any minutes before us at this time.

The Chairman's report; I have none today.

There's no consent agenda.

So we'll go right into public hearings.

\*\*\*The first matter is the continuation of the One Naples small-scale Growth Management Plan amendment and Mixed-Use Planned Unit Development.

These are companion items, and their numbers respectively are PL20190000696 and PL20190000697.

All persons wishing to testify in this matter please rise to be sworn in by the court reporter.  
(The speakers were duly sworn and indicated in the affirmative.)

CHAIRMAN FRYER: Thank you.

Ex parte disclosures from the Planning Commission. And I think what we're asking for, unless the County Attorney corrects me, is just disclosures about communications that you've had since our previous meeting, if any.

COMMISSIONER SHEA: Communications with staff, citizens.

CHAIRMAN FRYER: Thank you.

COMMISSIONER FRY: Ditto.

CHAIRMAN FRYER: And I'll say ditto to that.

COMMISSIONER HOMIAK: Just emails.

COMMISSIONER SCHMITT: And I failed to disclose prior to the last meeting I did

have a conversation with Tony Pires and --

MS. SPECTOR: Sarah Spector.

COMMISSIONER SCHMITT: -- Sarah. Sorry. I couldn't remember your name, Sarah, I apologize. And I did have some discussion as well prior to the meeting with Jim von Rinteln and Elizabeth about floodplain management.

CHAIRMAN FRYER: Thank you.

Commissioner Vernon.

COMMISSIONER VERNON: Yes. I had a conversation on the way out of the last meeting, the first and only conversation I've had with counsel for the developer of the project. We spoke on the way to the parking lot. I met with staff, lengthy conversations with staff, and I read some additional emails of some of the objectors to the project.

CHAIRMAN FRYER: Thank you.

Commissioner Klucik.

COMMISSIONER KLUCIK: None.

CHAIRMAN FRYER: Thank you. I'm not sure that -- as a matter of practice we usually don't disclose, but I know some other boards do; for instance, the City of Naples. And in this case I want to make particular note of the fact that I've made several site visits since this matter first came before us and, therefore, I'm completely familiar with the site.

All right.

MR. EASTMAN: Mr. Chair, I had no disclosures other than the email that were sent in objection. I did receive a few of those.

CHAIRMAN FRYER: Thank you, Mr. Eastman.

All right. When we left off, Mr. Yovanovich was cross-examining Mr. Sabo and so, Mr. Yovanovich, is your cross-examination complete?

MR. YOVANOVICH: My understanding -- I don't know if this is on or not.

COMMISSIONER KLUCIK: Mr. Chairman.

CHAIRMAN FRYER: Yes, sir.

COMMISSIONER KLUCIK: Just before that begins, if -- is Jeremy here or someone who can get me my password for the network here? Thank you.

CHAIRMAN FRYER: Sure.

MR. YOVANOVICH: My understanding, I think, is Mr. Sabo is going to provide some additional testimony, so I think it would be appropriate for me to wait to see if that additional testimony elicits any further cross-examination, if that's acceptable.

CHAIRMAN FRYER: Acceptable with me. What about the Planning Commission; anybody object?

(No response.)

CHAIRMAN FRYER: Okay. Without objection, that's how we'll proceed.

Mr. Sabo, you're recognized, sir.

MR. SABO: Thank you, Mr. Chairman. James Sabo, Certified Planner with the county. Just a couple of things. I'm going to provide a little bit of clarification on the recommendation, and then the applicant did provide us with additional information regarding the building heights north of the intersection of Gulf Shore Drive and Vanderbilt Beach Road.

Again, the Growth Management Plan amendment, 16 acres is what our -- or 16 units per acre is what is allowed now for density. They're going to 31.7.

Let's see. I'm going to skip the summary findings.

All right. This is the information that the petitioner had provided. These are the additional building heights in the area north of the intersection of Gulf Shore Drive and Vanderbilt Beach Road. This was emailed to you; yesterday, I believe we sent this information out. And I won't review all the building heights. But if you have specific questions about a particular

building, I'd be glad to answer them, and then I'm sure the petitioner has information as well.

But this goes all the way up to the La Playa building and then south down into Pelican Bay, Bay Colony as well.

The recommendation, just to clarify, maximum building height in Tract 1 could be increased to 125 feet zoned if they use step-back architecture on the upper floors, okay. So that's one part of the recommendation. The other part is the building setbacks for all tracts is 25 feet except the minimum setback for Tract 1 can be reduced to 15 feet if street-level pedestrian commercial uses are within a building at the intersection.

So if the applicant does not want to activate the street or have commercial uses at the first floor, they are free to use the 25-foot setback in C-3. So just to clarify that recommendation.

CHAIRMAN FRYER: Thank you, sir.

Commissioner Shea.

COMMISSIONER SHEA: Yeah. This -- I wanted to get in before we started this, but I want to understanding the proceedings. If we reject the growth management, does that automatically reject the zoning request change or --

CHAIRMAN FRYER: I don't believe there could be a rezone without a GMP amendment.

COMMISSIONER SHEA: That's what I thought. Okay.

CHAIRMAN FRYER: Thank you for the clarification.

Anybody else from the Planning Commission have a question of Mr. Sabo at this time? I do.

Mr. Sabo, if memory serves, it was my question, and the question was, would someone provide us with height and setback numbers for 270 degrees -- or 180 degrees, I guess, of distance from the subject site. And I saw this material which complied with half of my request. So thank you for the preparer of this material to have furnished it, but just as important is setback material. Now, as I mentioned earlier, I visited this site three or four times since this matter before us, and the most recent time I made a special effort to observe the setbacks not only in the Pelican Bay area, but also in the Vanderbilt Beach area. And it seemed to me, although the numbers varied somewhat, that the average setback would be what I would say -- this is a layman's eye -- at around 50 feet or so. Would that be a fair ballpark, Mr. Sabo?

MR. SABO: Yes, Mr. Chairman, that would be reasonable. We were able to find SDP information on some of the sites. I think they're in the staff report. Most of the setbacks are about 50 feet. There's some older buildings that may be closer. The Lighthouse Inn is obviously closer. But, generally, it's about 50 feet.

CHAIRMAN FRYER: And I guess I was talking particularly about tall buildings, buildings over 14 or 15 stories. They -- pretty much all of them seem to be set back well beyond the 25 feet.

MR. SABO: That is correct.

CHAIRMAN FRYER: Okay. Thank you.

Mr. Yovanovich, did you rise to cross-examine?

MR. YOVANOVICH: No, not you. But my --

CHAIRMAN FRYER: Before you do --

MR. YOVANOVICH: I was just going to give you the update on where we are with the setback data that you asked for.

CHAIRMAN FRYER: Thank you.

MR. YOVANOVICH: Obviously, it's a little bit of a task to get a drone out there. The height part was easy.

CHAIRMAN FRYER: Yeah.

MR. YOVANOVICH: Getting the drone information and comparing it to where the

actual road right-of-way is to verify setbacks takes a little bit longer. We will have that information for you truth, ground-truthed, because we didn't want to give you any incorrect information, at our rebuttal hearing on November 5th.

CHAIRMAN FRYER: All right.

MR. YOVANOVICH: Because we want accurate information on the record. We don't want -- we don't want guesses or guesstimates as to where the buildings really are. So you asked us to do that. We have tasked our people to do that. We've accumulated the data. We are now ground-truthing it to make sure that the setback information is accurate.

CHAIRMAN FRYER: Okay. Thank you.

And before I call on you, Commissioner Fry, Mr. Yovanovich, I have -- I have been informed that that are considerably fewer members of the public who have registered to speak, and it's -- I think we ought to take a count of the possibility that we could finish this today. I assured you that we would not interrupt your rebuttal, and I'll stand by that. But if you had sufficient time to conduct a rebuttal today, would you be able to finish, or are you quite sure that you couldn't?

MR. YOVANOVICH: I never say never, but if I were a betting man, I could not finish today.

CHAIRMAN FRYER: Okay. That's fair enough. Thank you very much.

I'm going to ask Ms. Jenkins -- and you don't need to come up here necessarily. But the AUIR matter, could it start earlier today if -- in the interest of efficiency, efficient use of time?

MS. JENKINS: (Nods head.)

CHAIRMAN FRYER: Okay. You're nodding yes, okay, and thumbs up. Thank you very much. That would be good.

All right. Mr. Yovanovich, did you have any further cross of Mr. Sabo at this time?

COMMISSIONER FRY: Do I get to ask?

CHAIRMAN FRYER: Oh, I'm sorry. Pardon me. Mr. Fry has a question of long standing. And my apologies, sir.

COMMISSIONER FRY: Thank you, Mr. Chairman.

Mr. Sabo, compatibility was certainly one of the criteria that you evaluated the project based on. Now we have additional information with the building heights and densities as shown north of the intersection. That was in the backup materials but only really shown this morning for the first time for the public.

To what -- to tell me the range, the distance from a subject property you look at compatibility, as well as the relative weights you give to the Vanderbilt Beach north side versus the Pelican Bay properties to the south side.

MR. SABO: Thank you, Mr. Fry. That's a good question.

What I did in my compatibility analysis was to use the neighborhood north of the intersection of Gulf Shore and Vanderbilt Beach Drive. I went about a thousand feet; this is the number I used to provide for adjacency. I didn't go much further. The -- there's about -- there's about 12 buildings or so that I included in my compatibility analysis. They include The Dunes, The Dunes Villa, Sausalito, Watermark, Vanderbilt Beach Harbor, Vanderbilt Beach Hotel, Buzz's Lighthouse, the Phoenician, and that was about it. I did -- I understand that the Regatta is nearby, but I didn't include it in that immediate neighborhood.

COMMISSIONER FRY: Why not? Why did you not include Regatta?

MR. SABO: It's across the canal. So it was -- well, it is -- it is about the same as the Beachmoor. I just -- I just didn't include it based on the immediacy of the buildings in that area. I went -- I went north and west.

COMMISSIONER FRY: What did you find in terms of buildings within that thousand-foot range that were of a height beyond the height of the Beachmoor -- the 120 -- 125-foot level? Were there -- how many buildings were higher than that?

MR. SABO: None. The Beachmoor was the highest, the second was the Vanderbilt Beach Hotel at 100, and the others are 66, 46, 64, and that's -- there really wasn't anything higher.

COMMISSIONER FRY: Did you mention The Dunes?

MR. SABO: The Dunes.

COMMISSIONER FRY: Isn't The Dunes -- you said a thousand feet, but The Dunes is north of Immokalee or Bluebill, correct? That seems like that would be a lot farther range, and the Vanderbilt Beach Hotel is now renamed -- I think that's at the northern end of Vanderbilt -- or Gulf Shore or north, or am I thinking of different projects than you're referring to?

MR. SABO: Perhaps different projects.

COMMISSIONER FRY: Okay.

MR. SABO: The Dunes -- it's The Dunes beach access building, which is a one-story.

COMMISSIONER FRY: Oh.

MR. SABO: It's about 39 feet high, one story. It's their access to the beach. And then The Dunes Villas is across the street. That's two stories, 24.

COMMISSIONER FRY: Thank you. I was thinking of The Dunes, the high-rise project that's north of Immokalee and off Vanderbilt Drive.

Okay. So even though you did not include Regatta, the Beachmoor is approximately a similar height to Regatta --

MR. SABO: Correct.

COMMISSIONER FRY: -- so it would not -- would not materially impact your assessment of building height compatibility, correct?

MR. SABO: Correct.

COMMISSIONER FRY: Okay. All right. Thank you.

CHAIRMAN FRYER: Any other questions at this time?

COMMISSIONER VERNON: I have some, Mr. Chairman --

CHAIRMAN FRYER: Yes, Commissioner Vernon.

COMMISSIONER VERNON: -- super basic questions and I knew this and now I forgot, and either one of you can answer. What is the proposed zoned height of One Naples?

MR. SABO: Zoned height is 18 --

CHAIRMAN FRYER: Five, I think, isn't it? 185?

COMMISSIONER VERNON: And your presentation talked about zoned height, right, of 125?

MR. SABO: We corrected that to 125 actual height.

COMMISSIONER VERNON: Zoned -- oh.

CHAIRMAN FRYER: Yeah, that was corrected. The slide was in error.

COMMISSIONER VERNON: Oh, I'm glad I asked the question, because I read the slide. It said zoned height. It said 125 actual height.

CHAIRMAN FRYER: Mr. Sabo corrected it to actual, yeah.

COMMISSIONER VERNON: And then going back to One Naples, that -- what's the actual height of One Naples proposed?

MR. SABO: 208.

COMMISSIONER VERNON: Got it. Okay.

And then the other thing is, Mr. Yovanovich was trying to answer one of the Chairman's questions. When you talked about the drones, Mr. Yovanovich, you were talking about the drone -- you're looking at the current setback to give that information to us? The current -- of the current buildings. That's what you were looking at?

MR. YOVANOVICH: Yes, sir. We did actual height, because we obviously can't tell zoned height from the drone, and we were going to give you actual setbacks.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, sir. Commissioner Klucik.

COMMISSIONER KLUCIK: Okay. So the 143, that's the Vanderbilt Beach Hotel, 143 actual height?

MR. SABO: That's what they have. Our SDP research was 100. So I -- they used a drone.

COMMISSIONER KLUCIK: Okay.

MR. SABO: Is that correct, Mr. Yovanovich? You used a drone for these actual building heights?

MR. YOVANOVICH: Yes, sir.

MR. SABO: Okay. So I can't speak to how the SDP reflects versus the actual height from the drone, but I would -- if they verify -- if their third-party drone research can verify the height at 143, then it's 143.

COMMISSIONER KLUCIK: And is it correct that that's slightly north of One Naples?

MR. SABO: Correct.

COMMISSIONER KLUCIK: So we have a building that's more than the 125 actual -- well, theoretic -- well, supposedly, if the 140 number -- 143. If that 143 number is accurate, then would there be a reason to not increase your actual height recommendation to whatever that actual height is?

MR. SABO: No. I'm comfortable with it at 125. It reflects the immediate adjacent.

COMMISSIONER KLUCIK: No, that wasn't my question. Would you -- would you object to the 143? I mean, is there a reason that you would suggest that it wouldn't -- that it would be less than a building that actually already blocks the view of everybody and is already closer to the beach more than -- and I would say if you're objecting to high-rise development, you know, the 143 is a -- more than -- impacts negatively from that perspective more than the 125 that you're suggesting.

MR. SABO: Yeah. I understand the question.

COMMISSIONER KLUCIK: Okay.

MR. SABO: And I would probably need some more time to reflect and, you know, dig a little bit more in terms of my research --

COMMISSIONER KLUCIK: Sure.

MR. SABO: -- based on the disparity of the information and actually to verify that information.

CHAIRMAN FRYER: I think it's fair that we would also want to await the setback information. If that building is 140-something feet, it would be nice to know how far set back it is.

Mr. Sabo, anything further, sir?

MR. SABO: I have nothing further. Thank you.

CHAIRMAN FRYER: Mr. Yovanovich?

MR. YOVANOVICH: Yeah, please. Thank you.

I just want to -- can you please put back the slide up that talked about your recommendation.

MR. SABO: This one?

MR. YOVANOVICH: Yeah. This is what you just showed this morning, correct? And it says -- the first maximum is maximum building height all tracts is 50 zoned height, 76 feet actual except Tract 1 can be increased to 125 feet zoned height. Am I misreading what your recommendation is? Because you've had two weeks to look at the slides and make sure they're right, and if there was confusion, why is it saying 125 feet zoned height this morning and you just said that's not accurate?

CHAIRMAN FRYER: Actually, that was brought up at the last meeting. Mr. Sabo corrected himself, zoned to actual.



MR. YOVANOVICH: But he again showed the slide, and he didn't correct the slide between the first hearing and the second hearing; is that correct, James?

MR. SABO: Yes. The slide is from the presentation that was done at the last meeting, and I did correct that it should have read "actual," and it was not corrected in the slide show.

MR. YOVANOVICH: I want to understand your testimony. You -- in your opinion, buildings that are a thousand feet away from this project on the north side of Vanderbilt Beach Road should be considered in your compatibility analysis, correct?

MR. SABO: On -- north of the intersection, north and west. So I used the buildings within a thousand feet on Gulf Shore and Vanderbilt Beach Road north of the intersection. I excluded Regatta.

MR. YOVANOVICH: But buildings a thousand feet away are acceptable, but Regatta, which is the project right next door, is not to be considered in a compatibility analysis?

MR. SABO: I did not consider it. It is the same height as the Beachmoor. So could I consider it? Again, if I were to reconsider and do further research, yes, I could do that.

MR. YOVANOVICH: I know you and I spoke between the first hearing and today. And I didn't want you to be ambushed, so I said, please go read Regatta. Do you remember that conversation?

MR. SABO: I did.

MR. YOVANOVICH: Did you have an opportunity to go back and read the Miralia PUD, which is the Regatta development?

MR. SABO: Yes, I did. I have it here.

MR. YOVANOVICH: So I don't want you to trust me today. I want you to look at the exact document so you can verify. We'll trust but verify what I'm going to ask questions-wise.

Before Miralia was rezoned to the Miralia PUD, what was the zoning on that property?

MR. SABO: I don't know. I don't know what the zoning was before.

MR. YOVANOVICH: Okay. Well, let's go to page -- maybe we could switch places, and I can use the visualizer so everybody can see, if that would be acceptable, Mr. Chairman.

CHAIRMAN FRYER: That's acceptable.

Do we need to clean the mics?

MR. YOVANOVICH: I guess. I trust him.

CHAIRMAN FRYER: But verify.

MR. YOVANOVICH: Can we activate the visualizer, please?

CHAIRMAN FRYER: While this is happening, could someone remind me what the actual height of Regatta is.

MR. YOVANOVICH: I can.

CHAIRMAN FRYER: Okay.

COMMISSIONER KLUCIK: And Beachmoor, too, please.

MR. YOVANOVICH: Sure. The actual height for Regatta is 148 feet.

CHAIRMAN FRYER: Thank you.

MR. YOVANOVICH: The zoned height for Regatta, as constructed, is 120 feet.

CHAIRMAN FRYER: Thank you. And there was a question about the Beachmoor as well.

MR. YOVANOVICH: And I can -- the Beachmoor, I believe, actual height is 127, but I'll ask one of my team members to verify that for me, and I'll get that -- I'll get that information for you, Mr. Chairman.

Are you ready, Mr. Sabo?

MR. SABO: I am, yes.

MR. YOVANOVICH: If you have the whole PUD, it might be helpful. But I just want to show you Page 1-3 of the PUD. I even highlighted it for you to maybe help you a little bit.

CHAIRMAN FRYER: While that's being looked at, I see that Commissioner Schmitt has --

COMMISSIONER SCHMITT: I only have a question. It's probably for James as well, because we're talking a thousand feet, yet when I go to Google Earth and I measure, basically, where I think the towers are going to be to the Ritz-Carlton, it's probably a little over 650 -- 640 feet. So I'm just confused by this thousand foot in one direction but not a thousand foot in the other direction. I --

CHAIRMAN FRYER: Well --

COMMISSIONER SCHMITT: I think that's somewhat arbitrary. And I'm not criticizing James. I'm just trying to establish why the criteria one direction not the other direction.

CHAIRMAN FRYER: Before -- before you answer, Mr. Sabo, I think it's fair to point out at the end of the day, figuratively -- not today but November 5th. At the end of the day we'll be able to determine what, in our best judgment, the proper radius is for comparison's sake.

Go ahead, sir.

MR. SABO: Yes, I understand the question. The neighborhood to the south, Ritz-Carlton, Trieste, I considered it to be a different neighborhood. I considered it -- you can't walk there. You can't get there from the Vanderbilt Beach/Gulf Shore Drive intersection. So I did not include it in my analysis.

COMMISSIONER SCHMITT: Okay. Well --

MR. YOVANOVICH: Have you ever walked --

COMMISSIONER SCHMITT: I know you can walk to the Ritz-Carlton, so -- thank you. I mean, I appreciate your analysis. I'm not going to question your professionalism in this --

MR. SABO: We can respectfully disagree.

COMMISSIONER SCHMITT: -- but thank you. Thank you. We will take this into consideration.

CHAIRMAN FRYER: I don't see any other questions at this time from up here so, Mr. Sabo, please continue.

MR. YOVANOVICH: It's my -- it was my --

CHAIRMAN FRYER: Oh, it's cross.

MR. YOVANOVICH: Thank you.

CHAIRMAN FRYER: I'm sorry.

MR. YOVANOVICH: Before I get to the PUD, I do want to follow up on Mr. Schmitt's question about the Ritz-Carlton and it's pedestrian access. I'm not asking you your -- have you ever walked to the Gumbo Limbo within the Ritz-Carlton, which is the restaurant right on the beach that the public's allowed to eat at?

MR. SABO: Are you -- is the question --

MR. YOVANOVICH: You, yes, you. I'm asking if you've ever gone up there, walked -- walked from that intersection to figure out if you can actually get to the Ritz-Carlton by foot.

MR. SABO: No, I've never done that.

MR. YOVANOVICH: Okay. So let's go back to the PUD. I asked you what the zoning was on the Miralia PUD property prior to the rezone of the property, and you didn't know. So does Paragraph 1.5 of the PUD help you to understand what the zoning was on the property prior to the rezoning to a mixed-use PUD similar to the PUD that we're trying to rezone to?

MR. SABO: Yes.

MR. YOVANOVICH: And what was that zoning?

MR. SABO: C-3.

MR. YOVANOVICH: Is that the same zoning on the property that we're trying to rezone?

MR. SABO: Yes.

MR. YOVANOVICH: And you didn't consider that to be relevant in your compatibility analysis?

MR. SABO: I did not.

MR. YOVANOVICH: Now, why don't you do me a favor, read what I've highlighted into the record.

MR. SABO: Just a question of clarification.

CHAIRMAN FRYER: Go ahead, sir.

MR. SABO: What -- I'm just trying to figure out why I would read this into the record. Is it -- is that a -- something -- I've never been asked that before, so --

CHAIRMAN FRYER: Yeah. I don't think -- I mean, if this were a purely judicial proceeding, I think that would be out of order, but it's quasi-judicial. We have rather relaxed rules of evidence. I'm inclined to say let it be read into the record if -- Mr. Sabo, if you're not comfortable reading it --

MR. YOVANOVICH: I don't want to make him uncomfortable. I'll read into the record, and then ask him a question.

CHAIRMAN FRYER: Why don't you.

MR. YOVANOVICH: Okay. Under paragraph 1.5, it says, this PUD document represents land uses, intensities, densities, and development standards applicable to development of the Miralia property which are superior to the lands use, intensities, densities, and development standards which are permitted under either C-3 -- and then it goes on, C-3 commercial intermediate zoning district on the Miralia property. Did I read that correctly?

MR. SABO: Yes.

MR. YOVANOVICH: Do you disagree with that statement from the PUD that the uses in the Miralia PUD and the development standards and the intensities and the densities --

(Cell phone rang.)

MR. YOVANOVICH: Is that you?

MR. SABO: That is not me.

MR. YOVANOVICH: Okay. Do you disagree that the development standards, densities, and intensities, et cetera, in the Miralia PUD are superior to the development standards and land uses allowed in the C-3 zoning district?

MR. SABO: I do not disagree with that.

CHAIRMAN FRYER: Would you clarify that for me, please, Mr. Yovanovich. What do you mean by "superior"?

MR. YOVANOVICH: Well, I read the words. It basically says, if you look at the Miralia PUD and you look at the development standards in the Miralia PUD, which we're going to get to next, they are superior to the development standards allowed in the C-3 zoning district.

CHAIRMAN FRYER: I just asked for your interpretation of the -- of the meaning of that word in that context.

MR. YOVANOVICH: It means that when you -- what my point is going to be is you have the Regatta project that is immediately next door to this project that has similar densities and intensities of uses to what we're requesting, that those standards, the Board has already determined, are superior to the existing C-3 zoning district standards, which Mr. Sabo testified two weeks ago he believes should be upheld in this PUD. So I'm going to go through that analysis.

CHAIRMAN FRYER: Before you do, maybe I'm the only one up here, but then are you saying -- and that's fine. I'm just trying to understand that the word in this context, "superior," means greater intensity.

MR. YOVANOVICH: It means better.

CHAIRMAN FRYER: Better.

MR. YOVANOVICH: Better.

CHAIRMAN FRYER: Okay. Thank you.

MR. YOVANOVICH: More compatible with the neighborhood.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, go ahead --

COMMISSIONER KLUCIK: I just ask clarification.

CHAIRMAN FRYER: -- Mr. Klucik.

COMMISSIONER KLUCIK: Miralia is exactly what?

MR. YOVANOVICH: Miralia is the Regatta P -- the Regatta property.

COMMISSIONER KLUCIK: Okay. So it's what Regatta was called before it became Regatta?

MR. YOVANOVICH: Correct.

COMMISSIONER KLUCIK: All right. So -- and what -- your point then is, you're pointing out that prior to the development of the Regatta, or currently that's the standard right there, what we're looking at?

MR. YOVANOVICH: I'm going to take you through the development in the Regatta PUD. But prior to Regatta coming Regatta, it was C-3 zoned property, just like our property in the same neighborhood.

COMMISSIONER KLUCIK: But then this is now the current standard.

MR. YOVANOVICH: I'm going to -- yes. When we get to the development standards, today's standards, what is applicable to Regatta we're going to get to next.

COMMISSIONER KLUCIK: No. So right now what you have highlighted, is that the current standard?

MR. YOVANOVICH: Yes.

COMMISSIONER KLUCIK: And that was approved so that Regatta could go forward?

MR. YOVANOVICH: Yes, sir.

COMMISSIONER KLUCIK: Okay. Thank you.

MR. YOVANOVICH: Yes, sir.

CHAIRMAN FRYER: Thank you.

MR. YOVANOVICH: You know, I -- if Ray wants to become a witness and testify, I'm happy with that, but I think that Mr. Sabo should -- should stand up and answer the questions --

CHAIRMAN FRYER: You've made your record that they conferred. This is -- this is not a purely judicial proceeding.

MR. YOVANOVICH: I understand. I understand. I just want -- whatever gets --

CHAIRMAN FRYER: Please continue.

MR. YOVANOVICH: Did you get an opportunity to go back and look at the height standards in the -- I'm just going to call it the Regatta PUD, because we all know it as Regatta, if everybody's comfortable with that.

Did you get a chance to go back and look at those height standards?

MR. SABO: Yes, I did.

MR. YOVANOVICH: Do you know what the height standards are in the Regatta PUD?

MR. SABO: Yes, I do.

MR. YOVANOVICH: What are the height standards in the Regatta PUD?

MR. SABO: Ten stories, 100 feet, multiple family, 50 feet, three stories for all other structures.

COMMISSIONER FRY: Is that actual or zoned height?

CHAIRMAN FRYER: It must have been zoned.

COMMISSIONER FRY: Zoned.

MR. YOVANOVICH: So let's -- actually, I'm going to put it -- I'll put it up in the record so everybody can actually see what the actual words are.

It's actually a floating standard. Multifamily is 10 stories or 100 feet, whichever is greater. So there is no maximum zoned height in this PUD. It is governed by 10 stories, correct?

MR. SABO: Correct.

MR. YOvanovich: Okay. So did you have an opportunity to go and review the approved Regatta plans to determine what the zoned height of Regatta is today based upon our definitions of zoned height that exist today?

MR. SABO: No, I did not.

MR. YOvanovich: Okay. Well, I'm going to tell you that we did, and that is -- the zoned height is 120 feet. You have no reason to believe I'm incorrect, do you?

MR. SABO: I would have to verify, but I have no reason to believe.

MR. YOvanovich: Now, what is the maximum actual height set forth in the Regatta PUD?

MR. SABO: I don't know. I don't know what the maximum actual height is.

MR. YOvanovich: There actually is no maximum actual height in the Regatta PUD, correct?

MR. SABO: I don't know that.

MR. YOvanovich: Well, you -- did you review the height standards in the Regatta PUD?

MR. SABO: I -- this is what it says. I can't answer -- I cannot answer as to what the actual maximum height is. It doesn't say what the actual maximum height is.

MR. YOvanovich: So there is no regulation as to the maximum height within the Regatta PUD, correct?

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

MR. YOvanovich: Okay. Did you have an opportunity to actually look at the minimum yard standards in the Regatta PUD?

MR. SABO: I did.

MR. YOvanovich: Now, do we all agree that the minimum yard standard is synonymous with setback?

MR. SABO: Yes.

MR. YOvanovich: What is the minimum yard standard in the Regatta PUD for a multifamily building that is 10 stories or 100 feet, whichever is greater, from Vanderbilt Beach Road?

MR. SABO: So you're asking what the front yard setback is --

MR. YOvanovich: Yes.

MR. SABO: -- in the Regatta, Miralia; 25 feet.

MR. YOvanovich: So I could have a 10-story tower at whatever height I decide the floors ought to be for the 10 stories and whatever actual height I want 25 feet from Vanderbilt Beach Road?

MR. SABO: Yes.

MR. YOvanovich: And don't have to do any stair-stepping of the building or anything of the like, correct?

MR. SABO: No. In 1996 you did not have to do that.

MR. YOvanovich: Okay. What is the height we are requesting for the tower portion -- what is the setback for the height we're requesting for on the tower portion of the One Naples project?

MR. SABO: I can't recall what -- are you talking about what the actual -- the wall of the tower?

MR. YOvanovich: No. I'm asking you the tower. Because we have two different -- in this -- do you remember in the development standards we have two different

standards.

MR. SABO: Uh-huh.

MR. YOVANOVICH: We have a standard for the parking structure, which is 35 feet tall, and then we have an actual standard for where the tower itself has to be set back and moved forward, correct?

MR. SABO: No, I disagree with that.

MR. YOVANOVICH: You wanted me to pull the PUD up for you?

MR. SABO: The -- the setback, as I understand it, as proposed, is 15 feet.

MR. YOVANOVICH: For what? For the whole thing?

MR. SABO: Fifteen feet.

MR. YOVANOVICH: So you're telling me my Development Standards Table allows the 208-foot structure to be 15 feet from Vanderbilt Beach Road?

MR. SABO: That's my understanding.

MR. YOVANOVICH: It's up on the screen, Mr. Sabo, if you want to walk a little closer. I don't know how to separate this thing yet, even after all these years, to blow it up.

CHAIRMAN FRYER: Are you -- Counselor, are you finished with the subject of Regatta?

MR. YOVANOVICH: No, I'm going to keep going back and forth. I just wanted to show the consistency between what we're requesting and what Regatta got approved.

CHAIRMAN FRYER: Well, I'm going to want to ask a question that -- and I'm going to do it right now, if you don't mind, at the risk of interrupting your -- your cross-examination.

But I think it's important for us to identify two things. First of all, we're going to wait and find out exactly how tall Regatta is. To my way of thinking, what the 1996 PUD allowed for is really irrelevant with respect to making an actual compatibility analysis with One Naples. What you want to know is what was actually constructed there and what the actual setback is.

MR. YOVANOVICH: And that is certainly your prerogative to analyze it that way, but the development standards that were approved for Regatta in 1996 assumed a building could be built 25 feet away from Vanderbilt Beach Road 10 stories in height at whatever it resulted in. Because the developer elected not to do that is a different story. And, by the way, there's still some land out there that you could build taller.

But the compatibility analysis for the neighborhood was determined by the Board of County Commissioners to allow a structure to be able to build 25 feet away from Vanderbilt Beach Road, and it could have had that. It's our position that that's the analysis for compatibility you should consider. You may feel differently, and you certainly have that prerogative. But I want to get into the record what the Board of County Commissioners assumed to be superior development standards for what should be developed in this neighborhood.

CHAIRMAN FRYER: Back in 1996.

MR. YOVANOVICH: And they have a right to maybe change that. But we're going to make sure that there's a record of what people expected to be constructed right on Vanderbilt Beach Road.

So have you had an opportunity, Mr. Sabo --

CHAIRMAN FRYER: Commissioner Vernon has a question.

COMMISSIONER VERNON: Real basic question. It's just a follow-on to what the Chairman asked, and I think I know the answer.

But, Rich, are you saying this PUD is -- the Regatta is an example of what was approved or that somehow that PUD is in some way binding on what we're doing? Just understand the difference --

MR. YOVANOVICH: I am -- I'm not saying it's binding.

COMMISSIONER VERNON: It's --

(Simultaneous crosstalk.)

MR. YOvanovich: I am saying that what we're asking for is not out of scale and character for what was anticipated to be developed in this neighborhood.

COMMISSIONER VERNON: I got it.

CHAIRMAN FRYER: But you're not saying that it's precedential in any way, are you?

MR. YOvanovich: Well, have you ever heard me say that a land-use decision is precedential and binding? Each one stands on its own. What I am trying to point out that I think, frankly, it's wrong that the county did not factor in and consider the Regatta project, which is right next door, and the development standards that were in that project in their compatibility analysis. So if -- that's what I would like to continue going forward on, if I may.

CHAIRMAN FRYER: I'd like to know, before you do, since you're going to be going back and forth, what the actual setback is at what was constructed at Regatta. Is it -- is it greater than 25 feet?

MR. YOvanovich: Yes.

CHAIRMAN FRYER: Is it greater than 50 feet?

MR. YOvanovich: I don't think the project's totally completed yet, so I don't -- I can't tell you what's going to be on the vacant parcels that still front Vanderbilt Beach Road.

If you would like to know where the towers and the setbacks are from the water and from the other -- the bottom line is this, Commissioner Fryer, the setbacks along the water, along their front yard, have been 25 feet for the tallest structures, and it was just a 25-foot setback. We can provide you with the information as to what was actually constructed.

But I really would like to be able to finish my cross-examination.

CHAIRMAN FRYER: I'm going to back out in just a moment, but I want to get this clarified. But for now you're acknowledging that the actual setback there is greater than 25 feet, and then we can find out exactly how much greater it really is?

MR. YOvanovich: I can -- you know, of course. Of course, the two towers that are right on the water are not -- they are not 25 feet on Vanderbilt Beach Road.

CHAIRMAN FRYER: Yeah. They're farther than that.

MR. YOvanovich: There's no question.

CHAIRMAN FRYER: Thank you. And I apologize for interrupting.

MR. YOvanovich: So, Mr. Sabo, have you had a chance to go back and look at the table to determine what the setback is we're requesting for our towers?

MR. SABO: Yes, I did.

MR. YOvanovich: And it is?

MR. SABO: Twenty-five feet to the tower.

MR. YOvanovich: Same setback as Regatta for the tower?

MR. SABO: Yes.

MR. YOvanovich: Bear with me. I just want to reconstruct my documents so I can pick back up where I left off.

CHAIRMAN FRYER: While you're doing that, I'm going to call on Commissioner Shea.

COMMISSIONER SHEA: Yeah. Rich, just a quick question. You might have already answered it. But what's the distance to the tower at Regatta from the proposed towers? Visually it looks like a total different neighborhood.

MR. YOvanovich: I can -- I can give you a couple of different answers that I want to do -- and I'm going from memory and, Chris Mitchell, correct me if I'm wrong. The Regatta towers are approximately 141 feet from Barefoot Pelican, which is the condominium project just over the water. And then our distance from Barefoot Pelican for our towers is -- do we have the number? I have that number, so I just -- I think -- I want to put it in context.

Our nearest tower to Barefoot Pelican is 464.5 feet, and our nearest tower distance from

Regatta is 683. And I could -- this is going to be part of our rebuttal, just so you know, so you'll see this -- Mr. Shea, you'll see this aerial with all those distances on it in the future.

COMMISSIONER SCHMITT: Paul, I did a quick analysis on Google Earth, which you can measure. Just spotting, it's a little -- it's about 1,550 feet from kind of the center mass where the buildings are to the Regatta.

COMMISSIONER SHEA: Fifteen?

COMMISSIONER SCHMITT: Yeah.

COMMISSIONER SHEA: That's a lot different from 700.

COMMISSIONER SCHMITT: Well, I just used Google Earth. I mean --

MR. YOVANOVICH: We used a surveyor.

COMMISSIONER SCHMITT: Yes, that's better.

MR. YOVANOVICH: Yeah. I think our numbers are slightly more accurate than trying to scale it off of Google Earth.

I think that's all I have for Mr. Sabo at this point. I'm probably going to call him back as part of my rebuttal.

CHAIRMAN FRYER: Will you be available for that on November 5, Mr. Sabo?

MR. SABO: November 5th, I will have already voted. Yes, I'll be available.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: So I guess I'd maybe ask for a response from each of you on this question, and it has to do with precedent. I've been on this commission for about two -- coming up on two years, and I believe I've repeatedly heard that each issue is to be evaluated on its own merits; that a decision made five years ago or last month or 20 years ago does not materially bind us to a decision on a current issue; however, I mean, in this matter, you guys -- you guys have -- definitely some back and forth here about compatibility, which direction to look, is that you mentioned the last meeting -- you were cross-examining Mr. Sabo, and it was about the Ritz-Carlton and the height of it, which is higher than what you're requesting, and so is Trieste. So you're asking, why aren't those included in the compatibility, because they were approved.

And you asked him, well, don't you think that they looked at Regatta as they evaluated and they approved the Ritz-Carlton? Was that possibly part of compatibility? And so my question -- so you can correct me if I've misunderstood.

My question is, if we look at the highest buildings in the vicinity, whatever direction it is, and we say that because that was approved and it was approved with such and such a building in place, aren't we now committing ourselves to saying yes to every building that is that height moving forward?

MR. YOVANOVICH: That is not what I said. What I said is you look at what Mr. Mulhere believes is the consistency/compatibility radius to determine whether we are consistent and compatible with what is around us. I never said that because you approved Trieste you have to give me 20 stories over two of parking. What I said is, you factor that in; does this fit in within what is in the neighborhood?

There's clearly a disagreement amongst Mr. Mulhere and Mr. Sabo and, candidly, it appears Mr. Stuart, as the expert, as to what is the neighborhood, because that's not my model. That is the model that Mr. Stuart prepared. And isn't it ironic that he included Regatta as part of the model for putting -- and he considers it part of the neighborhood. It's befuddling to me that the opposition believes that they should show you Regatta on their model but not show -- but staff doesn't believe that that should be considered.

COMMISSIONER FRY: And I think you've -- I mean, I think you've illuminated your point well, is that for us to consider --

MR. YOVANOVICH: You should consider.

COMMISSIONER FRY: Do we have the ability, sitting up here, to, you know, use the



same evaluation that you have, or to extend our evaluation to include Regatta, to include Ritz? I mean, if we have that -- we have that latitude on this board.

MR. SABO: That's correct.

CHAIRMAN FRYER: We have complete latitude.

MR. YOVANOVICH: Absolutely.

CHAIRMAN FRYER: We're the local planning agency, and we can decide what we consider to be the appropriate radius to be used in these comparisons.

COMMISSIONER FRY: So my comment really was having to do with feeling like we say on one hand that there's no precedent from prior -- prior decisions, but yet we're saying because this was approved and this was approved, it has to be factored into this decision. So I'm just trying to -- please.

CHAIRMAN FRYER: If I may, I'm going to ask the County Attorney, because we've got a few new board members here, and this is important information about precedent and the value, if any, of precedent matters before us. Mr. County Attorney.

MR. KLATZKOW: There is no precedent, all right. You evaluate each and every land-use petition on its own merits. Compatibility is in the eyes of the beholder, all right. I mean, what one person's going to say is compatible, another person's going to say is not compatible. And it's fine for experts to have differing opinions.

I will tell you that Mr. Sabo's opinion is as honest as can be. He's not being paid for his opinion, all right, unlike other people that you'll be talking with. But you've got your own ability to say, okay, I'm familiar with this neighborhood, I've looked around. I believe this building fits in that neighborhood, or I believe this building doesn't fit in this neighborhood, or maybe what we need to do is reduce the size by X number of feet in order to make it fit in the neighborhood but, no, you don't pick and choose a project and say a board approved this 25 years ago, ergo this has to be compatibility. That's not the argument.

CHAIRMAN FRYER: Thank you, sir.

COMMISSIONER FRY: Thank you.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Who's -- Commissioner Klucik.

COMMISSIONER KLUCIK: Okay. So -- and maybe it's after you're done with your colloquy here, but for Mr. Sabo I would like, at some point, you to explain how a building that's sandwiched in between two taller buildings, that you would come up with a lower height. That's something that I just don't understand.

MR. SABO: That is my opinion.

COMMISSIONER KLUCIK: No, I know. I want to know what it's based on. Like, what's the rational basis or the objective basis to say that it needs to be 20 feet or 25 feet shorter than the adjacent buildings or the nearby buildings?

MR. SABO: I used the buildings to the west and to the north for that neighborhood. And the tallest was Beachmoor, and I used that as the baseline for my comparison.

COMMISSIONER KLUCIK: Right. But as you go to the beach, you have a building that's taller. Well, we think it's taller. We're getting confirmation on that. And before you get to the beach, this is coming down Vanderbilt Beach Road, you have a building that's taller, and we're saying in between those two buildings you have to be shorter. And I don't understand the rational basis to say the building in between 245-foot buildings needs to be 125 feet. That just doesn't -- I'm not suggesting that this is anything but, you know, your objective analysis. But I'm not a planner, you know, and I'm just applying common sense. And I'm a lawyer, so I have some knowledge of regulations and, you know, and this. And I'm just trying to figure out how we come to the conclusion that this landowner has to have a lower height restriction than the two adjacent properties.

CHAIRMAN FRYER: Commissioner Klucik, I'm going to cap on a little bit to what the County Attorney said, because I think it serves as a useful reminder to all of us. These proceedings are our proceedings. The recommendation that gets made is going to be our recommendation. It may be unanimous; it may be a majority or minority recommendation. But when all of the evidence has been heard, it will be up to us to decide what we think the right height is and what we think the right setback is for this exact location.

COMMISSIONER KLUCIK: No. And I -- absolutely, I appreciate your point very much and Attorney Klatzkow's explanation of that, and -- but it would be useful for me to evaluate the recommendation that Mr. Sabo has made if I understood the rational basis for it.

CHAIRMAN FRYER: And your question is a legitimate one, and --

COMMISSIONER KLUCIK: Yep.

CHAIRMAN FRYER: -- Mr. Sabo, I think, has tried to answer it, and if he has more to say to respond, then this is -- now would be the time.

MR. SABO: I do not.

CHAIRMAN FRYER: Okay. Mr. Yovanovich?

MR. YOVANOVICH: Yes, sir. I just wanted to go back. And I had promised I would bring an exhibit showing exactly where the building would get located if I were to actually actuate the ground floor in order to get above 76 feet.

Now, I want to make sure I understand --

MR. SABO: Mr. Chairman? Mr. Chairman, can I interrupt that? I spent time earlier in the meeting to clarify the recommendation. Just to -- just to specifically clarify.

Mr. Yovanovich seems to be tying the setback and activation of the street to the height. They are separate, distinct recommendations. Height recommendation is related to step-back architecture and wedding-cake style architecture.

The setback recommendation is closer to the street; we want you to activate the street. We request that you activate the street. That's the recommendation. If you don't want to activate the street, then 25 feet is a setback. So I just want to make sure that's clear.

CHAIRMAN FRYER: Thank you for clarifying it. I have absolutely the utmost respect for your work on this and your work on projects generally. You're great at what you do.

I take a different -- slightly different tact than you do, and I'm, of course, not a planner, but to my way of thinking, the relationship of height and setback from the standpoint of precluding the appearance of canyonization is important, and I'm going to factor that in when I decide what I think would be the right construction standards. So I differ with you a little bit, but I have --

MR. SABO: Understood.

CHAIRMAN FRYER: -- nothing but the most respect for your opinion.

Sorry, Mr. Yovanovich.

MR. YOVANOVICH: Thank you.

COMMISSIONER SHEA: Can I --

CHAIRMAN FRYER: Yes. Go ahead, Commissioner Shea.

COMMISSIONER SHEA: Finish up where Mr. Klucik was. I'm confused now. He makes it sound like the beach -- it's taller. Originally you said -- somebody said the Beachcomber or Beachmoor was 127 feet, and -- whatever the Regatta is. I think you're proposing the same height as the Beach [sic], not a shorter height.

MR. YOVANOVICH: He is.

COMMISSIONER SHEA: And, Mr. Klucik, I got the impression you were thinking that we're proposing a shorter height than the -- or excuse me. County staff is proposing a shorter height than the Beach Comer, and you're proposing the same height, right?

MR. SABO: Correct.

COMMISSIONER SHEA: Okay.

COMMISSIONER KLUCIK: Yeah, I'm sorry. I actually was referring also to the Vanderbilt 12-story, which is, I think, 143, in that one slide that we were looking at that had all of the heights, and that's actually on the beach further north. So that's all I'm saying. So, you know, as for canyonization, you know, it would actually -- you know, if the building that's right in front of it, the Beachmoor, is lower, then that actually, you know, makes it less of a canyonization concern.

But the point of it is that you have 12-story buildings and -- or a 12-story building that's over 143 -- or 143 feet, whatever it is going to be -- we don't know exactly, but that's what the measurement was from the petitioner. We have that on the beach very close by.

CHAIRMAN FRYER: Thank you. And I'm going to apologize to the petitioner at this point, because we have interrupted your presentation, your cross-examination a lot.

I went back and looked at the rules of procedure that were adopted by the Board of County Commissioners for us and for itself back in 1998, and we have the right and the prerogative to interrupt at any time, but I think maybe we're pushing the outer limits of that. We're going to have a full opportunity at the end to make comments, and so -- and I probably started this off and shouldn't have. So let's reserve our interruptions unless there's really something that absolutely has to be said at this time.

Please proceed.

MR. YOVANOVICH: And I am perfectly fine with you asking us questions at any time, because I think it's important information that needs to get into the record. So I don't mind being interrupted, and it's okay with us, so ask questions if you need to.

CHAIRMAN FRYER: Thank you.

MR. YOVANOVICH: I want -- James, first of all, it's only two feet, but 127 feet's not the same as 125 feet. So you're not giving us what you gave to Beachmoor assuming your measurement is right. Let's just -- let's be fair. If you're saying you want to give us exactly what Beachmoor has, then give us exactly what Beachmoor has, not less, in your recommendation.

Now, the setback. In order to get to 15 feet for our parking structure, you said we have to actuate ground-floor retail. So let's assume I cannot pull my parking structure back to meet the 25 feet back. I need the parking structure to be exactly like it is. Did you do any analysis as to what your recommendation to the setback was to get the additional height, what that really means in the real world as to whether I can even build that or not? We had this discussion at the end. Have you had a chance to go back and look at that?

MR. SABO: Yes, we did. And Mr. French is here. We had a meeting with our floodplain group, and Mr. French is here if there are specific questions related to the building code and first-floor commercial.

MR. YOVANOVICH: Are you aware that we're not allowed to put any fill westward of the coastal construction control line, which is shown on this exhibit as the red dotted line?

MR. SABO: I would have to defer to Mr. French and the floodplain group. I am not an expert in that information.

MR. YOVANOVICH: Well, we -- I had an engineer prepare an exhibit to say what do I need to do to actually actuate the ground floor to be able to have my building on the MU1 tract as proposed, because it seemed to me you were saying, you know, we're going to fight with you about -- over the tower height, but you can have everything else you're asking for if you actuate the first floor with retail. That's what I took your recommendation to be. Am I kind of wrong? Am I right?

MR. SABO: Yes, you're wrong.

MR. YOVANOVICH: I'm wrong. What was your recommendation then?

MR. SABO: The recommendation is separate. So I explained it. Setback -- the closer setback, we are suggesting and recommending that the commercial be at the first floor.

MR. YOVANOVICH: Ground floor or first floor? Because I'm confused now. Because

before you said I should be able to walk out of the commercial on to the ground. Not my first -- not my first habitable floor. So what's -- I just -- maybe I misunderstood what you're saying. You know, maybe we are saying the same thing, and that my retail that I actually have on the first habitable floor meets your requirement. Does it?

MR. SABO: Let me clarify it. I didn't say that -- I don't ever recall saying that you have to walk right out onto the street. I didn't -- I don't remember saying any of that. But, again, I would defer to the people who know more about the floodplain than me.

MR. YOVANOVICH: Okay. James, we may be talking the same language right now. I just want to understand. Are you saying that in order for me to have my parking structure 15 feet from the property line I have to have retail on the first habitable floor?

MR. SABO: That is -- that is the recommendation. I don't remember saying first habitable floor, but the recommendation is first-floor commercial.

MR. YOVANOVICH: Just like zoned height versus actual height, this is very important.

MR. SABO: Right.

MR. YOVANOVICH: Is it the first habitable floor meeting the minimum flood elevations that are required for this property? If I have retail -- my shop that -- my coffee shop and deli and my real estate office on the first floor of that building, have I met your requirement to reduce my setback to 15 feet?

MR. SABO: I cannot answer that question because I don't have the specific --

MR. KLATZKOW: No, no, no. No, no, no. Could you put that on the overhead, that language?

MR. YOVANOVICH: I've got to go back. It's right here. If you go back to --

MR. KLATZKOW: I'll give it to you if you want. It's on Page Packet Page 1559 -- 1549.

MR. YOVANOVICH: The language.

MR. KLATZKOW: No, no, no. I want it right out of the staff report.

MR. YOVANOVICH: Oh. I'm just trying to understand the recommendations. You know, I want to -- I want to -- look, if I don't need to discuss this point any further, I'm happy to sit down.

MR. SABO: I have it.

MR. KLATZKOW: The second bullet point is what you're talking about, right?

Okay. You're saying -- Mr. Sabo, you're recommending that it could be reduced to 15 feet if street-level pedestrian commercial uses are within the building?

MR. SABO: Correct.

MR. KLATZKOW: So the street level isn't something that's on top of a parking garage, correct?

MR. SABO: Correct.

MR. KLATZKOW: So you're talking about the actual street level what -- what you're talking about is a portion of the parking garage you want to see commercial?

MR. SABO: Correct.

COMMISSIONER KLUCIK: Thank you.

MR. YOVANOVICH: Thank you, Jeff.

So I do want to show my exhibit now, which went dark. So our engineer, who I'm happy to pull up here to explain to you how she determined what we would have to do to actually be able to have street-level retail to meet your reduced setback standard. And you will see that due to wave criteria and a whole lot of other stuff that engineers understand that I don't understand -- and I could bring that technical information here. With the ability to fill -- because to get to the street level, I'm going to have to put dirt -- I have to put that dirt starting east of the coastal construction control line, which is the red line on here, and my building actually ends up on DaRuMa and

Barefoot Pelican.

Is that staff's recommendation for what I have to do in order to get the reduced height -- I mean the reduced setback for our two-tower building?

MR. SABO: No. The recommendation is as Mr. Klatzkow had mentioned, street-level pedestrian commercial uses.

MR. YOVANOVICH: And I asked you at the last hearing, did you do any analysis to determine whether or not we could actually meet your recommendation, and you said no, correct?

MR. SABO: And the answer is now yes, because we did meet about that.

MR. YOVANOVICH: Okay. And did you actually draw a plan to show where the building would be located? Because I promised this Planning Commission I would come back and show you the practical ramifications of your suggestion. Have you guys done that?

MR. SABO: I have not drawn a plan.

MR. YOVANOVICH: Have you seen the county prepare any type of plan?

MR. SABO: I have not.

MR. YOVANOVICH: Okay. So you have no basis to contest what my engineer prepared based upon your recommendation?

MR. SABO: No. Specifically -- I'm not an engineer.

MR. YOVANOVICH: Okay. So we'll -- I guess I'll have to ask Mr. McLean, or Mr. Scott or somebody else will have to deal with that issue as far as that goes.

I don't have anything further for Mr. Sabo. I'll try to get this right this time.

CHAIRMAN FRYER: Thank you.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. I think this is a very, very important issue, because it gets to the point of what actually could be built on site even if it was C-3. If it was C-3 zoning and I wanted to put a commercial building on that corner where the towers are represented, what -- I do not believe that I could actually build something at the ground level now, commercial. I would have to come up at least 20 feet, and I think I'm going to turn to Jamie. He's --

MR. YOVANOVICH: Can I have my --

COMMISSIONER SCHMITT: Yes.

MR. YOVANOVICH: -- have my engineer actually answer the question, because I'm not sure that -- I think that's the appropriate person.

COMMISSIONER SCHMITT: Okay.

MS. FOUNTAIN: Good morning. Elizabeth Fountain, vice president of JR Evans Engineering, and I'm a professional civil engineer licensed in the state of Florida and Tennessee, and a certified floodplain manager.

COMMISSIONER SCHMITT: Okay. So don't consider anything that's being proposed. Under C-3 zoning, if I was going to go out to the site today and put up a commercial facility, let's say where the Beach Box is now, or a commercial where the docks are proposed, what could I build? The first habitable floor, meaning a commercial walk-in type of store, restaurant, other type of facility, at what height would that be able to be built? What height would I have to build at to have a -- create a commercial facility out there?

MS. FOUNTAIN: Okay. And this site is a little different because we do have the Florida Department of Environmental Protection, coastal construction control line, CCCL boundary --

COMMISSIONER SCHMITT: Correct.

MS. FOUNTAIN: -- that most of the buildings are shown to be built seaward of.

COMMISSIONER SCHMITT: Correct.

MS. FOUNTAIN: FDEP has their own 100-year storm elevation which is published at 20.4 feet NAVD.

COMMISSIONER SCHMITT: And is that greater -- sorry to interrupt. But is that

greater than the BFE, or is that the same, base flood elevation for FEMA?

MS. FOUNTAIN: No. FEMA's base flood elevation for the site is at -- it goes from 11 to 12.

COMMISSIONER SCHMITT: Eleven to 12. But DEP is requiring the first habitable floor at 20 --

MS. FOUNTAIN: 20.4 and, actually, it would be -- based on the Florida Building Code, it would be one foot above that.

COMMISSIONER SCHMITT: So anything that I built out there would have to be on stilts or piles or --

MS. FOUNTAIN: It would have to be --

COMMISSIONER SCHMITT: -- you would have to have breakaway walls of some sort?

MS. FOUNTAIN: Yes, sir.

COMMISSIONER SCHMITT: I see Jamie shaking his head no, so we have disagreement.

MS. FOUNTAIN: Well, DEP does have certain provisions for allowing certain uses -- they call it allowable uses -- to be below their 100-year elevation but --

COMMISSIONER SCHMITT: Yes.

MS. FOUNTAIN: -- still above FEMA's base flood elevation. And those uses include some minor retail shops or even, like, a deli, but the kitchen facilities would have to be portable, or those kitchen facilities would have to be at the 20.4-foot elevation to comply, yes.

COMMISSIONER SCHMITT: Okay. So the kitchen would be at -- but you could actually have tables at a lower elevation?

MS. FOUNTAIN: Yes, sir.

COMMISSIONER SCHMITT: As long as you had breakaway walls or some other type to accommodate.

MS. FOUNTAIN: Yes.

COMMISSIONER SCHMITT: What about all the electrical outlets, all the other type of things that would be constructed at the 11-foot level; do they have to be above the 20-foot level to meet the building code requirements at -- because my understanding is there's air conditioning. There's other type of --

MS. FOUNTAIN: Utility.

COMMISSIONER SCHMITT: -- utilities would still have to be above that 20-foot elevation; is that correct? In some cases?

MS. FOUNTAIN: In some cases, yes, but definitely above FEMA's flood elevation.

COMMISSIONER SCHMITT: I mean, for all intent and purposes, there is no way I could actually put a commercial facility there and go from the existing ground level and walk into a store?

MS. FOUNTAIN: Not -- that's not practical.

CHAIRMAN FRYER: That's not the question whether it's practical. What the commissioner wants to know is what is legal.

COMMISSIONER SCHMITT: What is legal.

MS. FOUNTAIN: In this particular site, it would not be consistent with the Florida Building Code.

COMMISSIONER SCHMITT: It would not be consistent with FDEP.

MR. YOVANOVICH: Can I ask a follow-up question?

COMMISSIONER SCHMITT: Yes.

MR. YOVANOVICH: What's the ground elevation there today?

CHAIRMAN FRYER: Mr. Yovanovich, you're not on mic.

COMMISSIONER SCHMITT: What's the ground elevation there now?

MS. FOUNTAIN: Four feet.

COMMISSIONER SCHMITT: Four feet. So that's above the mean sea level?

MS. FOUNTAIN: Yes.

COMMISSIONER SCHMITT: So you're at four feet. So, frankly, we're still talking of some kind of fill or at least piles or other type of structure that would have to be built in order to even go under the C-3 zoning.

MS. FOUNTAIN: Yes, sir.

MR. KLATZKOW: Mr. Chair, could we take a five-minute break here, please?

CHAIRMAN FRYER: Yes, of course, we'll stand in recess for five minutes.

(A brief recess was had from 10:11 a.m. to 10:18 a.m.)

CHAIRMAN FRYER: Ladies and gentlemen, let's reconvene, please. The meeting come to order, please. And I'm going to ask the County Attorney if he wishes to speak.

MR. KLATZKOW: Yeah. I've spoken to Jamie and Matt on -- you just killed it, man. You've got to put it back on. This is what 10 minutes of preparation leads me to: Rich hitting the wrong button.

MR. YOVANOVICH: Jeff, do me a favor. Go back to the podium one. Can we work from that one.

COMMISSIONER SCHMITT: Here comes Troy.

MR. YOVANOVICH: If we would just do a standard overhead projector, it would just be so much easier.

COMMISSIONER SHEA: They don't make them anymore.

MR. YOVANOVICH: I know. I know. Like with the eight-track tapes. Even a cassette, you can't --

COMMISSIONER SCHMITT: At least he graduated from the being directionally challenged.

MR. YOVANOVICH: I've got multiple things I can't do now.

MR. KLATZKOW: He has Troy scratching his head.

MR. YOVANOVICH: I feel better now.

MR. MILLER: Reboot.

MR. YOVANOVICH: That's what you do. Just unplug it, plug it back in. Everything's good. Thank you, Troy.

MR. KLATZKOW: All right. Troy, could you enlarge that and pull it down a bit. All right.

All right. We're talking about the provision that I put a little bullet on, the minimum building setback. And Jamie and Matt, could you get to the podium. And for the record, would you introduce yourselves.

MR. FRENCH: Sure. I'm Jamie French. I'm the Deputy Department Head for the Growth Management Department. I also oversee our floodplain management group, and I'm a certified floodplain manager as well.

Matt McLean, our director --

MR. McLEAN: I'm right here, Jamie. I'm on the other one, so we'll tag team this one.

Matt McLean. I'm a professional engineer, and I am the Director of the Development Review Division for Growth Management.

CHAIRMAN FRYER: Thank you, gentlemen.

MR. KLATZKOW: Now, we spoke off-line, and it's my understanding -- and I'd like you guys to clarify or confirm, that that -- yes, if you throw -- if you threw a ton of money into it, you might -- you might be able to get some, but limited, commercial there. But from a practical standpoint, that 15-foot requirement with commercial is impractical; is that true?

MR. FRENCH: Impractical, yeah. It would be expensive.

MR. McLEAN: And I can confirm that statement as well. Essentially, can stuff be built at the street level? Yes. It would take a significant amount of effort to be able to do that, and it may be cost prohibitive.

MR. FRENCH: So to go a little further, referencing what Commissioner Schmitt said, there is dry floodproofing alternatives that you could do, floodproof panels, and there is -- because it is seaward of the coastal construction line, Elizabeth is absolutely correct, it is very limited. You can have a kitchen; can't be a commercial kitchen. But you could occupy that first floor with commercial uses. And the equipment that would service that building is limited as well --

CHAIRMAN FRYER: So --

MR. FRENCH: It is possible, though.

CHAIRMAN FRYER: -- in essence, the opportunity to have a shorter setback is associated with a very high cost, and it is impractical. But still technically --

MR. McLEAN: And -- I'm sorry to interrupt you, sir.

CHAIRMAN FRYER: No, that's all right. Go ahead.

MR. McLEAN: It's also very, very extremely limited amount of uses. You wouldn't be able to do a full-blown restaurant. It would just be a bare bones, you know, very few limited uses for what you could actually do there on that elevation.

CHAIRMAN FRYER: All right. So an opportunity was offered that may be either impossible under the law or highly expensive, but an opportunity was nonetheless offered, but it just can't, perhaps, be achieved.

MR. FRENCH: It's not impossible. It is -- and without seeing their engineer drawings and what they would actually show for --

CHAIRMAN FRYER: Okay.

MR. FRENCH: -- review, impractical, perhaps, but certainly not impossible.

CHAIRMAN FRYER: Okay. Commissioner Schmitt.

COMMISSIONER SCHMITT: I mean, the key phrase here is street-level pedestrian commercial uses. And what is defined as street-level pedestrian commercial uses, before you answer that, is it, I can get out of my -- park my car at the corner and walk right into the -- on a construction of a slab elevation and walk into a shop store or a restaurant? What you're telling me, feasibly -- or it's pretty much infeasible that that actually could be built. So it gets to the question is, in order to meet the minimum flood elevation would that be considered street-level pedestrian?

MR. FRENCH: Without seeing an actual site plan, Commissioner, it would be very hard to determine what street level was. You'd have to determine what that elevation was to begin with. And, of course, by the time they built up the parking lot, things like that, sidewalks, they're going to meet the minimum base flood elevation as determined by the Florida Building Code.

COMMISSIONER SCHMITT: Okay. So if I were to put a structure up there today at C-3 and I most likely would probably have -- and this is my question: Would I have to put probably at least minimum one story, maybe two stories of parking before I built my commercial facility?

MR. FRENCH: Not necessarily. It would be -- because it's seaward of the coastal construction line, it would be built on piles, grade beams, things like that.

COMMISSIONER SCHMITT: Okay. So it still has to be elevated.

MR. FRENCH: It would have to be elevated to meet the minimum standards of the building code.

COMMISSIONER SCHMITT: So if I were to build something on stilts or piles and had a staircase to go up to, quote, the habitable floor, would that be considered street access and street level, or are you talking at four feet? Because that's the key here. This implies I could go to 15-foot setback if I had pedestrian commercial uses, but in order to get pedestrian commercial uses, I have to be above the FDEP requirement or at least minimum of the FEMA requirement. So it



may be a staircase or some other -- where I could walk up to a commercial facility.

MR. FRENCH: But the answer would be no. You would not be able to walk at a straight line at the same elevation and walk right into -- inside of a structure, and that would be on any structure that's built within a special flood hazard district.

CHAIRMAN FRYER: I don't think that's quite what the commissioner was asking, though. I think he was asking, is it -- is the concept of walking up a stairway, is that considered street level?

MR. FRENCH: I would defer to Mr. Sabo; it was his report, but I would think yes.

CHAIRMAN FRYER: You would think it is considered street level?

MR. FRENCH: Because you're entering from the street and into a -- into a habitable space that would be at minimum elevation set forth by FEMA and the Florida Building Code.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SCHMITT: I mean, I'm going to continue. We've gone through this, and, you know, we've gone through this up at -- was it Barefoot Beach, the homes that were up all the way at Barefoot where we would approve facilities to be built --

STPHAO: Yep.

COMMISSIONER SCHMITT: -- ground floor, was a garage, and we'd come back a year later and see they converted the garage to habitable space, which is, basically, a violation.

In this case here, quite frankly, anything that -- to be habitable space, meaning not an -- engineered breakaway walls or those type of things, but to be habitable space, we've at least got to come up to the 20.4-foot elevation.

MR. FRENCH: You would have to floodproof -- dry floodproof to that one foot above that elevation.

COMMISSIONER SCHMITT: Above the 20 feet.

MR. FRENCH: It would have to go to 21.4.

COMMISSIONER SCHMITT: Okay. So, again, I make the -- I have to believe that regardless of what I build there -- and this is my interpretation as my engineering experience, if I had a staircase to walk up to, I park my car at the corner of Vanderbilt and -- what is the other street? Let's say I'm on Vanderbilt. I park my car, and I get out of my car. I want to go to the Beach Box, which has now been replaced with a new facility. It would have to be at the 21-foot elevation, but I would access that by going up a staircase. I believe, to me, that would be street level because it has to be that level in order to be built and meet the code but yet it is -- a staircase would mean it would be street level because it's accessible from a street -- from the street walking up the staircase. If it was two stories or over parking and a staircase, I would still meet the requirement, at least I believe.

And, Elizabeth, your -- I don't know if she wants to clarify as well. But I'm on this -- trying to figure out -- because I'm taking away all of the PUD. I'm just talking C-3 zoning right now. If I were to replace -- put something at that corner, I would have to be at least 21 feet.

MS. FOUNTAIN: Again, Elizabeth Fountain, for the record.

So whatever commercial use would be put there would be subject to the Florida Building Code and DEP.

COMMISSIONER SCHMITT: Yes.

MS. FOUNTAIN: So there's a limited amount of allowable uses DEP will allow below their elevation but still above FEMA's base flood elevation.

COMMISSIONER SCHMITT: Right.

MS. FOUNTAIN: Now, to talk about dry floodproofing for just a few minutes. The Florida Building Code and ACSE24, which is the manual for flood-resistant construction, indicates that dry floodproofing is limited to where flood velocities are five feet per second or less. And they also reference in other guidance documents about a flood depth of three feet or less is

recommended for dry floodproofing.

So based on our analysis, we've determined that for the existing site plan where it sits today, those flood velocities are greater than, like -- they're 12 to 14 feet per second.

COMMISSIONER SCHMITT: Because of wave action.

MS. FOUNTAIN: Yes, sir.

COMMISSIONER SCHMITT: Matt, I mean, I think you probably both are in somewhat of agreement. But I know it would be -- but even if you built floodproofing, anything that's open and exposed, for instance, outlets, some plumbing can be below that level, but air conditioners, all the other types of things would have to be at the minimum, at least FEMA elevation --

MS. FOUNTAIN: Yes, sir.

COMMISSIONER SCHMITT: -- which is 11 feet, if I heard correctly.

CHAIRMAN FRYER: And if I may, would you then consider that street level?

COMMISSIONER SCHMITT: Well, that's a term of art, because if it were --

MR. YOVANOVICH: If I may.

COMMISSIONER SCHMITT: If it was a staircase -- if it's a staircase, it would be -- I mean, that becomes a legal argument.

MR. KLATZKOW: No. It's -- it's a definition.

COMMISSIONER SCHMITT: Yeah.

MR. KLATZKOW: It's -- street level is level to the street. If you want street accessibility, you can do that with a staircase. So if you put a staircase there, then it's accessible by the street. But street level is street level.

MR. YOVANOVICH: And if I may, that's what I was trying to clarify. Was he saying it needs to be accessible from the street in a -- either stairwell or an elevator to get up to the retail that we're providing? Then I understand the 15-foot requirement because we can meet that, and we do meet that. If it's the other that you need to be physically able to walk on this carpet into the building to get service, we can't meet that.

So if the terminology is going to be changed to accessible from the street in order to get the reduced setback if the county's comfortable with that, that's what I would -- I would like to see that revised. And then, frankly, what we're talking about is height from that point forward.

COMMISSIONER SCHMITT: Well, let me just go a step further. We received -- some of us probably received over a thousand emails. Several emails read to the point of I would like to see something in the possibility of a Mercato. You're familiar with Mercato?

MS. FOUNTAIN: Yes, sir.

COMMISSIONER SCHMITT: To build a Mercato at that site -- well, actually, that would be mixed use. But if I were to build a Mercato at that site, I really could not do any type of restaurant unless I was up at least 21 feet.

MS. FOUNTAIN: Correct.

COMMISSIONER SCHMITT: So regardless of a Mercato or any other type of facility, I'm going to probably have something on the -- on one or two floors, at least parking, to get me up to that level.

MS. FOUNTAIN: Yes, sir.

COMMISSIONER SCHMITT: I'm not going to build on stilts out there. I'm probably going to use that space for parking, which I can legally do. Okay. You've answered my question.

MS. FOUNTAIN: Yes.

CHAIRMAN FRYER: Mr. Sabo, would you please approach the mic.

MR. SABO: Yes.

CHAIRMAN FRYER: Will you be comfortable changing your recommendation from street level to street accessible?

MR. SABO: I would be comfortable with that.

CHAIRMAN FRYER: Thank you very much.

COMMISSIONER SCHMITT: Solves that problem.

CHAIRMAN FRYER: Thank you. I'm going to call on Commissioner Fry now who's been waiting patiently somewhat.

COMMISSIONER FRY: Jamie, you may have left prematurely, because I have a question for you. At least you hadn't left the room and the building.

I guess I -- I think it's natural people now can go from the beach, and it's a wonderful thing to be able to walk into the Beach Box or the convenience store and buy things. I think we've established pretty clearly that is not going to happen when that site is developed. You're not going to walk street level into any kind of commercial retail facility.

So, obviously, what they have proposed has a two-story parking garage on the southwest corner and the commercial, which they have provided 10,000 square feet, is accessible -- street accessible. I would say it now meets that definition, stairs, it's above the 21.4-foot level. That's on the northwest side of the project, correct?

MR. YOVANOVICH: Now, remember my directionally-challenged comment. North for sure, west for sure, and it's both stairwell and elevator accessible.

COMMISSIONER FRY: Okay. So, Jamie -- and there may be people -- and we haven't heard from the opposing parties yet. There may be people that may be lamenting that we lose what is now currently -- the closest thing we come to what is currently available, which is you can go to the corner of Vanderbilt Beach Road and Gulf Shore Boulevard and get some -- have some services in that immediate proximity, whereas now, with their proposal, they have a parking garage covering that entire -- that entire corner.

Is there a practical application that would work where they could provide street accessible retail kind of more accessible to the corner, the people that are -- that's closer to the beach, more convenient for them, and still continue with their overall concept of, you know, the residential towers?

MR. FRENCH: Yes, and I think Elizabeth spoke of it. It would be limited, and it would still require -- if it's occupiable space, then limited in nature, no commercial kitchen, limited uses, limited equipment that would be below that 21 feet to service that building, sure, you could do it. Is it possible? Yes.

COMMISSIONER FRY: Did you --

MR. FRENCH: But without -- let me fill this out, to highlight what Elizabeth said. Without us actually looking at the engineering, as I mentioned before, looking at building plans, making the determination -- because we do take into consideration that wave velocity, the scouring, the number of different things that would all -- and we haven't seen any of that. So the question is: Is it possible? Yes.

COMMISSIONER FRY: But you're talking about locating limited commercial uses at above the base flood elevation, the 11 to 12 feet, and between that and between that and the 21.4 feet. I guess to me that has somewhat been effectively dismissed as being practical -- as being impractical.

So I'm thinking the commercial -- I guess, my conclusion now is the commercial would need to really be at 21.4 to be reasonable. To have, I mean, a commercial kitchen I think is important. People want to have a restaurant to be able to go to. So is there -- was there a way, was there ever a discussion with the developer -- setbacks is a big issue. Canyonization, the 25 feet, and you have a 200-foot-tall tower. Was there a discussion and compromise and negotiation about maybe putting retail up there at the 21 feet above the parking garage and setting the towers back further? Was any of that raised as a possible compromise?

MR. FRENCH: So, I -- Mr. McLean and I did have conversation with Elizabeth and Mr. Mitchell with regards to some of the options. We went through that with our floodplain

management staff. There was -- you know, we went ahead and dispelled some misnomers or rumors, so to speak, on what they thought they could and couldn't develop. We went back to the code, and again, I think that staff and the petitioner were in agreement that it's impractical, but we're also in agreement that it would -- it would take a whole lot to make possible, but it is possible. Could be possible.

COMMISSIONER FRY: I'm talking about building below 21.4 feet.

MR. FRENCH: As far as those occupiable services with regards to the commercial, we --

COMMISSIONER FRY: Street accessible retail at 21.4 feet.

MR. FRENCH: We did have conversation with regards to what could be occupied in there.

MR. YOVANOVICH: Mr. Fry, if I might.

COMMISSIONER FRY: Sure. Please.

MR. YOVANOVICH: We've had numerous conversations about the actual physical layout of the two towers. I can assure you we have pushed them as far back as we can. Remember this design has evolved. Before it was one big, wide building, and it became two separate buildings with light and space and air between them. That creates, because of the shape of the parcel, some physical constraints for architects to do a first-quality project.

We have -- we have had numerous meetings with county staff and officials about what are the public benefits that you would like to -- public accessible portions of the project that you would like to see, and that's where we came back with the coffee shop and the deli, because the public still wants a place to grab something to eat.

We can certainly also include sundries like you would get at the beach -- the beach -- convenience store. We can include that. We have room in our 10,000 square feet to expand that first-floor street-accessible area to provide some of the services that are already there for the convenience store.

That seems to be the -- now, the location, it's going to have to be in the northwest corner where it is from a layout standpoint, but it's, like, 100- to 150-foot walk. I don't think that's going to be detrimental to anybody who's currently accessing those services.

So we can replace those services, if you will, as part of our retail operation that's open to the public, street accessible, not street level. But, yes, we can do that if that's your --

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Commissioner Vernon first.

COMMISSIONER VERNON: I think Commissioner -- I think Commissioner Fry covered a lot of ground that I wanted to cover.

CHAIRMAN FRYER: Okay.

COMMISSIONER VERNON: But I just had a more basic question. You kind of answered it, and Commissioner Fry's comments have helped, too. But with the phrase "street accessible" instead of "street level," how much a dispute is between -- and this is to you, James, as well. How much of a dispute do we have now?

MR. YOVANOVICH: Between -- I think the issue now becomes max height.

COMMISSIONER VERNON: No, no, no. Let me rephrase that: How much of a dispute do we have on setback?

MR. YOVANOVICH: I think we just resolved it. He basically said --

COMMISSIONER VERNON: That's what I think, too.

MR. YOVANOVICH: I think -- what I heard said was we can have our 15-foot setback if we provide street-accessible retail to the public, and I think what we've committed to is street-accessible retail to get us the 15-foot setback. So I think we've resolved that. I think what's left --

COMMISSIONER VERNON: No, no. Let me just stop you there, because I just want to

talk about setback. Thank you. That was perfect.

So, James, do you agree with that in terms of your recommendation?

MR. SABO: Yeah, I can -- I can be flexible. And, you know, I'm still a human being even though I'm a planner.

MR. YOVANOVICH: You're not a lawyer, so you're more of a human being.

CHAIRMAN FRYER: Actually, he is a lawyer.

MR. SABO: I appreciate you saying that.

You know, I can be flexible, and you know, the -- our position was -- my position was, we're losing some of those long-standing uses, and it's important to the hundreds of people that utilize that beach access to have -- you know, have some of those features, services, goods, food, stuff like that available. And if that works out to be a good middle ground, I'm comfortable with that.

CHAIRMAN FRYER: Before I call on Commissioner Klucik, I just want to remind everyone that this -- the outcome of these proceedings will be a recommendation from the Planning Commission.

MR. SABO: Correct.

CHAIRMAN FRYER: And I think we've taken a step forward when we achieve an agreement between staff and the petitioner, but let's not forget that the baby that's going to be born here is going to be our baby, and we can accept the staff. We can accept the petitioner.

COMMISSIONER VERNON: Right.

CHAIRMAN FRYER: We can craft our own. And with that, I'll turn it over to Commissioner --

COMMISSIONER VERNON: I do have one follow-up. I'm sorry.

CHAIRMAN FRYER: That's all right. Go ahead.

COMMISSIONER VERNON: I just -- it's sort of a caveat to my fellow commissioners that I'm a little concerned, be careful what you wish for. Because if now we're opening it up for them to do commercial, at some level the commercial level might be that now we have parking problems, traffic problems, and I -- yeah, I'd love to hear your response and your response. And it's just something for all of us to think about. We don't want to inadvertently create a problem there we didn't think we were going to have.

MR. YOVANOVICH: And I can assure you, with the maximum of 10,000 square feet in the PUD, we're not even going to hit that. And we have no interest in creating parking issues for the residents who are going to buy those really nice units. So we are -- we are fully -- we will have to have parking to meet the square feet that's open to the public. We will meet that. And we will assure that it doesn't create traffic concerns or parking concerns but also provide the much needed or much requested, from some of the commissioners and the public, access to those services.

MR. KLATZKOW: I'd like to interject, because I think I heard something from Rich that put chills in me. And so my understanding is that Mr. Sabo's recommendation is based on the community needs. They currently have the ability to purchase certain sundries there. That's going to be eliminated. But we want to have at least street accessible for them to still purchase those things. The question is, if you open up one store, one small store, does that satisfy that thing, or do you want a minimum amount of commercial there?

COMMISSIONER KLUCIK: Yes. And that was going to be my specific question, if I may.

CHAIRMAN FRYER: Yeah. Please, go ahead, Commissioner.

COMMISSIONER KLUCIK: My question is simply the word "uses" is, you know, street-accessible pedestrian commercial uses. So we have plural "uses." Is that two as a minimum, or is that -- you know, what is the legal requirement if we were to make that

recommendation and then the commissioners were to go ahead and pass whatever the resolution ends up being that has that language in it; what does that actually require?

MR. YOVANOVICH: If I can -- I think it's probably directed to both of us. Our intention -- obviously, we have the realtor office is one of the uses. And we already have the coffee shop and deli as the other use.

I'll get you the actual square footage of what that is. It's not -- it's not going to be 100 square feet and I say "gotcha, I met." It's going to be -- it's going to be a real use, but I don't know the square footage. This is kind of close to your normal break period. Would this be a good time to --

CHAIRMAN FRYER: Well, we had an early break that lasted considerably longer than the five minutes that was --

MR. YOVANOVICH: The five minutes. I can get you that answer. I'm just waiting for someone --

CHAIRMAN FRYER: Once again -- and I'm perhaps being redundant, but we can -- we can impose minimums here as well as maximums in commercial, and we can specify the kind of commercial we want. And I think that -- I'm certainly open to that kind of a discussion.

COMMISSIONER KLUCIK: Right. I'm still -- like, I just want to know legally, if we have the language we have now as plural uses, does that just mean as long as there's two?

MR. KLATZKOW: The language now is up to 10,000 square feet. Look, I've had this conversation over the years with mixed-use developments where in staff's opinion if you throw one store in and you have a thousand residential units, that's a mixed use. I want to avoid that. Right now --

MR. YOVANOVICH: I understand.

MR. KLATZKOW: -- he's allowed up to 10,000 square feet. If you're cutting a setback from 25 to 15 feet, I think you want more than one coffee shop. So I would suggest that you consider a minimum amount of commercial square feet be provided; otherwise, you might get the one coffee shop, and that's it.

COMMISSIONER VERNON: Mr. Chairman?

CHAIRMAN FRYER: Yes, sir. Commissioner Vernon.

COMMISSIONER VERNON: Just to give the ying and yang of Jeff. Again, maybe I'm the only one, but I'm concerned about too much commercial there and the problems that might cause. So I don't know that we can do a minimum and a maximum.

CHAIRMAN FRYER: Well, we can.

COMMISSIONER VERNON: And I know you're saying what your intent is, but I want to --

MR. YOVANOVICH: I'll commit to it. Here's what we have, okay. Now, I will tell you most of us remember how much the community really does not like the Beach Box, okay. I'm not being disparaging to anybody, but that has been a source -- so the public has been very clear, as Mr. Vernon has pointed out, don't overdo it, okay. Because the C-3 option is the option that I think nobody really wants.

So what we have currently planned, the real estate office is approximately 2,000 square feet, and our coffee shop is 1,500 square feet. It may get to 2,000 square feet when we add sundries and all that stuff. So if you want to -- I need to -- I know I'm at right around 3,500 to 4,000 square feet right now. You know, we may be able -- I need to figure out if I can get that a little bit bigger if that's the desire. But we don't anticipate having multiple coffee shops in there. We intend to have, you know, a coffee shop that people will pop in, get their coffee, get a sandwich, you know, go back to the beach, you know, do whatever they were planning on doing. Go back to their home if they wanted to if they were coming there for a sandwich from their nearby residence. So that was the plan. It was enough to service people in the area but not so big that we

may be overdoing it.

CHAIRMAN FRYER: I think we're going to be able to resolve this by having a maximum and a minimum, and if we credit Mr. Yovanovich's statement that at 10,000 square feet the traffic -- the impact on traffic would not be significant, really all we need to do is decide, I think, whether we want to specify -- what number we want to specify as a minimum, and do we want to also require a certain kind of mix. But all of these things are within our purview as the Planning Commission.

And Mr. Schmitt is first.

COMMISSIONER SCHMITT: Yeah, just to clarify, and I -- so you understand, it is currently zoned C-3, so they could build commercial there today without going through any type of rezoning. You would just come in with a unified plan of development and a Site Development Plan; is that correct?

MR. YOVANOVICH: I would come in with a -- just to clarify one thing. I would come in with a Site Development Plan based upon the lay of the land today. I wouldn't even come forward with the street vacation. I would leave it just like it is, and I would use the parcels that currently exist, and we would come in under a Site Development Plan, and we would do our traffic analysis, which your staff has already confirmed there's capacity on the road. And it would be whatever the market says will support going at that C-3, which I think it's by the beach, I don't think we'll have any trouble getting restaurants in that area to come enjoy the beach.

COMMISSIONER SCHMITT: Under C-3 along --

MR. YOVANOVICH: C-3, I do it all day long.

COMMISSIONER SCHMITT: Along the bay property, you could open up a --

MR. YOVANOVICH: A nice --

COMMISSIONER SCHMITT: -- boat store, restaurant --

MR. YOVANOVICH: Nice commercial marina with restaurants right there.

COMMISSIONER SCHMITT: -- marina. That would all fall in the current zoning as long as you go through the Manatee Protection Plan criteria for the docks and all the other type of things that would be associated with it. So it wouldn't require any type of public meeting or any other type of rezoning. You could -- under current zoning, you could do that today.

MR. YOVANOVICH: Absolutely.

COMMISSIONER SCHMITT: Okay.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: So, realistically, Rich, if you did that, you would have still two stories of parking, and then the -- all that commercial would be on top of the parking?

MR. YOVANOVICH: Absolutely. I mean, we could lay it out for you. I know people don't believe it. But we can lay it out for you to show you exactly how we could easily accommodate that.

COMMISSIONER FRY: Okay. And I get it. I mean, I think your presentation showed that you believe this is a -- this generates less traffic and --

MR. YOVANOVICH: It's not me. Your own staff.

COMMISSIONER FRY: Right. So I guess I planned -- when it comes to 10,000 square feet of commercial, were -- the traffic numbers generated, did they -- are they based on 10,000 square feet?

MR. YOVANOVICH: Our traffic analysis was based on 172 residences and 10,000 square feet of retail.

COMMISSIONER FRY: Okay. So to Mr. Vernon's question, the current traffic as it is would be for up to 10,000 square feet of commercial.

I plan to ask the opposing parties as they speak up here kind of what their vision is of commercial services that they'd like to see in that area just trying to get to this point of where we

make a reasonable decision on minimum, maximums, commercial, that whole issue. So thank you.

CHAIRMAN FRYER: Thank you, sir.

No one is lit up. Anyone -- go ahead, Commissioner Vernon.

COMMISSIONER VERNON: And I'm sorry to dominate this, but I just want to sort of be very specific on my specific concern, and Joe mentioned it; he mentioned the restaurant. And even traffic studies overall say it's not going to be that much traffic.

My personal concern is some kind of shop, probably an upscale restaurant, which I know you're not planning, but would be my concern that has a bunch of traffic on Friday and Saturday night at the same time a bunch of people are trying to walk to the sunset. That would be my specific concern. And I don't think you're contemplating that, but I'm just trying to give you some guidance --

MR. YOVANOVICH: I understand.

COMMISSIONER VERNON: -- on my specific concern.

MR. YOVANOVICH: And, Mr. Vernon, we got it. We're not doing that. That's the C-3 option.

CHAIRMAN FRYER: We can put these conditions in our PUD recommendation.

COMMISSIONER VERNON: Right. I just wanted to give -- understand the --

CHAIRMAN FRYER: Understood.

MR. YOVANOVICH: I got it.

CHAIRMAN FRYER: Okay. Anybody else have questions, comments?

Mr. Yovanovich, I guess it's back to you.

MR. YOVANOVICH: I think -- I think we -- I have some questions for other county staff, but I think I'd like to give James a break.

CHAIRMAN FRYER: Mr. Sabo, you're excused.

COMMISSIONER KLUCIK: I do -- well, I do have one very, very --

CHAIRMAN FRYER: I'm sorry. Commissioner Klucik.

COMMISSIONER KLUCIK: I think it will help everybody, but it certainly will help me.

CHAIRMAN FRYER: Go ahead.

COMMISSIONER KLUCIK: So when we translate your recommendation, specifically the one paragraph where it mentions the -- this commercial usage, that one paragraph, where does that show up in the ordinance that we're passing along, the proposed ordinance that we're here passing along to the commissioners? Where are those specific requirements?

MR. SABO: It's in the permitted -- it would be in the permitted uses.

COMMISSIONER KLUCIK: So I have -- I have today's agenda with all the attachments there. What page would that be on?

MR. YOVANOVICH: Mr. Klucik, it's not in there yet. It's a recommendation from the staff report that would be transmitted -- transferred into, and hopefully it will be at the November 5th meeting under the developer commitments section of the PUD. But it's in the staff recommendation right now, but it's not in the ordinance and PUD document in front of you today.

MR. SABO: That is -- that is correct.

COMMISSIONER KLUCIK: The developer commitment section is which exhibit?

CHAIRMAN FRYER: Commissioner, usually we have a draft ordinance and then four or five exhibits attached to it, and --

COMMISSIONER KLUCIK: That's what I'm looking at.

CHAIRMAN FRYER: That may not be there yet. The exhibits may not. But one of the exhibits would be developer commitments.

MR. YOVANOVICH: It's typically Exhibit 4 -- I mean F that is attached to --

CHAIRMAN FRYER: F.



MR. YOVANOVICH: -- the ordinance. Exhibit F is the list of developer commitments.

MR. SABO: Correct.

MR. YOVANOVICH: So we would -- it would find its way into that exhibit. It would probably become No. 5, because right now it has emergency management. It would probably go under Item No. 5. I have a hard copy if it's easier for you.

MR. KLATZKOW: Packet Page 325.

MR. YOVANOVICH: Oh, boy.

COMMISSIONER KLUCIK: 325. All right.

MR. SABO: And the maximum square footage for commercial uses is in the -- on the first page under permitted uses.

COMMISSIONER KLUCIK: Thank you.

CHAIRMAN FRYER: All right. Anybody else? Go ahead.

MR. YOVANOVICH: Just so -- I didn't want to misspeak. Now, I understand the second bullet point about the reduced 15-foot setback. We, obviously, have some concerns about the mid-story buildings, and we'll just -- we'll deal with that in our rebuttal.

CHAIRMAN FRYER: Okay. May Mr. Sabo be excused?

MR. YOVANOVICH: Did you want to go? Yeah, that's fine with me.

CHAIRMAN FRYER: You're finished with your cross of him?

MR. YOVANOVICH: I am.

CHAIRMAN FRYER: Okay. Thank you.

MR. SABO: Thank you.

CHAIRMAN FRYER: Is there anything further from staff at this time?

MR. YOVANOVICH: I -- okay. I'm sorry. You're right.

CHAIRMAN FRYER: I'm looking at Ms. Jenkins, who could just nod yes or no. Anything further from staff or Mr. --

MS. JENKINS: Anita Jenkins, for the record, Interim Director. We don't have anything further unless you have questions specifically on any expert testimony that we have.

CHAIRMAN FRYER: Thank you very much. Any Planning Commissioner have questions for any member of staff or consultant or experts?

MR. YOVANOVICH: Before Anita sits down, could I just ask her to clarify on the record, or confirm. I don't -- it was done quickly, but I believe your Comprehensive Planning staff is, in fact, recommending approval of our subdistrict. And I just wanted to confirm that. I mean, there's no -- there have been no issues or comments, I think, yet about the Comprehensive Plan language that we're proposing. I'm right, correct?

MS. JENKINS: So, again, Anita Jenkins, for the record.

James covered the Comprehensive Planning recommendation in his presentation on the first day, and Comprehensive Planning is recommending approval, and in our findings we also noted that it will be dependent upon the zoning action. So once you take your zoning action, we would then amend the Comprehensive Plan to make those congruent.

CHAIRMAN FRYER: Thank you.

MR. YOVANOVICH: I do have a couple of questions for Trinity or Transportation, but I don't know if we're moving on yet to that or not.

CHAIRMAN FRYER: Is Ms. Scott here?

MR. EASTMAN: She's in the hall, I believe.

CHAIRMAN FRYER: Here she comes. And this is going to be cross-examination of her?

MR. YOVANOVICH: Yeah. And it will be very, very brief.

CHAIRMAN FRYER: That's fine.

MS. SCOTT: Good morning.

CHAIRMAN FRYER: Good morning, Trinity.

MS. SCOTT: Good morning. I hope you enjoyed my entrance Commissioner Fry.

COMMISSIONER FRY: I did.

MR. YOVANOVICH: Ms. Scott, I just want to confirm that the transportation analysis that is done is pursuant to Section 5.1 or Policy 5.1 under the Transportation Element of the Growth Management Plan, and that involves, in our particular case, a significant impact analysis link by link, and that we have -- our analysis fully complies with the transportation requirements of the Growth Management Plan, and your staff deemed us consistent with the Growth Management Plan.

MS. SCOTT: I would agree with that.

MR. YOVANOVICH: Okay. And the Section 5.1 analysis is for a five-year period, correct?

MS. SCOTT: Yes. We ask that you look at the five-year planning period based on the Annual Update and Inventory Report that we'll be talking about later.

MR. YOVANOVICH: I know you'll be getting into greater detail. But based upon the existing AUIR, both -- your staff confirmed our analysis that we are consistent with the Growth Management Plan?

MS. SCOTT: Yeah, our staff as well as an outside consultant reviewer.

MR. YOVANOVICH: And that would be -- that would be Mr. Ross?

MS. SCOTT: Yes. Tom Ross from Jacobs Engineering. I believe he provided testimony at the last hearing.

MR. YOVANOVICH: And I don't recall, and you can answer for him. But I think Mr. Ross also testified that our Traffic Impact Statement fully complied with the county's requirements for a Traffic Impact Statement?

MS. SCOTT: Mr. Ross is the person who did the review of the TIS, and he's available via Zoom. So I'd like him to answer, because he is the one that performed that review on behalf of the county.

CHAIRMAN FRYER: Mr. Yovanovich, would you like to --

MR. YOVANOVICH: Yeah. That's the only question I have for Mr. Ross. If we can pop him in, or I don't know how hard that is to do. And, Ms. Scott, if you'll just hang in there just in case.

CHAIRMAN FRYER: That appears to be doable from the back of the room, is that -- yeah. So we're efforting that as we speak.

MR. YOVANOVICH: In the meantime, any comments or questions regarding our traffic impact on the Long Range Transportation Plan in the year 2040 is not one of the required reviews as part of either the Growth Management Plan or the Land Development Code, correct?

MS. SCOTT: Correct. Based on our Traffic Impact Statement guidelines, you would look at your buildout year, and then also 5.1 asks that you look at the planning horizon or the five-year planning period.

MR. YOVANOVICH: And I want to confirm one of the things, you know -- and some of you are new. There's these things called TCMA's. Could you explain to some of the newer members what a TCMA is. And, in particular, I want to be very clear. We are not taking advantage of the TCMA provisions for the approval of this --

CHAIRMAN FRYER: And excuse me, but since we're not, why would we want to talk about what's irrelevant to this?

MR. YOVANOVICH: I just want on the record that we are -- we do not need to use the TCMA provisions to be deemed consistent with the Growth Management Plan.

CHAIRMAN FRYER: Okay. That's on the record. Thank you.

MR. YOVANOVICH: Is that true? As much as I want to testify, I think she needs to say

that's true.

CHAIRMAN FRYER: Yes, okay. So she -- is that --

MS. SCOTT: That is correct. As part of this -- the Growth Management Plan amendment application as well as the PUD application, they are not asking to utilize the provisions of the Transportation Concurrency Management Area.

MR. YOVANOVICH: And that all links that we impact will meet capacity standards with our project on it, correct?

MS. SCOTT: Yes, based on the adopted Annual Update and Inventory Report, that is correct.

MR. YOVANOVICH: Okay. I was trying to stall for Mr. Ross.

CHAIRMAN FRYER: Well, before -- that's all right. I've got something -- a placeholder as well.

Before we go to Mr. Ross, Commissioner Shea has a question for Ms. Jenkins, please.

MS. JENKINS: Anita Jenkins, for the record.

COMMISSIONER SHEA: So I'm still trying to grasp this difference between Growth Management Plan and zoning changes. I view the position of the Commission and the staff as the stewards of the Growth Management Plan. The staff is recommending that we approve the amendment to the Growth Management Plan that would double the density. And I guess, kind of as a steward of the Growth Management Plan, why would we do that?

MS. JENKINS: Well, we are recommending approval of the Growth Management Plan, but please understand the full staff report, that we understand that there is some ideas of limiting the development standards on this project. So any decisions that you make on the zoning decision is going to be reflected back in the Comprehensive Plan amendment.

So if you decide to lower the density on this project, then we would make that amendment. Similar to what was done at the first day of this hearing when the applicant agreed to remove the hotel use, the draft ordinance or resolution that you have before you now reflects that removal of the hotel use.

COMMISSIONER SHEA: But it seems to me, then, we're putting the horse before the cart. It's got backwards here. Shouldn't we be approving the land -- the zoning change, because you're going to automatically approve, contingent upon what happens on the next one. They don't stand on their own, is my point.

MS. JENKINS: Well, they stand together. So when you modify any development standard that would reflect back to the density, intensity, or uses, we would then modify the Comprehensive Plan amendment to be consistent with your decisions on the zoning. But in the Comprehensive Plan, you don't get the detail of all the development standards that you get in the PUD. So once you decide on the PUD, then we would look at the Comprehensive Plan amendment and guide you on that as well.

COMMISSIONER SHEA: Well, why wouldn't you, if -- I guess I'm confused. If there was an item that the Growth Management Plan specifics, why can't you rate that by itself? In other words, it's not consistent with the Growth Management Plan; therefore, it's not approved.

MS. JENKINS: So the only inconsistency with the Growth Management Plan is the density.

COMMISSIONER SHEA: Exactly.

MS. JENKINS: The uses -- the uses are okay. So it's the density. And the density is being driven, again, by the development standards. So once you come to an agreement on what you think those development standards should be, then we'll go back and make that consistent again with the Growth Management Plan.

So if you say, you know, you want to change the height or you want to change the setbacks and that changes the overall in what units that are allowable on this site, that will reflect back on

the density and intensity of this.

COMMISSIONER SHEA: I'm still -- to me --

CHAIRMAN FRYER: It's like a file cabinet, and you've got one drawer where the Growth Management Plan stuff goes, and another drawer of the file cabinet is where the PUDZ -- or the PUD contents go. And it's really up to staff to properly file the decisions that are made, ultimately, by the Board of County Commissioners. And so as Ms. Jenkins said, if we reduce the height such that they can't get 31-plus dwelling units per acre, then the recommendation on the GMP will change. It will be reduced to reflect what we have done.

MR. KLATZKOW: Your GMP -- your GMP is a reflection of what the people of Collier County want for a long-term land-use plan, all right. And then the LDC and these various rezones then implement that. You don't have to change your GMP, okay. You could say that, you know, the vision that was adopted, you know, 20 years ago or 30 years ago, we still retain that vision. This is how we want to grow. This is how we want to build out.

But, you know, I've always said, like, one generation can't tie the hands of the next generation, okay.

So whoever's sitting on this dais and, ultimately, the Board of County Commissioners, you know, represent the people of Collier County. And if they want the GMP to expand in uses, that's what happens. If they want to keep it the same, that's what happens.

I lived in a New England town once upon a time, Simsbury, Connecticut, that never changed. Never changed. And it's just a beautiful old New England town. It wouldn't allow a McDonald's into it, all right. Then you have a place like New York City, and you look at New York City in the 1800s, and they were predominantly two-story brick buildings, and now you look at them, and it's one of the great metropolises of the world.

It's whatever vision you have. So if you had the vision of the New England town, that's what you develop. If you want a vision of, like, a New York City, that's what you develop. If you want something in between, that's what you develop.

But at the end of the day you're charged with reviewing the Comprehensive Plan, making recommendations to the Board. You can keep it the same. You can say no. It's a legislative decision, or you can say, you know what, we would like to see this growth here, or we would like to see this growth there or, you know, Collier County in 2020 is not the same as Collier County back in 1990 when we were adopting these things. So it's up to you.

MR. YOVANOVICH: Can I ask a follow-up question to --

CHAIRMAN FRYER: Thank you. Go ahead.

MR. YOVANOVICH: I just want on the record, Collier County Growth Management Plan -- Growth Management staff is recommending approval of 172 units on this piece of property, correct?

MS. JENKINS: That's what the staff -- yeah.

MR. YOVANOVICH: I understand it may change if the Board ultimately decides --

MS. JENKINS: Yes, yes.

MR. YOVANOVICH: -- to make it different. But if the Planning Commission and the Board of County Commissioners decide that 172 units on this piece of property is appropriate, you agree that that's an appropriate change?

MS. JENKINS: We would.

MR. YOVANOVICH: Thank you.

COMMISSIONER SHEA: Why? I'm still -- I hate to belabor this, but I don't -- I don't get it. To me, if I don't want to support 31 dwelling units per acre, it's up to me to vote against the petition.

MR. YOVANOVICH: Correct.

CHAIRMAN FRYER: Commissioner, you're absolutely right. That is well stated. It's

up to us in the aggregate how we vote. If we want to keep the density at 16 dwelling units per acre, this is absolutely within our prerogative.

COMMISSIONER SHEA: And if we vote against it --

MR. KLATZKOW: I'm not trying to be facetious here, but all your planners are urban land-use planners. I've never yet once met a rural land-use planner or suburban land-use planner. They're all suburban land-use planners. They cut their teeth on urban planning. That's -- it's engrained in them. So, yes, staff is normally going to always ask for additional density because they like additional density. Makes it easier for infrastructure, allows bus systems to be put in and everything else. That's just how they were trained. They're not suburban land use -- urban. Let's just -- they're always going to recommend high density because in their minds that's the best use for property. You don't have to agree.

MR. YOVANOVICH: And, Mr. Shea, it goes back to my opening statement. If you want it to stay the same, the property will be developed as C-3 zoning. If you want to convert this to a residential development, which the Comp Plan says this should be a residential development, then we're going to need more density than what we can get under the current Comprehensive Plan. We cannot make a project work at 16 units per acre. If I could, I wouldn't be asking for the amendment. So you're right, you get to make the call.

CHAIRMAN FRYER: And that's the, I think, most important point, that we as a group get to make --

MR. YOVANOVICH: Right.

CHAIRMAN FRYER: -- the initial call, and that becomes actually the final recommendation to the Board of County Commissioners.

Where are we?

MR. YOVANOVICH: Mr. Ross was on there for a second. And my only question to him is, when he shows back up, is have him confirm that our Traffic Impact Statement did, in fact, meet all of the Collier County requirements.

CHAIRMAN FRYER: Mr. Ross?

MR. YOVANOVICH: There he is.

MR. ROSS: Yes, I'm here. Can you hear me?

CHAIRMAN FRYER: Yes. Please identify yourself.

MR. ROSS: This is -- I'm Tom Ross, representing Collier County as a consultant for -- working for Jacobs.

CHAIRMAN FRYER: Thank you.

MR. YOVANOVICH: And, Mr. Ross, my question to you is, you reviewed the Traffic Impact Statement for the One Naples project, correct?

MR. ROSS: Yes, that's correct.

MR. YOVANOVICH: And you found that it complied with all of the requirements of a Traffic Impact Statement for Collier County?

MR. ROSS: That is correct.

MR. YOVANOVICH: And you -- I believe you made a presentation showing that, in fact, the residential development option that we're proposing will result in less traffic than the current zoning on the property; is that correct?

MS. ROSS: I wouldn't say that it resulted in less traffic, but the improvements that the developer is committing to do improve traffic flow.

MR. YOVANOVICH: Did you, in the TIS, review the comparison of the existing zoning, C-3 zoning, to the proposed mixed-use project that we're proposing?

MS. ROSS: Yes.

MR. YOVANOVICH: And do you recall what the 100-square-foot -- 100,000-square-foot commercial option, the number of trips were for that?

MR. ROSS: No, I don't recall exactly, but it was high.

MR. YOYANOVICH: You don't have it in front of you? I think it was 47 --

MR. ROSS: No, I don't.

MR. YOYANOVICH: Does the number 491 p.m. peak-hour trips seem reasonable for 100,000-square-foot commercial project on that property?

MR. ROSS: Yes, it does.

MR. YOYANOVICH: Do you recall what the trip numbers would be for the 172 dwelling units and 10,000 square feet of office [sic] would be?

MR. ROSS: I don't believe -- I don't recall exactly, but I believe it was somewhere between 100 and 200 trips, peak hour.

CHAIRMAN FRYER: You said "office." Did you mean office or commercial?

MR. YOYANOVICH: I said commercial retail. I should have said commercial retail.

MR. ROSS: That's what I thought you meant.

MR. YOYANOVICH: Thank you. So the TIS has that at 491, and then it has -- for our proposed uses, it has it at 148 p.m. peak-hour trips. Do those numbers sound --

MR. ROSS: I would agree with that.

MR. YOYANOVICH: You would agree with that?

MR. ROSS: Yes.

MR. YOYANOVICH: So, in fact, there is a significant reduction in traffic if we were to obtain both our Growth Management Plan amendment and our PUD approval versus the existing C-3 zoning, correct?

MR. ROSS: Compared to the existing C-3 zoning, I would agree with that.

MR. YOYANOVICH: That's all I have.

CHAIRMAN FRYER: Thank you. That's all you have of this witness, or that's all you have?

MR. YOYANOVICH: Of this witness, yes, sir. And then I think -- is Mr. Khawaja here?

MS. SCOTT: Mr. Khawaja is our Chief Engineer for Traffic Operations. He is here. I believe he was on the sixth floor so we can get him to come on down.

MR. YOYANOVICH: Okay.

COMMISSIONER HOMIAK: There he is.

MR. KHAWAJA: Good morning. My name is Tony Khawaja. I'm the Chief Traffic Engineer for Collier County.

CHAIRMAN FRYER: Good morning, sir.

MR. KHAWAJA: Good morning.

MR. YOYANOVICH: Can I call you Tony?

MR. KHAWAJA: Sure.

MR. YOYANOVICH: Tony, did you have an opportunity to meet with Mr. Banks to discuss various improvements to the corridor related to transportation?

MR. KHAWAJA: Yes. We had a few meetings with the developer and the developer's team to take a look at a few options, yes.

MR. YOYANOVICH: And I believe you-all discussed either a traffic signal option at the corner of Gulf Shore and Vanderbilt Beach Road versus a roundabout option at that intersection, correct?

MR. KHAWAJA: That is correct. We looked at maintaining the multiway stop as they are, we looked at a roundabout to see how that would work, and then we looked at a traffic signal.

MR. YOYANOVICH: And it was your professional opinion that the traffic signal was the best alternative for that intersection, correct?

MR. KHAWAJA: For that intersection, due to the number of pedestrians that would be

conflicting with the roundabout movement it was -- the numbers there they showed when they counted the intersections, there's about 300 or so pedestrians that would use that crosswalk on the weekends, on the heavy weekend for, like, a four-hour period, which is very heavy pedestrian movement. And if we had a roundabout, all these pedestrians will be interrupting flow.

What we felt is, at least my professional opinion was, with a traffic signal -- and we looked at multiple options, and one of the options was, is to try to get the two turning movements to release at the same time so southbound traffic off Gulf Shore the same -- to discharge at the same time as westbound to northbound turning movements. So these movements are the two heaviest movements at the intersection. So if we can have them move at the same time, that will take care of the majority of the traffic.

Crossing traffic to go to the beach is very minor. There isn't really much to go to other than do a quick drop or if you're leaving that parking space, so that would be a very short green time. And the other big time or time as needed is for the pedestrians. The pedestrians -- there's a lot of them, and we felt if we can stop them for a while, release them all at once, and we're thinking to do an exclusive walk, which means we're going to allow pedestrians to cross diagonal if they need at this intersection, which is unique for Collier County. We usually don't do that. But I feel like that intersection would work very well.

MR. YOVANOVICH: That's all I have.

CHAIRMAN FRYER: Thank you.

COMMISSIONER FRY: May I ask a question?

CHAIRMAN FRYER: Yes, Commissioner Fry.

COMMISSIONER FRY: Tony, since you're there -- and I'm not sure if this is a question for you or for Trinity, but you stated that the traffic light is a -- would be an improvement for the traffic flow and the pedestrian flow as well. If this project was not approved, they've offered the cost of the light as part of their project. If the project was not approved and they went ahead with the C-3 and did not provide the light, what is the likelihood that a light would be -- it sounds like a good idea regardless of this project or not. What is the -- what is the -- what are the chances that the light would be put in and in what kind of time frame?

MR. KHAWAJA: I'm sure Trinity might want to jump in on this. It is a matter of planning and providing funding.

One of the key items is, do we have the right-of-way to fit a right-turn lane? Currently, with the current lane arrangement, it's a little difficult to build an exclusive right-turn lane. For this signal to work properly, you really need an exclusive right-turn lane so you can discharge turning traffic at the same time.

It might be tight. We might have enough right-of-way. I have not looked into that. But with time, the county would have to build that signal.

COMMISSIONER FRY: But this applicant is offering the area needed for the right-turn lane.

MR. KHAWAJA: And to construct the right-turn lane.

COMMISSIONER FRY: To construct the right-turn lane. Okay.

Trinity, anything to add?

MS. SCOTT: I think what I would add is just that it would be subject to funding availability. And, you know, our -- we plan those out for five years, so we would have to figure out when we would be able to shoehorn that in.

COMMISSIONER FRY: And that's not in the five-year plan?

MS. SCOTT: It is currently not.

COMMISSIONER FRY: Nor the improvements that they've offered to the parking garage in terms of a sign that says how many spaces are available and a more efficient way of handling the traffic when it fills up.

MS. SCOTT: I would be speaking on behalf of Parks and Recreation, but I do not believe that that is the case. But I will verify with Barry and let you know.

COMMISSIONER FRY: Okay. Thank you.

MR. YOVANOVICH: Yeah. Our conversations were they have no plans to make any modifications.

COMMISSIONER FRY: Okay.

MR. YOVANOVICH: That's all I have for Tony.

CHAIRMAN FRYER: You're excused, sir. Thank you.

MR. YOVANOVICH: I believe that is all of the county witnesses I wanted to bring up as part of their case, and I think at this point, you were going to go to the public; is that correct?

CHAIRMAN FRYER: Thank you. Thank you. That is correct. And we'll start almost immediately, but first I want to have, like, a tactical discussion up here. We have agreed, or I agreed on our behalf, not to -- not to interrupt the rebuttal presentation of Mr. Yovanovich and so, undoubtedly, that is going to start on the 5th of November. We may end up, however, interrupting the opposing neighbors' presentation. And my question is, first of all, if there's a speaker, someone who's authorized to speak on behalf of the opposing neighbors, I'd have a -- I'd like to ask that person to come up so that I can --

Would you identify yourself, sir.

MR. BROOKES: Good afternoon. My name is Attorney Ralf Brookes. I'm board certified in city, county, and local government law, and I represent Save Vanderbilt Beach, Inc., and with me is Sarah Spector.

CHAIRMAN FRYER: Okay.

MR. BROOKES: She's from Roetzel & Andress representing another client.

CHAIRMAN FRYER: Okay. Thank you.

MS. SPECTOR: Yes. On behalf of Regatta. Thank you.

CHAIRMAN FRYER: Thank you.

So my question is going to be, how would the -- how would your clients and other members of the opposition, so to speak, feel if we started the public speaking portion today, but since we've got a hard stop at 3:00 p.m., we'd have to pick up where you left off on the 5th?

MR. BROOKES: Is your question would we rather wait for the 5th?

CHAIRMAN FRYER: I guess that would be the alternative, yeah.

MR. BROOKES: We do have one -- can you be here the 5th?

MR. STUART: I can be here on the 5th.

MR. BROOKES: That would be, actually, preferable. We have a witness that has to leave, and we'd rather wait for the 5th to make our presentation.

CHAIRMAN FRYER: I don't understand. You have a witness who has to leave?

MR. BROOKES: I'm sorry. Let me just back up. Yes, we'd rather go on the 5th rather than be broken up.

CHAIRMAN FRYER: Okay. Well, now I'm going to open it up for Planning Commission.

MR. YOVANOVICH: Can I please comment?

CHAIRMAN FRYER: Well, let's -- yeah, go ahead.

MR. BROOKES: We were here, and we were supposed to go at 9:00 a.m. I believe Mr. Yovanovich said before, at the end of the last hearing, his cross-examination was concluded. So we've got all these witnesses. But if we can start on November 5th first and not have more cross-examination, we'd prefer to start the morning with our witnesses.

MR. YOVANOVICH: Hold on.

CHAIRMAN FRYER: Go ahead.

MR. YOVANOVICH: When you opened this up two weeks ago, you gave them 148



minutes for their presentation. Now, I can't do that math in my head, but that's not even three hours. So I don't know how they're not going to get done by 3:00. So for them to now get another two-week reprieve to start their case when they're not a party to this case is unduly burdensome to my client. The fact that I'm allowed to ask cross-examination of county witnesses is irrelevant to their being given due process, and they should be required to go forward and put their case on. And if they don't finish because -- by 3:00, they can change the order of their witnesses as to who can or cannot come back, but I would object --

CHAIRMAN FRYER: I understand.

MR. YOVANOVICH: -- to that.

CHAIRMAN FRYER: I want the record to show that you've been given no limitations.

MR. YOVANOVICH: And I'm a party to the case. They don't get the same -- they don't get the same unlimited -- you agree -- they agreed up front 148 minutes. We counted it. They have more than 148 minutes to go.

CHAIRMAN FRYER: All right. Stand down, please, sir, if you would.

I'm going to ask Ms. Jenkins to come up.

MS. SPECTOR: Could I please make one follow-up comment to that?

CHAIRMAN FRYER: Quickly, yes.

MS. SPECTOR: Again, Sarah Spector with Roetzel & Andress.

The one comment I would make is that we did agree to limit the number of speakers from the 600 or so. It was limited down to 80 last time. It's limited even -- we've gotten it down even further because you have allowed us that time. But the purpose of that was so that we didn't have repetitive speakers. We do want to be able to let those who did speak and still want to speak to say I agree with Mr. Stuart or whoever else, and I think that's broken up if you --

CHAIRMAN FRYER: I get it. Thank you.

Ms. Jenkins, when are our options with respect to the AUIR?

MS. JENKINS: We do need to hear that today, and so we could possibly -- I'll have to check with Jeremy on how we've advertised that and what the deadline is to meet the Board's agenda on November 10th where I'm just looking at an advertisement for that now. So that's a critical timeline for us to get to November 10th with your recommendations.

CHAIRMAN FRYER: Okay. So if we started it today, it wouldn't need to be readvertised, would it?

MS. JENKINS: No.

CHAIRMAN FRYER: Okay. Thank you. That's what I needed to know.

All right. So any more discussion? Because I've got a suggestion. Go ahead, please.

COMMISSIONER SHEA: I'd like to proceed.

CHAIRMAN FRYER: Oh, wait a minute. Commissioner Schmitt was lit up.

COMMISSIONER SCHMITT: Go ahead.

COMMISSIONER SHEA: I think we should proceed.

COMMISSIONER SCHMITT: I'm in the same position.

COMMISSIONER HOMIAK: Yes.

COMMISSIONER SCHMITT: I would -- but in order to proceed -- I'm confused. We were going to have the attorneys and rebut first, or are we going to have public speaking? That's where I'm confused.

CHAIRMAN FRYER: I'll go over that again in a moment.

COMMISSIONER SCHMITT: Okay.

CHAIRMAN FRYER: What I'm going to suggest, then, because I want to give the public speakers a full opportunity to speak. And if you need to go over 3:00, if you need to go to 4:00, I'd be inclined to permit that, and then that would still enable us to start the AUIR to avoid the need for readvertising. You don't have to go to 4:00, but I want to be as reasonable as I can with the

public speakers.

MR. YOVANOVICH: May I make one other suggestion?

CHAIRMAN FRYER: Yes.

MR. YOVANOVICH: They have 148 minutes they asked you for. I'm more than willing to wait for my cross-examination of their witnesses until November 5th so they get their 148 minutes uninterrupted by me asking their experts any questions. The only request I have is they bring their experts back on November 5th so I won't be interrupting their presentation. They'll be able to move forward in the 148 minutes that they asked for. The general public -- we were never going to finish the general public and their case the way it originally was today even if I didn't say one word, because they had 80 speakers. We were six-and-a-half-hours in just on their time assuming there was not one question asked of anybody. So I --

CHAIRMAN FRYER: All right, sir. Well, let me tell you how I'm going to decide this, subject to being overruled by the Planning Commission. We're going to -- at the appropriate time we're going to take a one-hour lunch break, and we're going to come back and we're going to continue with the public until 4:00, then we'll start the AUIR. And if needs be, if there are still important points that have not been brought up by the public -- and I'm talking about repetition or "dittos" or "I agree," but new material that has to come up, we're going to allow as much time as possible for that rather than cut anyone off.

And so without objection from the Planning Commission, that's how we're going to proceed. And if you want to make an objection to it, sir, now's the time.

MR. YOVANOVICH: No, no. I appreciate it, Mr. Fryer. My only question is when you say "the public," you mean the organized presentations first, because that's how we were always doing it, and then the general public was going to speak after the organization presentations, correct?

CHAIRMAN FRYER: I will now identify what I've been given here as a revised presentation. And the 146 or 148 minutes, I don't know how you calculated that, but that's not a number that I had in my head.

We're going to start with Mr. Melkus, who is going to speak for six minutes, then we're going to have experts' presentation: Mr. Stuart, Mr. Oliver, Mr. Trescott, and I -- somewhere else I have the time that we've agreed to for them. Mr. Stuart had 30 minutes; Mr. Oliver had 15; Mr. Trescott, seven. Then we've got nine people who want five minutes each; and then Mr. Victor wants seven minutes, Mr. Pires -- Pires wants 15 minutes, and Mr. English 10 minutes.

MR. YOVANOVICH: And I think those were the numbers we had before, and I think that's 148 minutes.

CHAIRMAN FRYER: It could be. It could be.

MR. YOVANOVICH: That's where we got it from is from what you said at the last meeting.

CHAIRMAN FRYER: All right.

MR. BROOKES: Your Honor, we have no objection; however, we'd like to change our expert witness presentation order. As I mentioned before, Dan Trescott has to leave, so if he could be our first expert after Ken Melkus.

CHAIRMAN FRYER: Certainly.

MR. BROOKES: Thank you.

COMMISSIONER SCHMITT: Mr. Chairman, before we start, I do want to raise an objection. These documents were put on our desk today. This petition has been going on for well over 30 days. The only letters of opposition that I received from opposing party or opposing attorney was from Mr. Pires. We received no other documentation. And to get something like this the day of the meeting is totally unacceptable.

MS. SPECTOR: That is just a supplement to --

COMMISSIONER SCHMITT: And I don't have any chance to read it, Sarah. I don't know what the intent is, but I find it totally unacceptable. This has been going on for quite a while, and there's just no professional reason to present this to us today and expect us to go through it.

MS. SPECTOR: Those documents have actually already been provided to you. They were provided 10 days in advance of the last hearing. It's a supplement to Greg Stuart's presentation, our planner, and he's just provided it in that format so it's easy for you to flip back and forth rather than scroll through the thousands of pages in the packet.

COMMISSIONER SCHMITT: All right. Well, I looked through Mr. Stuart's. Now I'm looking through this, and they're -- you're saying it's just laid out differently. But it would have been nice to get this prior to the meeting.

MR. YOVANOVICH: Do you mind, Sarah, if I take that copy, and can you provide another copy to the court reporter?

MS. SPECTOR: I have a copy for you right here.

MR. YOVANOVICH: And I appreciate that. And I'll be happy to point out, I believe there are some documents in there that are not already in the record, but I need -- I had about 12 seconds to look at it.

CHAIRMAN FRYER: Yes. Commissioner Klucik.

COMMISSIONER KLUCIK: Just a clarification. So are these speakers now going to speak without cross-examination subject to our -- perhaps our interruptions, just only as necessary, but without cross-examination?

CHAIRMAN FRYER: Let me propose this and see what Mr. Yovanovich says.

My proposal is that experts are fair game for cross-examination. When we get into -- when we get into representatives of HOAs, I think that's sort of a gray area. With respect to individual neighbors, I would -- I would hope that there would not need to be any cross-examination, and I think I would feel compelled to perhaps rule a little heavier hand if that was attempted.

MR. YOVANOVICH: And, Mr. Fryer, I said at the last meeting, I have every intentions of cross-examining their experts. I have every intentions of cross-examining HOA representatives. Unless someone gets -- who's a general public commenter or trying to purportedly provide some expert testimony, I have no intentions of asking anybody in the public. But if they get up there and say, I'm a marketing expert --

CHAIRMAN FRYER: I understand.

MR. YOVANOVICH: -- then I would. And that's what I said last time.

CHAIRMAN FRYER: And that's fair. I --

COMMISSIONER KLUCIK: And that would be on the fly just because otherwise it's impractical to expect those people to come back whenever.

CHAIRMAN FRYER: Exactly.

Just as a forewarning, I understand your wish to question HOA representatives, and I'm certainly going to recommend that we allow it, but I'm not going to allow what would approach, shall we say, badgering. And I'm not saying that that's what you would do, but I'm going to -- I might have to use the gavel. But we'll wait and see.

MR. YOVANOVICH: And I hope that you won't have to use the gavel.

CHAIRMAN FRYER: Thank you very much. Without further adieu, then, the chair recognizes Ken Melkus, Save Vanderbilt Beach, who has six minutes.

Now, before you start speaking, sir, I don't want to be the timekeeper here. Wess, are you able to do -- how can we do this Wess?

MR. FRANTZ: We can keep time here in the back of the room and just speak up --

CHAIRMAN FRYER: Perfect.

MR. FRANTZ: -- when there's 30 seconds left, if you'd like.

CHAIRMAN FRYER: Yeah, yeah. That's perfect. Thank you very much.

So, Mr. Melkus, you have -- where are you, sir?

UNIDENTIFIED SPEAKER: He's on Zoom.

CHAIRMAN FRYER: Oh, he's on Zoom. Okay. Mr. Melkus, can you hear me?

MR. MELKUS: I can.

CHAIRMAN FRYER: Sir, you have six minutes. Please go ahead.

MR. MELKUS: Thank you. Good morning. My name's Ken Melkus. I am a homeowner living at 8787 Bay Colony Drive. Today I'm wearing two hats. I am a concerned neighborhood resident, and I'm also an active member of a Florida non-profit 501(c)(4), Save Vanderbilt Beach, Inc. Save Vanderbilt represents the interest of more than 1,100 of my fellow neighborhood residents who have registered on our website and joined with us to fight for reasonable, complementary, consistent, and compatible development. Each of these people rightly has a serious interest in what will be developed at Vanderbilt Beach Road and Gulf Shore Drive.

You may ask how I know that their interest is serious. I can tell you that it goes well beyond the several hundred people who have purchased our red bullet "Support Reasonable Growth" T-shirts, beyond the hundreds who have displayed our Save Vanderbilt Beach yard signs in their front yards for the past six months, beyond the 450 people who attended the applicant's neighborhood information meeting, and beyond the, literally, hundreds and now, as you've confirmed, thousands of emails that I know you as commissioners have received expressing the desire that the One Naples development be complementary to and compatible with the neighborhood.

I know that the interest is serious because these people have spoken with their pocketbooks, their time, and their quest to have their voices heard.

To date, beginning with the Save Vanderbilt Beach website we went [sic] in last January of this year, we have received nearly \$90,000 for more than 450 of our registrants. That's in excess of 35 percent of those who have signed up. Nothing expresses their concerns more than that fact alone.

Additionally, we had have nearly 700 individuals signed an online petition stating their dissatisfaction with the current plan and their concerns that there this is not in scale with the neighborhood.

And we are not alone. The Pelican Bay Property Owners Association, the residents of the Regatta, the Trieste, the Barefoot Pelican condominiums, the Naples Park Residents Association, the Vanderbilt Beach Residents Association, and the residents of the Beachwalk neighborhood, among others, have also expressed their concern with the current developer's design.

What makes our accomplishments even more noteworthy, they were achieved during the challenges we all faced during the COVID virus and by all volunteer staff. We have no employees. This has been truly a community effort.

Stock Development has told you that it has had more than 50 meetings with neighborhood interest groups and communities. I have no reason to disbelieve this number; however, in my opinion, a meeting is not a meeting unless it is productive. Simply checking the, quote, meeting box "held" is meaningless.

We have had personal involvement with Mr. Stock. It goes back to the first NIM meeting where there was about 450 people attending. It was in early March of this year, and it was bedlam. It was embarrassing as far as the disruption and the activity by some of the participants. State police, just to give you an idea for those of you who were not there, actually had to escort several of the speakers away from the microphone. We do not support that disorder and disrespect, only point out to illustrate the level of intensity and passion against this project as proposed.

Second, I participated with Mr. Stock and Gelder in several Zoom calls with Save Vanderbilt Beach. The conversation was civil and respectful but anything but productive. We discussed a package of design failings, that being -- including height, inadequate setbacks, lack of meaningful open space, mass, and excessive density. No effort was undertaken to change any of those as a result of our conversations.

Just as I wanted to show how important this development is to residents of the neighborhood, I want to emphasize that we are not asking for Stock Development to abandon its redevelopment of the site. Quite the contrary. We are not a no development group. Rather, we want a development that follows the rules, the intent of the county's Growth Management Plan and Land Development Code and is, as these codes require, complementary to, compatible with, and in scale with the neighborhood. They are the codes you and your predecessors have developed.

A moment ago I said that we have raised nearly \$90,000. We have used those funds to engage experts. Just like your own planning staff, they are much more capable than I of informing you how Stock's application and the proposed development does not meet the standards developed by Collier County. These experts, land planners, traffic engineers, experts in coastal high hazard concerns, and attorneys will be addressing you. They will tell you about the issues of height, mass, open space, setbacks, traffic, unlawful spot zoning, and more. I want to underscore again that it is a package of failings, not just simply a singular item that needs to be remedied.

They will not only talk about how the project is neither complementary nor compatible with the neighborhood but also --

MR. FRANTZ: Sir, you have 30 seconds.

MR. MELKUS: -- how it might be made so.

So we are realists. We want to join you, Stock, and the competent staff as change ages. We just cannot agree to any project such as what Stock proposed with disregard to the quality of life in the affected area. We have, in our several meetings with Stock's representatives, encouraged them to redesign their plan recognizing their needs while at the same time protecting our neighbors, yet the applicant has remained intransigent and unwilling to find a compromise.

MR. FRANTZ: Your time is up.

CHAIRMAN FRYER: Your time is up, sir. Thank you.

Mr. Yovanovich wants to say something. First, any Planning Commissioner want to ask a question or make a comment? I have -- go ahead, Commissioner.

COMMISSIONER SCHMITT: Yeah. Ken, just to clarify, you do understand that the Vanderbilt Beach -- and I know the Vanderbilt Beach Association's been around for quite a long time. Probably almost -- I can think of back early 2000. But it is RT zoning, as I brought up in the first meeting. It means residential tourists zoning. And I know that folks of Vanderbilt Beach seem to indicate that it's almost a residential zoning when it, in fact, it is RT, which is residential tourist, short-term rentals, and those kinds of things. You do understand that that is your zoning; is that correct?

MR. MELKUS: I would defer to Mr. Stuart, our planning expert.

COMMISSIONER SCHMITT: All right. Thank you.

CHAIRMAN FRYER: I have a question for you, Mr. Melkus. On behalf of your group, are you in a position to advise us what your group would support by way of a maximum actual building height on the towers?

MR. MELKUS: Mr. Chairman, that's what Mr. Stuart will describe for you in terms of the alternative that we advanced to the staff and to Stock. It deals with the height. It deals with the intensity or -- it deals with the setbacks, it deals with open space, the whole host of activities. So, yes, we are prepared to tell you what we believe is a reasonable proposal for the site.

CHAIRMAN FRYER: All right. In anticipation, then, of Mr. Stuart speaking, can you please advise us who exactly he will be speaking for; 100 percent of the opposition members or a

lesser number?

MR. MELKUS: He is speaking on behalf of Save Vanderbilt Beach and the Regatta.

CHAIRMAN FRYER: Thank you very much.

Mr. Yovanovich, did you have a question?

MR. YOVANOVICH: Just a couple quick questions. I got your street address. So you live in the Bay Colony portion of Pelican Bay?

MR. MELKUS: Yes, I do.

MR. YOVANOVICH: Which building do you live in?

MR. MELKUS: I live in the Trieste.

MR. YOVANOVICH: Okay. And I believe you said the Trieste is part of the neighborhood?

MR. MELKUS: No, I did not say part of the neighborhood. I gave you my residence. I'm answering your question now as far as where I reside.

MR. YOVANOVICH: Okay. I just want to know what your personal involvement was on behalf of Save Vanderbilt Beach in providing the materials on the website. Did you have any personal involvement in that?

MR. MELKUS: No, I did not. The website was designed, I believe, by an individual that we engaged outside of the organization.

MR. YOVANOVICH: Did you -- because I don't want to ask questions that I should ask of someone else. Did you provide input into the information that should be on the website?

MR. MELKUS: I don't believe so.

MR. YOVANOVICH: Okay.

CHAIRMAN FRYER: Well, who would the proper person be to answer those questions, Mr. Melkus, if you know?

MR. MELKUS: I was not involved in the website, sir. I can't tell you.

CHAIRMAN FRYER: All right.

MR. YOVANOVICH: And just for information that was disseminated amongst the people within Save Vanderbilt Beach, what information, if any, was provided to the residents as to what can be developed on the property today as a matter of right under the C-3 zoning?

MR. MELKUS: I'm sorry. I cannot answer that question.

MR. YOVANOVICH: Okay. That's all I have.

CHAIRMAN FRYER: Thank you. And the next speaker -- well, before we do this, it's 11:40, and it's Mr. Stuart.

COMMISSIONER KLUCIK: I have a question for this witness.

CHAIRMAN FRYER: Oh, I'm sorry. Commissioner Klucik.

MR. BROOKES: Mr. Trescott has to go. So if we could have him first before Stuart and have him before lunch, that would be great.

CHAIRMAN FRYER: All right. And Mr. Trescott wants seven minutes. Let's got -- but do you have a question for --

COMMISSIONER KLUCIK: Yes, for the witness.

CHAIRMAN FRYER: Commissioner Klucik, please go ahead.

COMMISSIONER KLUCIK: Okay. So I was just confused. It sounded like you said that there were no compromises made by the petitioner, and these meetings didn't result in any, you know, changes to accommodate some of the concerns. And I just want to make sure, because I understood so far that there actually were some significant and substantial changes that were trying to respond to the requests in the feedback from these meetings from your organization

MR. MELKUS: That's not how I would characterize the changes that Mr. Stock made. First of all, my comment had to do with the June 30th Zoom call that we had with Mr. Stock where we met with Mr. Gelder and Mr. Stock.

COMMISSIONER KLUCIK: Okay. That's fine. I don't want to belabor it. I was just confused as to what you were asserting and --

MR. MELKUS: It wasn't -- we gave him a copy -- sir, we gave him a copy of our proposal in terms of trying to come up with a compromise, and he just rejected it. Didn't even acknowledge receipt of it.

COMMISSIONER KLUCIK: Thank you very much.

CHAIRMAN FRYER: Thank you. Our next speaker will be Mr. Trescott, who has seven minutes.

MR. TRESMOTT: Yes. Trescott -- Dan Trescott with Trescott Planning Solutions. My experience is 40 years of land-use planning, hurricane impact analysis, and some sea level rise planning also. Masters of science in planning since 1980, resumés are available.

CHAIRMAN FRYER: Okay. And who are you representing, sir?

MR. TRESMOTT: I am representing the Save your Vanderbilt Beach.

CHAIRMAN FRYER: Thank you. Please proceed.

MR. TRESMOTT: Yes. As indicated, I've represented the Save Vanderbilt Beach people group, and they've asked me to look at the hurricane impact analysis for the project. And, basically, I've determined, it's my expert opinion, that the amendment -- Comprehensive Plan amendment and the companion rezone and the street vacations are inconsistent with the current county Comprehensive Plan goals, objectives, and policies and Land Development Code.

The applicant has not provided competent substantial evidence supported by persuasive data and analysis to address the impacts of the proposal relative to the Capital Improvement Element, the Future Land Use Element, the Conservation Coastal Management Element, some other goals in that section also relative to the Land Development Code dealing with construction standards in the coastal high hazard area, tanks in high hazard areas, sea level rise in the code, and some findings relative to balancing the evacuation capability and the population at risk.

Regarding this site, we all know it is in the Coastal High Hazard Area, although there are several different definitions that may apply on this site. But, basically, the one that we're dealing with relative to the amendment itself and the increase in density is the Coastal High Hazard Area relative to the hurricane evacuation study, and this is the most recent storm surge map for the site. And it's based on the Sea, Lake, and Overland Surges from hurricanes.

The Hurricane Center SLOSH's play program indicates that the site -- this is the SLOSH'S play model, actually, that in a Category 1, which is the coastal high hazard definition, it's going to get about 8.10 feet at high tide. For a category -- that's for a Category 1. For a Category 5, it's going to be 28.9 feet.

Basically, as we've mentioned before, the entire site is in the 100-year floodplain. It's got the coastal construction control line running through the middle of it. It's got two elevations that apply, Elevation 12 and 11, depending upon where you are on the site and then, of course, the Coastal High Hazard Area requires a 21-plus-foot elevation.

And also I might mention that when you look at Vanderbilt Beach lagoon when the wind starts blowing 100 miles an hour, all that water is going to be pushed into the site and into the marina area. So for practical purposes, it will be in the V zone, the marina, too.

Basically, this entire situation here with sea level rise occurring due to accelerating climate change and the fact that when we got, you know, ever-increasing storm site's heights that are going to occur as time goes on, the project's got a 100-year buildout everybody's been talking about. Well, unfortunately, based on some of these sea level rise projections, it would -- you know, the coastline is going to be somewhere within this red area eventually as sea level rises.

Hurricanes are getting stronger, and they're lasting longer, and they're stalling out. These are all things relative to climate change occurring. And this site's going to get a lot more minor storms than major storms, and so that's why it's important to make a project that's resilient to

this -- these issues.

Now, with these storms getting more rapidly intensified, it becomes an issue for, you know, evacuation times as they get longer and longer and being able to evacuate safely. And, you know, hurricanes really are just the atmosphere's ability to redistribute heat around the planet.

I mean, basically unless there's some sort of major public expenditures to hold back the sea, as I said, the shoreline's going to be somewhere in that area that I mentioned of red. There's been already a study in the county that's kind of indicating that the county needs to do some resiliency planning for sea level rise. So, you know, as the site -- as the sea level rises, the site's going to be harder and harder to drain over time. I'm seeing that in a lot of places. Even on my own land.

Basically, regarding hurricane evacuation time and shelter impacts, the state law requires that because the county didn't adopt the level-of-service standards, it's 16 hours to evacuate in a Category 5, out-of-county evacuation, and then 12 hours to shelter.

You can do appropriate mitigation. You can do either one of those. Basically, the out-of-county time is 96 hours for evacuation time. The clearance time to shelter is 94 hours. The project with an 85 percent occupancy rate has 160 vehicles that it's going to generate. It's going to increase the time by three minutes and the public shelter deficit by 31 spaces.

The -- this is a map that shows the times throughout the region and the times I've spoken about. Basically, the problem is, is a lot of vehicles also traveling, you know, not just out of the county evacuating but traveling through the county is about 307,000 vehicles.

You know, the times are not, you know, high, big three minutes but, you know, if you add them up over all the projects that are going on in these areas, it becomes significant, and it's clearly over 16-hour evacuation time.

There's a 12,000-square-foot shelter deficit in the county. Also, this -- this table shows those deficits by county. This map shows the critical evacuation routes that are -- have high queuing delays, backups, traffics. You see it's all the ones leaving the county.

MR. FRANTZ: Thirty seconds.

MR. TRESCOTT: How much?

CHAIRMAN FRYER: Thirty seconds, sir.

MR. TRESCOTT: Okay. The capital improvement element basically indicates an adequate public facility that will be maintained. I suggest to you the shelters and evacuation routes are not being maintained to achieve the objective.

The right-of-way vacation is basically a giveaway to -- in the Coastal High Hazard Area. It's not been really accounted for. The land-use element is a petition --

MR. FRANTZ: Your time is up.

MR. TRESCOTT: -- that basically says three units per acre. I'm recommending that the county not approve this because it's inconsistent with the Comp Plan. So vote no. Thank you.

CHAIRMAN FRYER: All right. Your time's up. Thank you very much, but before you leave, Commissioner --

MR. TRESCOTT: I got cut a little short doing some things.

CHAIRMAN FRYER: I understand.

MR. BROOKES: I just wanted to clarify. He said there was a 12,000-square-foot deficit. It's really almost 12,000 spaces.

MR. TRESCOTT: Space deficit. Yeah, I get cut a little short on my presentation.

CHAIRMAN FRYER: I want -- I want to call on Commissioner Schmitt, please.

COMMISSIONER SCHMITT: Mr. Trescott, you gave a pretty explicit rundown on climate change and storms and events.

MR. TRESCOTT: Yes.

COMMISSIONER SCHMITT: And your background is?

MR. TRESCOTT: I worked for the Regional Planning Council and did evacuation



studies, drawn storm surge maps and all that for --

COMMISSIONER SCHMITT: But you have no -- you're not a meteorologist. You're not a scientist. Do you have data to back up your statements concerning the level of the storms, the severity of storms, the number of storms?

MR. TRESKOTT: Yes, sir. Hurricane Center.

COMMISSIONER SCHMITT: Would you please provide that the Planning Commission.

MR. TRESKOTT: Well, the Hurricane Center is the source of those -- of those statements I've made.

COMMISSIONER SCHMITT: And that's all due to your assessment of climate change?

MR. TRESKOTT: Others' assessments of climate change, yes. I have worked on sea level rise planning --

COMMISSIONER SCHMITT: How many other scientists refute that?

MR. TRESKOTT: There may be one or two but not many.

COMMISSIONER SCHMITT: Well, thank you. I guess that's a very learned discussion then.

You talk about number of vacancies for hurricane evacuation. In this part of the county, how many residents are in resident during hurricane season and would require -- would you believe that would require some kind of hurricane shelter?

MR. TRESKOTT: Well, I assumed an 80 percent, I think it was, evacuation occupancy rate.

(Simultaneous crosstalk.)

MR. TRESKOTT: Eighty-five percent.

COMMISSIONER SCHMITT: If you notice, Mr. Trescott, it's RT zoning, so it is pretty much residential tourist and, typically, the residents are not down here during hurricane season. So you estimated an 80 percent in your calculation?

MR. TRESKOTT: Eighty-five percent.

COMMISSIONER SCHMITT: Okay. Thank you.

MR. TRESKOTT: Which I've used before. And October and November --

COMMISSIONER SCHMITT: No further. I'm done. Thank you. Thank you.

MR. TRESKOTT: -- is hurricane season.

COMMISSIONER VERNON: Mr. Chairman?

CHAIRMAN FRYER: Yes, go ahead, Commissioner Vernon.

COMMISSIONER VERNON: This is a pretty subjective question, but most of your presentation was about hurricanes, as Commissioner Schmitt pointed out.

So what does the group that you represent suggest in terms of -- within reason, development that would alleviate the concerns related to hurricanes, evacuation, et cetera, that -- in the 100-year plan? What would -- what kind of development would take care of those concerns or at least mitigate them?

MR. TRESKOTT: One that would comply with the Comp Plan at 16 units an acre and not double the density would be a start. The elevation requirements under the coastal construction control line clearly address the issues of elevation for protection of property.

The applicant offered cots and a trailer, and I think that sounds like it's for shelter-space mitigation, but I don't see that it actually deals with reducing evacuation time, or they haven't provided the information to say that it reduces evacuation time to shelter in compliance with the state law or evacuation time out of the county. Those -- it has not been clear. They did not answer any more questions. I think the staff asked questions, but --

COMMISSIONER VERNON: I'm just getting -- trying to get at you -- if I heard what you said -- and, again, it's a subjective question. But it sounds like your proposal, at least from your perspective in terms of the hurricane, is to not have a different use for the property but rather

keep the same use of the property but just simply reduce the density down to 16 rather than 31.4, I think it is.

MR. TRESKOTT: Would be a good start, yes.

COMMISSIONER VERNON: Not a good start -- I mean --

MR. TRESKOTT: Yes. I'm saying --

COMMISSIONER VERNON: -- I'm trying to get your group --

MR. TRESKOTT: As proposed, it's not consistent with the Comp Plan. The staff has indicated it's not consistent in terms of density. That's what --

COMMISSIONER VERNON: That's not what I'm asking. I'm just asking you what would be acceptable within reason with respect to the hurricane concerns and evacuation concerns. With respect to the group that you represent, what would be a good alternative for this developer?

MR. TRESKOTT: A project consistent with the Comp Plan as indicated, I believe, by Greg Stuart on our team.

COMMISSIONER VERNON: I'm just asking you. And you've given me -- you did give me an answer, and I appreciate that. Is there anything else you can add different than what you've already said?

MR. TRESKOTT: No.

COMMISSIONER VERNON: Okay.

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: All right. Thank you, Mr. Chairman.

So, Mr. Trescott, I think we have a density that the staff is recommending of 172; is that right -- or units, 172?

COMMISSIONER SCHMITT: Yes.

COMMISSIONER KLUCIK: All right. So that's actually the -- that's the staff recommendation. So if the configuration was different, we still have the staff recommending that, and so you would still have all of this, you know, evacuation and displacement hurricane concerns. So I'm just trying to figure out if you realize or if you have -- if you have some other analysis that takes that into account, because it seems like the points you're making might be, you know, points that need to be factored in, if they haven't already been factored in, although I'm assuming the staff probably has looked at this. My question simply is: If we have 172 units approved, regardless of the height, they can still recon -- the petitioner could still reconfigure their project, and we'd still have every single problem that you're concerning. And I just -- so you're -- so you understand what we're faced with --

MR. TRESKOTT: Yes.

COMMISSIONER KLUCIK: -- as a board or as -- you know, as the commissioners.

MR. TRESKOTT: Yes, yes. You're just -- you know, approving this project exacerbates the situation. And, plus, I mentioned that this marina is a requirement of a hurricane evacuation type -- or hurricane preparedness plan. There was no such plan submitted. It's required by the Comp Plan. That would be another thing that would be beneficial for the project.

COMMISSIONER KLUCIK: So even if it was reconfigured to be more in accordance with the --

MR. TRESKOTT: Consistent with the zoning.

COMMISSIONER KLUCIK: -- requirements of the recommendation that the staff has made, we'd still have all the problems that you're mentioning, I think.

MR. TRESKOTT: Well, there would be problems, sure. It would be less.

COMMISSIONER KLUCIK: Thank you.

CHAIRMAN FRYER: Mr. Yovanovich, do you have cross?

MR. YOVANOVICH: Very brief. Very brief.

MR. TRESKOTT: I thought we weren't going to have any cross.

CHAIRMAN FRYER: You are an expert, sir.

MR. TRECOTT: Okay. I thought we were saving cross for later, but okay. I'll get it over with. Ask as many as you want. Let's go for it.

MR. YOVANOVICH: Well, Dan, you know, I don't want to -- I don't want to stop you from getting where you need to go. I just have a couple questions.

MR. TRECOTT: Sure.

MR. YOVANOVICH: One, do you know who Dan Summers is with Collier County?

MR. TRECOTT: Yes, of course, I do.

(Simultaneous crosstalk.)

CHAIRMAN FRYER: Let me remind -- just a moment, sir. Let me remind everyone. Please do not talk over another person; otherwise, the court reporter will kill me.

MR. TRECOTT: I'm sorry.

MR. YOVANOVICH: And possibly me.

COMMISSIONER SCHMITT: Me also.

MR. TRECOTT: All right. To answer your question, yes, I know Greg [sic].

MR. YOVANOVICH: Okay. And what is his job?

MR. TRECOTT: Emergency management director.

MR. YOVANOVICH: Now, what did Dan Summers recommend for this project?

MR. TRECOTT: Trailers. Trailers with cots and --

MR. YOVANOVICH: As the mitigation for this project, correct?

MR. TRECOTT: Well, yes.

MR. YOVANOVICH: And Dan Summers is the person for Collier County responsible for making sure that development is not harmful to the residents, correct?

MR. TRECOTT: I assume so.

MR. YOVANOVICH: And Dan Summers has led Collier County through how many hurricanes?

MR. TRECOTT: Quite a few.

MR. YOVANOVICH: And he's done a pretty good job, hasn't he?

MR. TRECOTT: Yes, I would agree.

MR. YOVANOVICH: So Dan Summers is recommending approval of this project, correct?

MR. TRECOTT: I don't know that.

MR. YOVANOVICH: Did you read the staff report?

MR. TRECOTT: I saw that they offered the mitigation; that was it.

MR. YOVANOVICH: My question was, did you read the staff report?

MR. TRECOTT: Yes.

MR. YOVANOVICH: Now, all the -- okay.

Now, you and I know that the Coastal High Hazard Area can, in fact -- density in the Coastal High Hazard Area can, in fact, be increased above the current Comprehensive Plan designations, correct?

MR. TRECOTT: Yes, if you meet the provisions of the state law regarding mitigation for shelter or evacuation time out of the county.

MR. YOVANOVICH: And I'm pretty sure you're working on a project now where you're supporting the increase of density above and beyond current Comprehensive Plan density in a neighboring jurisdiction, correct?

MR. TRECOTT: I really don't think I need to talk about a project in a neighboring jurisdiction. There's a lot of different cases involved here, different project, different jurisdiction, different Land Development Codes that actually address mitigation for these issues.

MR. YOVANOVICH: Well, you seem to -- your comment was we're inconsistent with

the Comprehensive Plan and, therefore, we should not increase density, correct?

MR. TRESKOTT: That's correct.

MR. YOVANOVICH: And then there are Comprehensive Plan amendments that, with appropriate mitigation, are permissible in the Coastal High Hazard Area, correct?

MR. TRESKOTT: That's correct.

MR. YOVANOVICH: And Mr. Summers has opined that our proposed mitigation supports our request for increased density in the Coastal High Hazard Area, correct?

MR. TRESKOTT: He did that, but it's not the correct mitigation according to the plan.

MR. YOVANOVICH: Now, Mr. Summers is the expert for Collier County, correct?

MR. TRESKOTT: Yes.

MR. YOVANOVICH: That's all I have.

CHAIRMAN FRYER: Thank you. Any questions for this witness from up here?

(No response.)

CHAIRMAN FRYER: If not, sir, you're excused.

MR. BROOKES: Redirect, Your Honor?

CHAIRMAN FRYER: Who are you representing?

MR. BROOKES: Save Vanderbilt Beach. This is our expert.

CHAIRMAN FRYER: All right. Well, we're going to -- we need to talk as a Planning Commission and also seek advice of the County Attorney. What -- well, let's ask Mr. Klatzkow first. This is irregular to me, but --

MR. KLATZKOW: They don't have the right to redirect. It's your prerogative. I would suggest we take lunch, and I think the issue might resolve itself.

COMMISSIONER SCHMITT: I would propose that Mr. Stuart [sic] -- it's Mr. Stuart, right? Yeah, that they certainly can bring up their points after lunch unless it's important that he has questions of Mr. Trescott.

MR. TRESKOTT: I won't be here after lunch.

COMMISSIONER KLUCIK: I personally would -- you know, since he can't -- the witness can't be with us later, if it's just to clarify some points, I would appreciate the information.

COMMISSIONER SHEA: Same here.

CHAIRMAN FRYER: All right. It seems to be the consensus up here that we will allow, I hope, what will be a very brief redirect.

MR. BROOKES: I'll be very brief.

What is the evacuation time out of county currently for Collier County?

MR. TRESKOTT: Ninety-six hours.

MR. BROOKES: That would be from this location to get outside the county boundary?

MR. TRESKOTT: That's correct.

MR. BROOKES: And what about to get from this location to the nearest in-county shelter?

CHAIRMAN FRYER: Excuse me, sir. State your name and your representation, again, please.

MR. BROOKES: I'm sorry. My name is Attorney Ralf Brookes, and I'm certified in city, county, local government law, and I represent Save Vanderbilt Beach, Inc.

CHAIRMAN FRYER: Thank you.

MR. TRESKOTT: Ninety-four hours to -- travel time to shelter, if there are any shelters in a Category 5 area -- outside a Category 5 storm surge available, which I -- that's part of the problem why I've had problems understanding what this mitigation's about. It has to do -- it has to reduce evacuation time for out of county, you know, Category 5 time to shelter, and I don't -- you know, I'm not sure we have any shelters in the Category 5. It's likely there are a few outside, I mean, of the Category 5 area.

MR. BROOKES: And what is the rational basis or link between providing a cot and evacuation time in your car to get out of the county or to the shelter?

MR. TRESKOTT: I -- that's my problem. I don't understand how that occurs, and I believe the staff has asked additional questions on that matter and were not provided the answers.

MR. BROOKES: What was the policy number from the Comp Plan that you mentioned quickly in your slide? I don't think you mentioned the policy number.

MR. TRESKOTT: Yeah, it's here.

MR. BROOKES: Or there's a goal and a policy number.

MR. TRESKOTT: The one dealing with that is Goal 12, make every reasonable effort to ensure the public safety, health, and welfare of people and property from the effects of hurricane storm damage, and then it's -- Objective 12.1 says, maintain evacuation clearance times as required by state law. Policy 12.1.2 says, land-use changes require appropriate mitigation to reduce the impacts of hurricane evacuation time.

MR. BROOKES: Okay. And so the state law requires a 16-hour evacuation time out of county, but Collier County is currently at 96 hours to evacuate out of county; is that correct?

MR. TRESKOTT: That's correct.

MR. BROOKES: And does that put people's lives in danger because how --

MR. TRESKOTT: Absolutely.

MR. BROOKES: How -- typically, how much time are you given from a hurricane warning to leave the county until you could leave the county?

MR. TRESKOTT: Not -- not that much.

MR. BROOKES: Are they issued 24 hours in advance? 48 hours in advance?

MR. TRESKOTT: It depends on the storm itself, and, you know, the predictions from the Hurricane Center, but it can be as long as 36 to 48 hours of time, and, you know, of course, people -- they start recommending people evacuate before they maybe say mandatory prior to that.

MR. BROOKES: So 96 hours, that would be four days. They have to tell you four days ahead of time to leave --

MR. TRESKOTT: Yes.

MR. BROOKES: -- to get out?

No further questions.

CHAIRMAN FRYER: Thank you.

Commissioner Schmitt.

COMMISSIONER SCHMITT: I just have a question for Mr. Brookes. That was all very interesting cross-examination. But from all those questions, you're inferring what; that no development should take place anywhere in the county from hence forward; is that what I'm to conclude?

MR. BROOKES: What you're to conclude is that this plan amendment must meet the minimum state requirements in Chapter 163, and it must also be internally consistent with the Collier Comp Plan. So you would either need to change your Comp Plan to change 16 hours and adopt 96 hours, and then this could go forward.

You could try to improve roadways. You could do a number of different things. I think that Collier County, with all due respect, and many of the counties in Florida, have been seriously negligent and have not kept up with their hurricane evacuation planning, and that's how we wound up in this situation. We're woefully, woefully behind. We keep approving more and more density in the Coastal High Hazard Area. And, in the past, it was even harder to get that done, when we had DCA. Now that we have DEO, there's no state review of these small-scale plan amendments. So it's up to citizens like Save Vanderbilt Beach to come here and ask for you to enforce these state requirements. So...

COMMISSIONER SCHMITT: So based on that, you --

MR. BROOKES: I would suggest that Mr. Summers, your county emergency evacuation coordinator, come up with a plan to reduce 96 hours to something near 16 hours or that the county adopt something between 16 and 96 that's reasonable that equates to how much time you're going to be given to actually leave the county; otherwise, you're putting people's lives at risk.

COMMISSIONER SCHMITT: Ninety-six hours that was stated is based on what study?

MR. BROOKES: Your South Florida Regional Hurricane Evacuation Study that's done every so often that he used to work with at Regional Planning Council and put together as their computer modeler. So this is what you've adopted. It's Collier County. He can explain that more than I can. I'm not an expert --

COMMISSIONER SCHMITT: Yeah. When was the most recent study done and by whom, and did Collier County concur with the study?

MR. TRESKOTT: The most recent one was 2017 where they updated the transportation portion and came up with new times, and -- it was 2017.

COMMISSIONER SCHMITT: And those times are?

MR. TRESKOTT: Well, that's what I'm quoting from, and the table that I showed you and these maps, these are all from the 2017 study.

MR. KLATZKOW: Are we sure that 96 hours just wasn't a typo and they meant 16 hours?

COMMISSIONER SCHMITT: So you're -- basically, it infers that any development hence forward is in violation of the Comp Plan in Collier County?

MR. TRESKOTT: No, I didn't say that.

COMMISSIONER SCHMITT: Well, that's what Mr. Brookes is inferring.

MR. BROOKES: Just this development.

MR. TRESKOTT: This one, because it hasn't shown --  
(Simultaneous crosstalk.)

CHAIRMAN FRYER: Gentlemen, gentlemen. One at a time, please.

MR. TRESKOTT: Sorry.

COMMISSIONER SCHMITT: That's not what you put on the record. I asked a very specific question, and you stated that the Collier County is in complete disregard and not following the requirements of the state and that our evacuation plan is not within the criteria as established by the state requirements so, therefore, all development in Collier County should stop.

MR. BROOKES: Most development areas in Collier County are not located in the Coastal High Hazard Area. Your Comp Plan talks about increasing density in the Coastal High Hazard Area. You're only supposed to go to 16. And there's even a request in this Comp Plan amendment to take them out of the density -- the DSLR that would allow them to go beyond the -- I think you're even further limited to four units per acre, typically, in the Coastal High Hazard Area. So they're asking here for some 31. You're doubling the density in a very narrow band, the Coastal High Hazard Area, along the coast, and you're not supposed to do that under the Comp Plan or state law.

CHAIRMAN FRYER: Excuse me, sir. But this is not sounding like redirect.

MR. BROOKES: Well, I'm getting attacked here by cross-examination from a member of the Planning Commission, so I'm being cross-examined. So I'm trying to answer him. It seems like he's cross-examining me as an attorney. He should be cross-examining the witness, who's over here. But he keeps calling me back up to the stand.

COMMISSIONER SCHMITT: I just asked for clarification. Thank you.

MR. YOVANOVICH: Can I just ask one question?

CHAIRMAN FRYER: Is this recross?

MR. YOVANOVICH: I really don't like it when someone gets up there and alleges we have not answered all the questions the county staff has asked us. So, Mr. Trescott, I would like

you to send to me exactly what document you're referring to that I was asked a question and I didn't answer it. I don't need to do it right now.

MR. TRESKOTT: The staff report.

MR. YOVANOVICH: You need to send it to me. I want to look at it, because I don't want to keep you any longer than you need to stay, but I'm not going to sit here and let you make that statement without an opportunity to look at the data you're supplying.

And, by the way, was any of this information that you just put on the record today provided to staff or anybody else? Because I don't recall ever seeing it. So was any of this information provided for review by Dan Summers or county staff for purposes of today's discussion so we can appropriately analyze it?

MR. TRESKOTT: I believe we provided it last -- two weeks ago.

MR. YOVANOVICH: To staff, county staff?

MR. TRESKOTT: No. I don't believe I have to provide it to county staff. I provided it for this meeting last -- two weeks ago.

MR. YOVANOVICH: So the answer is no, you didn't -- you didn't provide that to county staff?

MR. TRESKOTT: I did mention it to the consultant you have, and he admitted that it was for shelter space reduction mitigation but not evacuation time.

MR. YOVANOVICH: My consultant is different than county staff. You just said that Dan Summers didn't do his job. So my question --

MR. TRESKOTT: No.

MR. YOVANOVICH: Yes, you did.

MR. TRESKOTT: No.

CHAIRMAN FRYER: We're not going to turn this thing into Judge Judy. We're going to -- we're going to conduct it as a quasi-judicial proceeding, and we're going to let people speak and not interrupt them.

MR. YOVANOVICH: Thank you.

I interpret your testimony as Dan Summers didn't do his job, ignore Dan Summers' recommendation. Did you provide Dan Summers any of this information so he could analyze it and determine whether or not you're right?

MR. TRESKOTT: Do I have to?

MR. YOVANOVICH: Okay. You answered my question. Thank you.

MR. TRESKOTT: No, I did not.

COMMISSIONER KLUCIK: Mr. Chairman.

MR. TRESKOTT: I would like to respond that I did not say that Dan Summers did not do his job.

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: I would -- and I don't know, Mr. Chairman, how we would deal with this. And this is really a staff issue as well. But I think I would like to see -- what Mr. Yovanovich has requested, I would like to see that, too. I'd like to know if there are questions that weren't answered and -- because they, obviously, would bear on whatever recommendation we're making.

MR. TRESKOTT: I can answer that. I mean, I did not make this up. It was -- it was either in the staff report for this project or in the sufficiency reviews that I reviewed when this was being reviewed. So I will get it to him.

COMMISSIONER KLUCIK: And, Mr. Chairman, if -- I think we need to resolve that just for -- logistically, if we all want it or if it's -- I just am the one that wants it, I want to make sure I get it and staff knows that.

CHAIRMAN FRYER: How easy is it to be produced for all of us?

MR. TRESMOTT: Easy. I'll have to do it later today or tomorrow.

CHAIRMAN FRYER: Well, that won't --

MR. TRESMOTT: How soon do you want it?

CHAIRMAN FRYER: How about, can you get it over lunch?

MR. TRESMOTT: I doubt it. I need to get to my computer and look it at all the files on it.

MR. BROOKES: What I would suggest is you call Mr. Summers and ask him if they responded to all his questions.

CHAIRMAN FRYER: I'm going to ask you, sir, to please sit down and not speak until you're recognized. Thank you.

MR. YOVANOVICH: Mr. Chairman, do you mind if I answer that question?

CHAIRMAN FRYER: Go ahead.

MR. YOVANOVICH: The answer is yes. Bob Mulhere and I both sat down with Dan Summers and said, what information do you need? And he said, you've provided me everything I need. Here's my recommendation.

CHAIRMAN FRYER: Thank you. Further questions from the Planning Commission of this witness?

(No response.)

CHAIRMAN FRYER: If not, it's 11 minutes after noon. I propose -- this is timely, too, so that we can lower the -- perhaps lower the room temperature a little bit -- that we have lunch. And I want to inquire whether any member of the Planning Commission would be willing to return earlier than the one hour we usually allow?

COMMISSIONER SCHMITT: I would think Terri worked so hard this morning, I think we have to give her at least an hour break. I really do. I mean, we only took one break, didn't we?

CHAIRMAN FRYER: Yeah, we did.

Ms. Lewis?

THE COURT REPORTER: It's up to you.

COMMISSIONER KLUCIK: I personally need to -- I need to go get something to eat.

CHAIRMAN FRYER: Okay. Well, we'll take a one-hour break then. We'll reconvene at 12 minutes after one. We're in recess.

(A brief recess was had from 12:11 p.m. to 1:12 p.m.)

CHAIRMAN FRYER: Ladies and gentlemen, let's reconvene.

The first order of business, please, we had what we all, I think, consider to be quite an unusual situation at the morning session with respect to the desired participation by Mr. Brookes as a lawyer. And I had a conversation with our lawyer, the County Attorney, who also confirmed that this is highly unusual, perhaps unprecedented. But rather than me try to make a ruling on this, since we have in our discretion to decide what we want to do about it, I want to open it up quickly for a Planning Commission decision on whether we're going to allow Mr. Brookes or other lawyers representing residents or opposition to participate in the questioning of witnesses. So I'll open that up for quick discussion from the group.

COMMISSIONER SCHMITT: I'll offer -- since I -- jump on the opportunity.

CHAIRMAN FRYER: Thank you, Commissioner.

COMMISSIONER SCHMITT: This is an extremely contentious issue, and it would probably be, in my experience in the county, if not one of the top two or three, it's probably well up there. I would think it's in the best interest of the county to put everything on the record that we possibly can, because it will most likely be litigated for some reason or another, and I think it's -- I am amenable to allowing both -- all parties to speak just so we can put everything on the record, and it will help us make our decision. So I don't know if the other commissioners feel that way.



It's going to make a long meeting, but I'd rather see it go that way.

COMMISSIONER HOMIAK: I think we're -- but they're public speakers. This is public speaking, not a trial.

COMMISSIONER SCHMITT: Yeah.

CHAIRMAN FRYER: Commissioner Vernon.

COMMISSIONER VERNON: Yeah. I have mixed feelings, but I think I concur with Commissioner Schmitt. But I would say to everybody -- and I am the brand-new kid, but I'm trying to listen as best I can and be prepared as best I can, and this seems to be a very well-prepared board. And so I just say to everybody, we don't need to hear something again just out of concern we didn't hear it the first time, and I think that might sort of mitigate how long this might take.

CHAIRMAN FRYER: Thank you.

Commissioner Klucik.

COMMISSIONER KLUCIK: Yes. Thank you, Mr. Chairman. I would just hope that when we have cross or redirect, that it actually be, you know, germane to what was -- you know, what was presented, because that's what cross and redirect are supposed to be limited to, I believe, normally.

CHAIRMAN FRYER: Gentlemen?

COMMISSIONER SHEA: I agree with Mr. Schmitt.

COMMISSIONER FRY: I yield to Mr. Schmitt based on his vast experience, and if he says it's one of the top two or three, then I'm inclined to say let's do what it takes.

COMMISSIONER SCHMITT: I submit my resignation.

COMMISSIONER FRY: I would ask for one thing. I really -- I just think it's -- we have definitely a lot of very qualified people who have thought through the positions very carefully, and I'd just like to see an air of civility in the room that's missing in a lot of our branches of government. And I certainly respect opposing viewpoints, and I don't need -- I just -- I don't see any point for animosity. I don't think it adds to the equation here. Just we're capable of weighing the evidence and making a decision.

CHAIRMAN FRYER: Mr. Eastman?

MR. EASTMAN: I support and agree with the comments of Commissioner Schmitt.

CHAIRMAN FRYER: Well, I think we have a consensus that we are going to permit --

COMMISSIONER SCHMITT: You didn't agree.

COMMISSIONER HOMIAK: No.

CHAIRMAN FRYER: -- almost a consensus, almost --

COMMISSIONER HOMIAK: I'm the only girl.

CHAIRMAN FRYER: -- that we'll permit Mr. Brookes the opportunity of limited cross-examination, and I think it behooves us not to be asking questions of Mr. Brookes where he is then put in a position of being a witness, because he's already listed as a five-minute witness. So if -- without objection from the Planning Commission, we will allow a limited degree of cross-examination of the experts only.

COMMISSIONER KLUCIK: Mr. Chair.

CHAIRMAN FRYER: Yes, sir. Go ahead.

COMMISSIONER KLUCIK: I think it's -- I wouldn't interrupt you except I think it really might affect what you say or what --

CHAIRMAN FRYER: By all means. Go ahead.

COMMISSIONER KLUCIK: Also it seems important that whatever -- whatever is -- you know, ends up happening, that it's not just a chance to get more than the six minutes or whatever the allotted time is, because that wouldn't seem to be what we're here for, you know, and that would be going around what was agreed to or what the restrictions were.

CHAIRMAN FRYER: I think that's a good point. And the other stipulation I would

want to put on that is, Mr. Brookes, I want you to seek my recognition before you start speaking.

MR. BROOKES: Yes, sir.

CHAIRMAN FRYER: If you would, please, sir.

So is that -- is that going to be okay with the Planning Commission? All right. I see nodding of heads except for the head that has the longer hair, who's not nodding.

COMMISSIONER HOMIAK: It's not Mark.

CHAIRMAN FRYER: All right. Let's see. The next speaker, I believe, is Mr. Stuart, who has asked for and will be given 30 minutes.

MR. STUART: Good afternoon, Mr. Chairman. Greg Stuart, Stuart & Associates Planning and Design Services in Fort Myers representing the Save Vanderbilt Beach neighborhood coalition.

The presentation's 3-D graphics and model are our renderings of a building height, mass, scale, and placement based upon the applicant's exhibits of dimensions, height, and site plan. They were submitted May 18th and May 20th. The models and the illustrations do not depict final architectural landscape plans. They are for building height, mass, and scale evaluative purposes only.

Mr. Chairman, you asked for neighborhood height, setback, and density information. This is my exhibit book. Please refer to Tab 3.

With regard to my qualifications, as in with Lee County Circuit; King County Seattle Circuit; the Superior Federal Court, Tacoma Washington; 20-some odd Florida local governments; and including highest and best-use testimony for Collier, Lee, and the City of Bonita Springs. My expertise has been accepted in urban regional land-use planning, zoning, urban design, and land development.

To correct the record, first and foremost, compatibility analysis is based on the actually built environmental, not what has been approved on paper.

Mr. Yovanovich, during the previous hearings, complained about misleading graphics and if the neighbors really knew what was going on. I was engaged March 17th of this year. At the time there were over a thousand website clicks, over 300 separate donations totaling 40,000-some-odd thousand dollars, and I have talked to scores of residents and neighbors about C-3 and how this thing fits into the regulatory environment.

The applicant's counsel also stated that the neighbors' primary concern is traffic. No, that is an incorrect statement. That is not the case. My clients are mutually concerned with traffic safety but, more important, they are concerned about One Naples being the springboard of changing a Naples coastal suburban environment into a Miami Beach-like Collins Avenue neighborhood.

This is the issue. Compatibility and complementary scale, height, bulk, and densities. That is the issue, not some hypothetical 100,000-square-foot retail traffic impacts.

The applicant's counsel also stated, look how much we have compromised already. For the record, I've done that in many cases over the years. You come in real high, and then you settle for what you want. So I would disregard that comment.

Also, there's a statement on board that you have a yes or no option. That is your option and, of course, you have more than that. You have options to go with staff's compatibility standards or go with my compatibility standards which, just to sum up, are from 19 units per acre, a 30-foot setback, a 25-foot-tall parking garage, and 25 percent open space.

If you open --

COMMISSIONER KLUCIK: Repeat that.

MR. STUART: Excuse me.

COMMISSIONER KLUCIK: Could you repeat that.

CHAIRMAN FRYER: Yes. A little slower. I want to write it down.

MR. STUART: Nineteen units per acre, 30-foot setbacks for the parking garage, 25-foot-tall parking garage building, and a 25 percent open space. Those are the summary standards. And if you look into the book in the inset, there are the compatibility standards. Please feel free to go through them. Hopefully I'll have enough time to brief you on them.

The applicant's planner stated that if you have multifamily residential to multifamily residential, it is inherently compatible. No, that is an incorrect statement. I do not have time to go through the numerous cases that I've had, but as some examples, if you have a three- and four-story student housing apartment building next to a two-story flat over flat condominium in a gated community, there are compatibility issues. That's a case, or in this case -- or in this case. When you have a 208-foot-tall request, the regulatory setback would be 104 feet, yet the applicant is requesting 25 feet. So, again, there are numerous cases.

Mr. Chairman, the questions in front of you -- and I would like for you to ask Mr. Banks or Mr. Yovanovich, well, their justification is that you can building 39,000 square feet of restaurant and 61,000 square feet of retail on the site, and that's much worse than what we're proposing. That's their justification. So please ask the applicant to provide an actual market study and a regulatory site plan to back up that justification.

For the record, we agree that commercial trip generation rates are higher than multifamily generations, and we also agree that a traffic light at Vanderbilt Beach Road and Gulf Shore Drive will benefit the neighborhood; however, referring to my Exhibit 7, you are talking about a 250- to \$400,000 improvement. I think the county can come up with that rather than setting a significantly bad precedent of doubling density in a Coastal High Hazard Area in an age of sea level rise.

Today, Mr. Yovanovich is wrong about C-3. C-3, they cannot go forward immediately and build this mythical 100,000-square-foot center. C-3 restricts retail to 5,000 square feet. C-3 restricts restaurants to 6,000 square feet. If you want to increase that, you have to go into the zoning process through a -- I call it a conditional-use process, but you have to go back into the zoning process. So that's not a given.

And then, finally, Ms. Jenkins, when she stated that the first thing that you do is to review the zoning and approve that followed by the Comp Plan, that flies in the face of my extended experience --

CHAIRMAN FRYER: Gentlemen, please, in the front.  
Continue.

MR. STUART: Okay. You always go with the policy. You are establishing the policy. That's what's in front of you. Then after the policy, you go into the details. That's how it works.

Now, with regard to the -- I call it parade-of-horribles argument. I need to spend a little bit of time on this. Please refer to Exhibit 2. A 100,000-square-foot retail will never happen on this site for the very simple reason that it is not highest and best use of the property. It is -- in terms of physical feasibility, it's highly doubtful based upon the applicant evidence. Again, where are the 894 parking spaces and 30 percent open space?

Is it regulatory permissible? I already stated that C-3 limits retail. You have to go back into the zoning process to get more of it. Does a 100,000-square-foot retail center fit into the marketplace? At this location? At this size? No, not really. It's too small for a community center or a power center or a theme festival center or lifestyle center.

And then if you look at, you know, the graphic with two to -- with Floors 2, 3, 4, and 5 being retail, I'm sorry, there's not a market for that at that particular location.

So when you look at that, it's highly questionable and, actually, it's erroneous justification that, well, because we can do this under C-3, this is much better. And I point that out because it also reflects a failure to comply with the state statute in providing adequate and accurate data and analysis, 163.3177, Subparagraph 6.

My second question, Mr. Chairman, given that the applicant's purpose and intent was to, quote-unquote, create a resort tourism center project, and the hotel is deleted, please ask the applicant if the sole purpose of the project now is solely just for density increase.

The One Naples compatibility neighborhood is depicted accurately on the graphic and in your exhibit books. The One Naples compatibility neighborhood is on the north side of Vanderbilt Beach Road. Using Pelican Bay for comparables is erroneous and misleading and not at all accurate. This is so, because if you look at the Pelican Bay and you look at the north side, Pelican Bay is a semiprivate community with some gated access and circulation, whereas the south Gulf Shore Drive neighborhood is not. Pelican Bay is a large-scale DRI with a unified control, common open space, common utilities. The accurate [sic] neighborhood is not. They're individual small properties that are independent of each other. The Pelican Bay project has PUD zoning. The north side where the site is consists of five specific conventional zoning districts.

Pelican Bay has a suburban-type curvilinear form, whereas if you look on the opposite side of the street, it's relatively straight, grid, small parcels.

And then, finally, when you look at connectivity, the pedestrian connectivity and linkage from Pelican Bay or Trieste north is limited because of the fact that Vanderbilt Beach Road is the effective edge. So there's limited connectivity.

The graphic that's in front of you along with -- please refer to Exhibit 3 -- there are 12 properties that consist of the neighborhood that you need to evaluate the One Naples project to this. And, again, that was something that you requested, Mr. Chairman.

So to scroll through that very quickly, the average neighborhood building height is 7.4 stories. That compares to 16 stories.

The average density in the neighborhood is 19.8 units per acre. That excludes two outlier sites that I can explain later if you're curious about. It's important to note there is no evidence in the applicant's record that supports 31.7 units per acre. There is none.

When you look at setbacks, again, the applicant uses two adjoining outlier properties that have 15-foot plus or minus setbacks but ignores the entire neighborhood. The entire neighborhood, based on my analysis, averages 49 feet for front setbacks.

What you're being asked to approve is a 232 percent density increase, a 200 percent building height increase, a 100 percent decrease in waterfront setback, a 75 percent decrease in tower building setback from 104 to 25. Also as part of the request, they're requesting a new full-movement connection aligned with the parking garage, and also to transfer almost eight-tenths of an acre with a net estimated value of \$7.5 million to the applicant. Consequently, from a quantitative perspective, it is not logical to find the project complementary and compatible to the surrounding neighborhood.

If you look at the master concept plan, there are two master concept plans. This is what you're being asked to approve. Please review staff report, Attachment A, draft ordinance; Exhibit B, the standards that denote a zero-foot waterfront setback and 40- to 45-foot-tall parking garage.

Note in both plans the complete absence of regulatory open space. There is no open-space table. There's no data and analysis. There's no functional open space. You're being asked to approve a plan with no functional open space. Rooftop open space is not permissible. If you look at my Exhibit 5, Page 4, that defines open space, it clearly states that areas that are not occupied by building, you can't use rooftop open space for your open-space calculations.

So my question is, the Commission has the -- or my statement and question is that the Commission has an immediate -- an immediate obligation to discuss whether the project that clearly does not meet county open-space requirements can be approved based on the applicant's unstated desire to either use rooftop or to mitigate 15 percent of their open space off site. And so a 15 percent open-space mitigation off site, the question then is, does that serve the public interest? And that's a question that the Board has to decide.

The Growth Management Plan amendment is not approval. This fact is not fairly debatable. The amendment violates state statutes regarding data analysis. It fails to be internally consistent with the Collier County Growth Management Plan. We agree with staff. Staff demonstrates an understanding of neighborhood context. Review zoning report Pages 10 through 13. They have documented 11 findings of the project not being compatible.

And then, again, I have to repeat that the amendment grants a unique and special financial and deregulatory privilege to the applicant. I hold the -- I hold the opinion that this completely sets the stage for a finding of spot zoning.

Now, the applicant has not provided professionally accepted data and analysis in regard to the study area. Again, they show no understanding of the actual market area -- the study area. They're using Pelican Bay, but they really didn't evaluate Back Bay and Gulf Shore Drive insofar as setbacks, density, and the like.

The Traffic Impact Statement is not -- is not correct. Mr. Chairman, for five out of the 10 years that I served on the Lee County Planning Commission, five out of the 10 years, I reviewed lots of Comprehensive Plan amendments, and every Comprehensive Plan amendment that I reviewed had their Traffic Impact Statement based upon the planning horizon. A land-use map amendment is a long-term map amendment.

You're reviewing a five-year concurrency determination. There's no long-range analysis for traffic. It's deficient in that regard. Also, there is no hurricane evacuation mitigation plan. Also, there are no measurable and complete architectural elevations so you could actually determine for yourself the relationship of these buildings to the streetscape and the canyon-type, Miami-type views that everyone's so concerned with. There's no information in the record.

If you look carefully, which I have, I've identified eight items whose data points demonstrate a noncompliance with state statutes. And, again, if you give me time, I can walk you through them, but I believe if you go through the staff communications and staff report, you'll see the lack of some very important information.

The applicant and staff zoning reports have some discussion about compatibility, but no one is discussing complementary. Policy 5.6 mandates the project to be both compatible and complement. Complementary is different than compatibility. Complementary deals with how this thing fits in the neighborhood, and there is no discussion of that. If you look at my Exhibit 6, internal inconsistency, the project contradicts 23 land use, transportation, and coastal conservation principal goals and objectives. From this fact alone, I recommend that you recommend to the Board not to transmit this, clearly to deny the zoning.

As an example of complementary incompatibility, the graphic shows the proposed 208-foot-tall buildings with an approximate 57 feet separation. Basically the width of a parking lot, okay. And you compare that to the two 12-story buildings that are separated by 1,140 feet. Again, this demonstrates that the towers are not complementary. They do not fit into the neighborhood.

Another example would be the Back Bay building. The Back Bay building is at 87 feet with a 12.1-foot setback, although the development regulations allow for a zero-foot setback. Pelican Bay is at 48-foot with a 20-foot setback. The proximity and building height and setback differences will create spillover impacts. No discussion on that.

Again, my recommendation to you to recommend to the Board is not to transmit.

If you look at today's compromise -- and, again, look at the graphic. Basically the compromise is saying that, hey, we'll allow you to do 15-foot back -- a 15-foot setback for a 35-foot parking garage, and you could landscape -- you could landscape this immaculately, similar to what Stock is trying to do. It's still not compatible because the height and bulk and form predominate. You can't mask that with landscaping.

So today's compromise, if you will, does not work. If when -- in regard to coastal

management, clearly, I agree with Dan Trescott. It's not -- this is not fairly debatable. Policy 12.1.2 calls for appropriate mitigation to reduce the impacts of hurricane evacuation times, period. What is being provided are 174 cots in a trailer. There is no logical nexus between cots, a trailer, and evacuation time.

And, again, I will back up Dan Trescott on that. It's just logical. Cots don't have anything to deal with vehicular movements.

The existing condition -- take a look at this carefully. Right now you have two three-lane connections at Gulf Shore Court and in front of the parking garage, and you have one four-leg connection at South Bay Drive. You have a 565-foot connection separation. Bill Oliver will be speaking to this, but please review my Exhibit 6, transportation pages 6 through 9. And this is important, because if you look, if you really -- look at this and look at the model and look at their access, the new project's fourth leg access that aligns with the garage, combined with the 215-foot connection separation, hinders public safety. It is absolutely logical that when you reduce intersection spacing and you create a new conflicting turning movement scenario, you are not -- you are reducing the driver time, the driver reaction time. When you reduce driver reaction time, you are impairing or not advancing traveling safety.

That certainly is -- you know, is in conflict with Policy 7.1 -- excuse me. Transportation's Policy 7.1, 7.2, and 7.4. Again, look at the model. If you're in One Naples and you want to go out to U.S. 41 and you're taking a left, you've got cars coming out of the parking garage turning west to go to the beach, you have cars queuing up going from east to west, queuing up that want to go into the parking garage, you have cars going from west to east coming into the site, and then, of course, you have east/west and west/east cars. You know, the existing condition is a three-legged. They're creating a fourth leg. The staff report has numerous paragraphs about how this is already a congested road. They are creating a safety problem which is inconsistent with the policies that I just stated.

In regard to professionally accepted principles and practices, I do want to point out that we disagree with staff. Density drives the forum. Density drives the impacts. We disagree with staff's zoning report, Page 18 through 20. Eleven out of the 18 findings are incorrect, and I hold that they are incorrect because of the erroneous and limited data and analysis that has been provided by the applicant and also that has been performed by staff.

When you're looking at building compatibility -- and, again, this kind of ties into where staff is going, staff has an optional recommendation. Okay, 76 feet. We can go up to 125 feet, do the wedding cake design. And, for the record, we can live with that. Sure, we can live with that. Our approach is a little bit better where we're using an entirely comprehensive --

CHAIRMAN FRYER: I'm going to exercise the prerogative of the Chair and interrupt you and ask you to repeat what you just said right now. Don't worry about the time.

MR. STUART: Okay, I'm sorry. I know, because I'm trying to --

CHAIRMAN FRYER: I know, but I want you to repeat what you and your --

MR. STUART: Staff's optional recommendation to go from 76 feet to 125 feet based upon a wedding cake design is acceptable to my client; however, our approach, see Exhibit 9, is better in that we're looking at using the transitional theory for the entire site. Specifically, you started with 135-foot-tall, 12-story building setback 70 feet, and then you do a 25 percent -- 25 percent step down to the next building, which will be nine stories, and then step that one down to six stories, and then to have a five-story multi -- five-story mid-rise on the waterfront, that would help with Pelican Bay compatibility. So that's -- that's a different approach than what staff -- but, again, on the record, we support staff because we agree that the building height is too high. Now --

CHAIRMAN FRYER: But you would go with -- and you and your clients would go with 125 feet with the wedding cake structure?

MR. STUART: Yes.

CHAIRMAN FRYER: Thank you.

MR. STUART: Yes. When you're looking at compatibility and complementary, you need to -- you need to determine first and foremost -- and this is Planning 101. This is -- you need to determine the uses, the intensity, and the site plan. And by uses, multifamily to multifamily, in this case, is compatible. But the intensity, doubling the density and the site plan when you're, again, using a 15-foot setback for a 35-foot-tall parking garage that basically takes up 1,040 feet of Vanderbilt Beach Road and Gulf Shore Drive frontage, it doesn't work, and the other setbacks don't work. So right there, at the most fundamental level, it's not compatible.

The next way you look at it is the actual building height and mass. We agree with staff. I've already made that point. The building height and mass from One Naples is off.

The third level, as you're going up the hierarchy of effectiveness, is architectural treatment, but it's important to point out that the applicant has not provided, in spite of staff's request, measurable architectural elevations and crawl sections that show the street and the relationship of the street to the building, what the building looks like, what the interface looks like. There's nothing to determine architectural treatment because 3-D graphics are just that; they're 3-D graphics. They're not conditioned. And besides, even if they are, you would still want the elevation to determine -- which is a key issue -- this creation of a canyon.

The final and least effective method for compatibility is landscape architect -- architecture and buffering. And staff -- I agree with staff. I agree with the applicant. They've done a really good job buffering the building foundation. But, again, you have to look at the fundamentals of compatibility and complementary design, and they miss the mark.

As I pointed out before -- and, again, please refer to Exhibit 7 -- this project, by my analysis, grants \$8.1 million in gross economic benefits to the applicant. The net estimated benefit to the applicant will be 7.49 million. When you're looking at that within the context of deregulation, i.e., the reduced setbacks, the increased density, again, this, in my professional opinion, would be a casebook example of spot zoning. You should deny this project on that basis alone.

Now, when you're looking at comprehensive planning, which we're dealing with now, the density request must be balanced by the neighborhood's expectation to rely on the code. Comprehensive planning is designed for public input. It's a democratic legislative process that demands public input and demands response. And in this particular case, there are thousands of people -- and most of them are informed because, again, I've personally informed them. They know about this project. And the fact is that this needs to be respected in your deliberations.

I find it interesting that when you look at the actual Collier County code, Exhibit 5, and if you look at the external relationship criteria and the residential density criteria, staff and applicant have zero narrative, zero analysis on how this thing complies, and it doesn't comply. It is not compatible. Staff has already stated that on the record 11 times on Page 10 through 13.

The safety impacts -- again, I don't care what anybody says, but when you're reducing connection spacing and you're increasing a new turning movement at an already conflicting area, you're diminishing safety. You're not advancing safety. So, again, the application doesn't even meet the Collier County code requirements for density.

So in terms of findings, I'll sum it up. This is what staff wants, a condition of the zoning approval. That's what they're saying. Condition it, and everything will be fine. I disagree profoundly. A conditioned zoning approval cannot substitute for poor public policy and a noncompliant site plan.

So I strongly urge you to just recommend to the Board not to transmit this, because it's poor public policy, and there are too many unanswered questions.

Now, as I try to wrap this up -- let's see here. And just for the record, Mr. Chairman, on

behalf of the Save Vanderbilt Beach, we broadly support the recommendations of Planning and Zoning staff, and we agree that the project cannot be found compatible with the neighborhood without new development standards to lower building height and increase and enlarge setbacks; however, we request the Planning Commission recommend approval of our 30-foot setback from Vanderbilt Beach and Gulf Shore Drive along with a decrease in height to the parking garage and to the towers as identified on my Exhibit 9. We recognize that density drives this project and that the density of 31.7 acres is not supportable within the context of good public policy, and that density should be at 19 units per acre. So that's where we differ.

And then in regard to the street-level activation issue that was discussed, I think it's important to point out that there are ways to activate the street. It is not impossible. I agree with some of the gentlemen that spoke on behalf of staff. If I had more time, I can elaborate on that. That said, the 15-foot setback, it won't work. It's just too tight, and the parking garage at 35 feet is too tall.

Okay. I've already discussed standards, but it is important to take a look at Land Development Code 2.03.06, Subparagraph C, which the staff and applicant have ignored. I'll read it to you. The PUD purpose and intent is to, quote-unquote, establish appropriate uses and performance standards within this PUD, which are similar to those allowed by the most similar districts. In this particular case, there are five conventional zoning districts. The 15 and -- 15-foot setback or the 25-foot setback for a 208-foot tower is not anywhere near what's being -- actually, their entire development standards aren't similar or comparable to the neighborhood.

I mean, what my clients want -- and they will work with the applicant -- is to have this thing designed for, you know, human scale, neighborhood scale. And again, a 30-foot setback off the two major roads, a 25-foot-tall parking garage, 25 percent functional open space, 19 units per acre and, again, a complete list of those standards are identified on Exhibit 9, and I'll get into some more of them, but as -- am I running out of time, Mr. Chairman?

CHAIRMAN FRYER: You've got about a minute, I think.

MR. STUART: Okay. Well, then I'm going to go real quick. Let's see here. Here we go.

Please, in your deliberations, look at this table. What you'll have on Page 36 of Exhibit 9, you have the C-3 standards, the One Naples request, and then you have our specific compatibility standards. That's -- that's meaningful evidence in terms of -- in terms of my client's willingness to work with staff. I mean, we're saying, yeah, sure, you can go up 19 units per acre from the base density but, of course, you have to provide for -- you know, per code, you have to provide for, you know, functional real hurricane evacuation mitigation. I mean, you have to.

MR. FRANTZ: You have 30 seconds.

MR. STUART: And then going back, what we also want more than anything else would be to have -- here we go. Here we go. What we want is a functional pathway system that meets code. The applicant's proposal does not meet code. And I can get into that if you give me more time. But suffice it to say that a 21-foot pathway is the code standard.

And with that, thank you very much, Mr. Chairman.

CHAIRMAN FRYER: Thank you, sir.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. Mr. Stuart, a couple of questions.

MR. STUART: Yes, sir.

COMMISSIONER SCHMITT: One -- and you did open your statement with the slide about the model.

MR. STUART: Yes.

COMMISSIONER SCHMITT: I'm just going to ask, are you a professional model maker,



or did the professional model maker make this model?

MR. STUART: The second, yes. I don't do this type of work. I subcontract it out.

COMMISSIONER SCHMITT: You did.

MR. STUART: Yes, sir.

COMMISSIONER SCHMITT: And it's based on your interpretation of what was proposed, or do you have access to the actual designs?

MR. STUART: Well, what we do is -- I mean, clearly, we're using the May 18th building separation and height exhibit and the building dimensions exhibit submitted by the applicant on May 28th. We, basically, took their site plan. It's a PDF file. And then you import it into a CAD file, you get it to scale, and then it's very easy to build a wire frame model from that.

COMMISSIONER SCHMITT: And the model that's shown here, is that the 14 stories or 16 stories? Because some slides you had 16 stories, some you had 14 stories.

MR. STUART: Well, actually all of my slides showed 14 stories based on a 35-foot parking garage podium.

COMMISSIONER SCHMITT: One slide you had 16 stories.

MR. STUART: Okay. I'll check that.

COMMISSIONER SCHMITT: On one of the other slides you stated hotel. I could tell you -- I'm not going to look at it now. But you indicate hotel. We put on the record there would be no hotel, so that's not an issue. I know in one -- one slide you had a bullet indicating a hotel.

MR. STUART: Yes.

COMMISSIONER SCHMITT: But other than that, going back to the model, what you have there is, basically, your interpretation of the information that you had. You did not coordinate this with the architect or the architect's firm. This was just information you created based on the submitted site plan and the information that was provided by the applicant to the county; is that correct?

MR. STUART: Generally speaking, yes. That's why I want to be clear the reason why we put the architectural floors on are solely to identify the number of floors. They do not depict the architecture that the applicant will be proposing.

COMMISSIONER SCHMITT: But of interest to me, again, goes back to what's shown in the model. You do have the -- I guess that's the Regatta. The one up on -- to the further east.

MR. STUART: Yes, sir.

COMMISSIONER SCHMITT: Which is actually further away than Pelican Bay, which the Ritz-Carlton -- which is closer. But you're saying you are -- as a planner, are not considering the buildings in Pelican Bay, the Trieste, and the Ritz-Carlton because they are, in fact, part of Pelican Bay unified platted development.

MR. STUART: That's correct. Pelican Bay is a distinct neighborhood, but it is important to point out -- and if you look at my Exhibit 3 -- because I did -- I did -- on Page 3 of my Exhibit 3, I did take a look at Trieste, you know, which is in Pelican Bay. And, in fact, if you look at -- in the table I note that the average density with the three outlying -- outlier -- with the two outlier parcels and the Trieste are at 25.1 units per acre, and then I did the same thing for building height and stories, and that ended up being at 7.5 stories. So my point is even if we include Trieste, the data does not support the request.

And then, finally, for the record, the Ritz-Carlton, because it's commercial and because it has adequate setbacks and shared open space, it's not analogous for this type of evaluative approach.

COMMISSIONER SCHMITT: Of course, I'm just referring to the visual effect of the modeling --

MR. STUART: Yes.

COMMISSIONER SCHMITT: -- that the -- it eliminates -- you eliminated two buildings

that, in fact, are pretty significant in the neighboring property even though, in some regards, staff is not considering it. But from a standpoint of standing on that property, you're only about 600 feet away to the Ritz-Carlton. So it's -- it's just -- just the way you presented it.

The one last point. You mentioned a lot of information about traffic and, your professional opinion, you refuted, basically -- what I heard you say is you refuted, basically, everything that was presented by the petitioner in regards to traffic, the traffic modeling, and the improvements that, if they were put in place, would -- as they attested to, would significantly improve the traffic flow in that area. But you disagree with -- from what I heard you say, you disagree with that presentation by their professional.

MR. STUART: No, I didn't refute. What I said -- and I'll state this. I want to be clear that, yes, a traffic light at Vanderbilt Beach Road and Gulf Shore Drive will improve traffic circulation, but the applicants -- and, again, I call it the parade of horrors. It's an old technique. "Look what we can build." You know, it's inaccurate. So the issue really is, what's the relationship of this application and the huge departure from Development Code standards and comprehensive planning policies within the context of the public benefit of, hey, but it's residential so, in theory, there will be less traffic. I'm refuting that because there has not been any meaningful data and analysis to support 100,000 square foot.

And then, finally, I will go on the record, similar to what I've done with Collier County on many of their condemnation projects, 100,000-square-foot center on this site is not highest and best use. It will never happen.

COMMISSIONER SCHMITT: Well, I'm going back to a couple weeks ago but, boy, I thought it was pretty clear that the information that was provided -- was it Norm? Was that Norm? Who's your traffic guy?

MR. YOVANOVICH: It was Jim Bank and Ted Treesh.

COMMISSIONER SCHMITT: Jim Banks. I'm sorry. Where's Jim? I saw him come in. But Jim Banks gave a pretty clean presentation that I thought was defended and supported by the county staff in regards to the information provided and the traffic analysis that was presented in the model, and now you're basically saying, well, yeah, but it was all smoke and mirrors is kind of what I think I hear you saying.

MR. STUART: No, no. Just to be real clear, I am not debating Jim Banks. His accuracy is -- and reputation is first rate.

COMMISSIONER SCHMITT: Yeah.

MR. STUART: What I am saying is this is a Comprehensive Plan map amendment, and I reviewed, as chairman and as a participant in Lee County, reviewed scores of these things. Every one of them is based upon -- and in this particular case we have a 2040 planning horizon. You have to look at the transportation to 2040. Mr. Banks, as far as I could tell, did a five-year concurrency analysis, which is sufficient and useful for zoning, but it is not sufficient and useful for comprehensive planning. So it's a different -- it's a different subject.

COMMISSIONER SCHMITT: What I hear you say is you agree to disagree.

MR. STUART: I'm not disputing Jim Banks' data. What I'm saying is they missed the mark. They haven't provided sufficient data and analysis for a Comprehensive Plan Traffic Impact Statement. They're doing a five-year zoning concurrency assessment.

COMMISSIONER SCHMITT: One last point. I'm going to defer -- if staff has an opportunity, does staff agree -- your statement said they could not proceed under the current C-3 zoning today, and the only thing that would be allowed, I thought I heard you say, was 40,000 square feet. Anything beyond that would require a conditional use?

MR. STUART: No. If you look at C-3 and the various uses -- for example, restaurant, go into C-3, look at the use --

COMMISSIONER SCHMITT: Yeah.

MR. STUART: -- and then it will say 6,000 square feet. For retail, I believe it shows 5,000 square feet. If you want to get more, you have to go back into the zoning process through a special use or conditional use permitting process.

So my point is, with the applicant solely basing the public-benefit test on potential traffic reduction, their numbers are not realistic because they don't reflect the actual code because, quite frankly, if the applicant could somehow figure out a market for 100,000 square feet, you'd have to come back through the zoning process, and that triggers, is it regulatory permissible. Big question mark.

COMMISSIONER SCHMITT: Well, it's three separate parcels under the current zoning.

MR. STUART: Right.

COMMISSIONER SCHMITT: So it's three separate parcels could be developed, each developed separately --

MR. STUART: Correct.

COMMISSIONER SCHMITT: -- through the -- through a site plan submittal and a site plan process. It wouldn't be -- I guess you could say it would be a unified plan of development but, frankly, it could come in under C-3 zoning, each parcel being developed separately.

MR. STUART: That's correct. And if each parcel came in separately, again, it goes back to my point 100,000 square feet and the traffic generated by that compared to the traffic generation by One Naples doesn't work.

COMMISSIONER SCHMITT: Well, I'm going to ask staff. Is James --

MR. STUART: And, again, the only evidence that's been presented in the entire record is that graphic. And, again, if I was the applicant, I would -- I would really have that issue tied down. Here's the feasibility report. Here's the site plans. This is what we can do. And, again, I'm doubtful on a physical-site-capacity basis, but I'm really doubtful in terms of, would 100,000-square-foot retail center fit into the marketplace? Could they find financing for that? Could they meet -- could they get 50 percent lease-up to get a pretty decent loan-to-value, you know, ratio? I doubt very seriously.

COMMISSIONER SCHMITT: No, I think that's all nice, but it has nothing to do with what we're here for, from the standpoint of financing.

But, James, is this correct as far as under the existing zoning right now? They would be limited to 40 -- is it 40,000 you --

MR. STUART: I didn't say that, no, no, no.

COMMISSIONER SCHMITT: I thought you said.

MR. STUART: No. Specific uses under C-3 are annotated by having limitations in square footage, and I believe restaurants at 6,000. You can pull the code up. And if you want to -- or shopping center, I believe, is at 5,000. If you want to do a large shopping center, a 40,000-square-foot shopping center, you would have to go back into the zoning process. That's what I'm saying.

COMMISSIONER SCHMITT: Okay.

MR. SABO: So, for the record, James Sabo, Principal Planner with the county.

We calculated the maximum square footage for C-3 zoning commercial uses at about 160,000 is what I came up with, and I put a building envelope slide together for the Planning Commission.

What Mr. Stuart is correct in referencing is there are maximum square footages per use or per individual use. But the site could be developed at about 160,000 square feet.

COMMISSIONER SCHMITT: Because that's the issue I'm dealing with here is, you know, be careful what you ask for, you might get it, and that's this whole site being developed as C-3 which would be, I think, disastrous for that area of the county. So I -- and 100,000 square feet is a lot, even -- but so that's where I am right now. I'm trying to look at what could be done now

without having to go through the zoning process or coming through the public hearing process and the kind of impact that that would have. Because the property is going to be developed.

MR. STUART: Correct.

COMMISSIONER SCHMITT: No doubt. It will be developed. And it will be something out there. So -- okay.

CHAIRMAN FRYER: First Commissioner Fry, then Commissioner Klucik.

COMMISSIONER FRY: Mr. Stuart, you had a slide that recommended we deny it, then you had a -- you have a table of compatibility standards, which seems to be a counteroffer.

MR. STUART: Yes.

COMMISSIONER FRY: What -- in your opinion, what is the highest and best use of this parcel?

MR. STUART: Well, if I put it on record, can I bill Stock Development for professional services? I'm just kidding.

COMMISSIONER FRY: You can try.

MR. STUART: No, I'm not going to. I'm fine.

No. You know -- and I've thought long and hard about this, because Stock -- the One Naples project is correct in orientation, a mixed use, but a real mixed use, I believe, given, again, the three pillars of highest and best use will be physical, regulatory, and market. I would absolutely have this as a low-dense, true mixed use, stores and shops with a -- with a marina-based theme, and by low-dense, similar to the standards that we are providing for so it would fit into a suburban context.

And, by the way, I keep hearing, well, C-3 and all this commercial's going to be horrible, but I've spoken to a lot of my clients. Once they understand, wait a minute, instead of being -- instead of dealing with trying to go out east to 41 to Publix, we can get some of our stuff and walk to Publix and we could bike to Publix, and we can go and get our hair cut and fingernails done and so forth.

So C-3 absolutely allows for -- and, by the way, the application is absent on this issue, and this is important. It takes trips off the road because the proximity allows for more multimodal transportation, i.e., biking and walking. You don't have to hop in your car and drive all the way to 41. So there are a lot of benefits to C-3.

Basically, to answer your question, I would do, like, a hybrid C-3 with a marina base and, again, having it low-densed, you know, 12-story, nine-story type, similar to what we're proposing.

COMMISSIONER FRY: What's your -- I have a few more questions.

CHAIRMAN FRYER: Go ahead.

COMMISSIONER FRY: What's your sense of the amount of commercial that is appropriate? I don't think you mentioned that in your -- in your compatibility standards. But right now it's up to 10,000 square feet. What do your constituents want in terms of -- what's their vision of commercial?

MR. STUART: I haven't discussed that at length, but I did run the numbers. The key variable when you're running numbers, like, how much commercial can this sustain? And, again, look onto my exhibit --

COMMISSIONER FRY: I'm assuming that we go -- that your compatibility standards were somehow approved.

MR. STUART: Yes.

COMMISSIONER FRY: What would be the contingent of commercial?

MR. STUART: Well, if you look at Exhibit 2 on Page 3, I ran quick demographics, and there's approximately 3,933 incredibly high-income households. So the issue that I was struggling with is how much square foot -- how much retail sales per square foot would I need to model?

If I went off a typical community, it would be, like, 250 to \$300 per square foot when

you're projecting that, and that would be, you know, anywhere from 40- to 50,000 square foot. However, with this higher level of income and disposable income, I'm not sure if my numbers will work. But my gut feeling, it would be somewhere in the 30- to 40,000-square-foot range for neighborhood, personal services, business services, coastal-related stuff, restaurants, that type of thing.

COMMISSIONER FRY: Is that feasible? We've talked about the floodplain issues with the 21.4-foot level that they have to really put the full range of uses at. Is that -- is that feasible for a mixed-use community with all the stores elevated? I mean, I get it for this high-rise-type application, but what about for the retail component?

MR. STUART: Well, I don't have the slide in front of me, but if you can visualize one of the previous slides that showed that line bisecting the site, so everything to the east of this site of, you know, the five-acre plus site would be at elevation -- FEMA Elevation 11 and 12. So they're, at that point -- and, again, I was under the impression that the road elevation is around 5.7 feet. So 5.7 feet and you're dealing with 11 to 12, you could make that work. On the west side of that, yeah, you have, instead of 11 to 12, you have 21 feet.

So you have to -- and that's the problem with this design. They are not customizing this design to the site constraints and regulatory constraints. They're, basically, plopping down a Miami -- I call it a -- I'm sorry to insult you, but a Miami Beach style development. They need to customize this thing to the realities of the neighborhood and the FEMA lines and the coastal lines.

COMMISSIONER FRY: A couple of times you mentioned a 104-foot setback is what would be called for, I think, for these height of towers.

MR. STUART: Correct.

COMMISSIONER FRY: Where did that number come from?

MR. STUART: C-3 development standards. If I can recall, it's one-half --

COMMISSIONER SCHMITT: One-half.

MR. STUART: -- one-half the elevation.

COMMISSIONER FRY: So it's an equation in the zoning standards, okay.

MR. STUART: And I point that out because, again, if you look at that, our standards -- hey, we recognize it's a tight site. So instead of 104, we're saying a 70-foot standard for the towers. So the concept is you have a human-scaled parking garage. You step the tower back. You have that rooftop area for their swimming pools and stuff, and you're not creating this canyon Miami-type feel.

COMMISSIONER FRY: What is a human-scaled parking structure? What does that mean?

MR. STUART: Well, it's similar to what Mr. Sabo and I have talked about. And in my opinion letter, that should be in the record, a human scale would be somewhere in the 20- to 25-foot range. When you're designing a parking garage, my rule of thumb is 8 feet 2 inches per floor. But in this particular case, for discussion, let's say a 9-foot. So you're dealing with 18, and then -- so you have a delta of seven feet, which would allow for, you know, some type of swimming pool on top. So a 25-foot would be human scale.

And, again, the landscaping on the building foundation is good, but -- and I need to point this out, too, because you need to be aware that what has been presented, X axis, Y axis. Where's the Z axis? And that's the issue. You need to take a look at this thing in terms of the verticality of the project, and that's why the absence of architectural elevations and cross-sections relating to the street are so important, and the applicant has yet to provide that information, albeit, it was requested by staff in two letters that I've reviewed.

COMMISSIONER FRY: Final question. You have come up with, I think, about 8-point something million dollars of benefit to them, I think, from the vacation of the roads within the development, and you've subtracted their net costs for the traffic light improvements and the

parking garage improvements, and you came up to 7.49 million net benefit. How did you come up with the -- was that the value that you perceived the square footage of the roads that would be vacated?

MR. STUART: Well, yes. And it was -- I mean, I did this pretty standard going onto the Collier County Property Appraiser's site. I found that the total acquisition was \$25.3 million. So when you break that down into a price per square foot, \$125 per square foot, and then times the 0.79, that's where I came up with that number. And then the development commitments are from my own professional experience.

And then, finally, it's important to note, if you do look at Page 2, Exhibit 7, I did plug in the applicant saying they're putting in \$1.75 million. So that's debatable because some of the commitments are required by code, and it was very hard for me to separate, okay, what are the commitments that are required by code versus the extra commitments. But if the applicant says 1.75 million, then there's a net benefit of 6.3 million.

COMMISSIONER FRY: Did you compute your compatibility standards with the Tower 1, Tower 2, waterfront building, a mid-rise and a garage, 11-foot floors -- you came up with 19 dwelling units. Is that a -- did you calculate that that was feasible, that density is feasible with that arrangement of towers and heights?

MR. STUART: No. I came up with -- and we came up with 19 units per acre because it's similar to Beachmoor that's the adjoining property but then also looking at -- because we did look at Regatta. That's part of our analysis. Regatta's, I think, 22. So, okay, somewhere between 19 and 22 units is where we need to be, and I went with 19 because of the size and scale of the project within the context that the Beachmoor is closer to the project than Regatta.

COMMISSIONER FRY: So those recommendations are not really related. They are independent. One is based on compatibility or the density comparisons, and the other's based on your verticality and your -- kind of your dimensional analysis with the step-down towers.

MR. STUART: Yes. But I did not do detailed architectural-type calculations.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: Commissioner Klucik, and then Commissioner Schmitt.

COMMISSIONER KLUCIK: Thank you.

All right. So I'm going to focus on height and density, and just -- I'll get density out of the way. So I'm looking at your Page 7, Exhibit 3. And I'm looking at Vanderbilt Beach and Harbor Club Condo is 33 density. And I'm just wondering, you know, why is -- why should this project not be, you know, given a density that would be a similar density? I mean, what's the basis to say, well, you know, Vanderbilt Beach and Harbor Club Condo, they're special and so they get the 33?

MR. STUART: Now, which two projects are you referring to? I'm on Page 3.

COMMISSIONER KLUCIK: Page 7, Exhibit 3.

MR. STUART: Page 7, I'm sorry. Okay. Well, actually -- okay. Well, these are --

COMMISSIONER KLUCIK: You have the densities listed. And I'm up in the upper left-hand corner, the second building has a 33 density, I believe.

MR. STUART: Yeah. And, see, what I'd rather you do is look at Page 3 --

COMMISSIONER KLUCIK: Well, no, no, no, no.

MR. STUART: -- because that lists everything.

COMMISSIONER KLUCIK: No, no. Please answer the question. It's pretty straightforward.

MR. STUART: So Vanderbilt Beach/Harbor Club Condo at 33 units per acre.

COMMISSIONER KLUCIK: Right.

MR. STUART: Okay. Let me just cross correlate this. Well, interesting. I think -- well, anyway, this was built in 1982. I believe this predated the Comprehensive Plan. Personally -- I mean, absolutely, it predated --

COMMISSIONER KLUCIK: Right. But we're talking about -- I'm talking about compatibility.

MR. STUART: Yes.

COMMISSIONER KLUCIK: So we're looking at about compatibility, and we have a 33 density there. We're looking at capacity, and we have 12 stories. We have 12 stories, and then they have -- so we have a triangle of 12-story buildings. And so you've said -- I guess, you -- I mean, I was glad to see that you at least acknowledge that 12-story building. Probably, really, there's no good basis to object to it if you're looking at compatibility.

MR. STUART: Correct.

COMMISSIONER KLUCIK: So then I would say, let's look at the height, then. A 12-story building isn't necessarily -- you know, I mean, some of these are in the 140s. So I don't understand why we're capping it in the 130s at your suggestion. So I'm already up at least to the 140s even just based on your own principles for height.

MR. STUART: At height, yes; not density.

COMMISSIONER KLUCIK: At height. And then for density, I'm also looking at -- you know, at Vanderbilt Beach and Harbor Club Condo, and I'm not going to discount -- you know, we haven't even mentioned this, but I'm not going to discount the Ritz-Carlton since it's right -- it's -- you would consider it the most adjacent residential -- excuse me -- the most adjacent building that's, you know, similar. It's much larger. And it's -- you know, it's the first building you come to as you, you know, go down south, you know, immediately to the south.

So I'm just trying to figure out, if we're looking at compatibility, it's hard for me to justify saying somehow a use similar to what they're proposing isn't compatible. And you're adamant that there's no way -- you know, my gist of your presentation is there's no possible way you could conclude that this is compatible. Okay. I understand that's -- you know, we all can use hyperbole when we're making arguments, and I certainly am not stating that that was incorrect of you to do that. But I would like you to then go underneath that a little bit and explain. I don't think it's reasonable to actually conclude that there's no way you could say it's compatible.

MR. STUART: When I said there's no way it was compatible -- and I can find the slide. But when you look at it quantitatively with a 232 percent increase over --

COMMISSIONER KLUCIK: Well, no. I'd like you to just -- I'd like you to just look at the factors that I have come up with. The 12-story buildings and the density near by that's 33, and then the Ritz-Carlton. If you look at those buildings, it's very difficult to say that you can just conclude that it's not compatible.

And I understand there's other factors, and you want to focus on the other factors, and you're a planner, and I'm not going to discard that at all. But I also think that we had planners from the petitioner, and they didn't discard these things either, and they also haven't, don't think -- what do we have for an approved density right now as far as -- not approved, but --

CHAIRMAN FRYER: Sixteen.

COMMISSIONER KLUCIK: Sixteen. I'm sorry. The recommendation of the -- of Mr. Sabo?

COMMISSIONER VERNON: 31.7 units per acre.

COMMISSIONER KLUCIK: Right. So we actually are already there. I don't like that you're saying there's no way, you know, this is compatible for several of those factors.

MR. STUART: If I can jump in, though. And, again, you're looking at the graphic on the bottom of the -- I think you're on Page 4 of 7. Are you -- actually --

COMMISSIONER KLUCIK: I'm looking at Page 7 of the book you gave us.

MR. STUART: Because that actually -- I'm sorry. I'm not trying to be in your face, but...

COMMISSIONER KLUCIK: Why don't you explain to me --

CHAIRMAN FRYER: One at a time.

(Simultaneous crosstalk.)

MR. STUART: The Vanderbilt Beach and Harbor Club at 3818 Gulf Shore Drive has a density of 21.2 units per acre. That's based on 2.1 acres and 44 units, and it's a six-story building. So that graphic is erroneous. I should have caught that.

COMMISSIONER KLUCIK: Okay.

MR. STUART: But it is at 21.2 units per acre.

COMMISSIONER KLUCIK: All right. Then let's go to Page 15, and you have your relative height and step-down.

MR. STUART: Okay. Now you're on the slideshow, Exhibit 8?

COMMISSIONER KLUCIK: Yes. Slideshow Page 15, Exhibit -- I don't see an exhibit number on here.

MR. STUART: Page 18?

COMMISSIONER KLUCIK: Would you move the slides to it. It's the black-and-white slide showing all the stacked building heights. There you go.

So I notice here that we have existing the Barefoot Pelican, and that's higher than the two adjacent buildings.

MR. STUART: Yes.

COMMISSIONER KLUCIK: And I notice that the Regatta 12-story building is higher than the two adjacent buildings. And then we go to Page 22, and you're advocating that you need to have this absolute step-down. And I'm just -- you know, I'm just noting that what's already there and what the people here, you know, presumably who are represented by -- you know, the represented -- the representative group in the group that you represent -- members of the group that you represent, they live in these buildings that don't exhibit what you're saying must happen or that you're advocating is the way to go.

And, obviously, there's all sorts of arguments you could make. I'm just pointing out that this step-down thing seems to be really important now that the neighbors are using their land, but they've -- you know, the neighboring properties have already violated your step-down principle.

And so I don't think we, as a board, need to give all that much credence to it. It's a good idea to think about step-down, but I also think that there's other factors, and the fact that the neighboring -- the neighboring buildings don't respect that already is something that we can factor in.

MR. STUART: Well, for the record, I disagree, because I modeled this approach on the Regatta that uses a step-down principle from a 12-story building to a six-story building. So I was using that and -- so, again, let's just agree to disagree on that.

COMMISSIONER KLUCIK: Now we go down, up, down. And so I don't understand why we wouldn't have the applicant, if they wanted to go from Beachmoor and then go up and then go back down, it's the same principle; it's just a different number of stories in a different location. Just point that out.

MR. STUART: Yes, sir.

COMMISSIONER KLUCIK: And then -- I'm almost done. I might be done. Yeah, I'm actually done. Thank you.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah, Greg --

MR. STUART: Yes, sir.

COMMISSIONER SCHMITT: -- I've got two questions. One is, you implied a Publix would be a good idea to go in there. What's the capture rate for -- that Publix looks at, at the number of doors they would look for developing a Publix in that area?

MR. STUART: More or less, what's there now. You know, I've done a few Publix shopping centers. The last one was in Lehigh off of Gateway -- off of -- anyway; in Lehigh Acres.



Ten thousand people minimum. The disposable income in this area would be off the charts for them.

COMMISSIONER SCHMITT: Typically, it's -- my understanding is it's like 6- to 10,000 doors they look at for capture rate.

MR. STUART: Three to four thousand households.

COMMISSIONER SCHMITT: Given the criteria that would -- the engineering required to put a Publix in this area, it was probably -- and that's just my personal opinion -- be physically not feasible because of the cost to put a Publix at the construction that's required in this area in the Coastal High Hazard Area.

So I just want to make sure that -- I knew you threw that out there as a teaser, but the reality is, I don't ever see Publix ever -- or you name them, Trader Joe's or whomever. They're just not going in there.

I do have a question, though. Rich, I do want to ask -- because I wanted to follow up with your architect. I know he's here, I believe. I want to ask his opinion of this model. And my concern is, this model's been here for two meetings. It does give a visual representation, and it's embedded in our brain. And I just want to see if the -- your architect agrees with what's presented here.

MR. YOVANOVICH: Can we please do that as part of our rebuttal?

COMMISSIONER SCHMITT: Oh, yes. Okay. I'll hold till your rebuttal. Thank you. That's all I have.

CHAIRMAN FRYER: Thank you.

Commissioner Shea.

COMMISSIONER SHEA: It's really just another follow-up to Mr. Klucik. You said Mr. Sabo recommended approving 31.7 dwelling units per acre.

COMMISSIONER KLUCIK: I asked, and that was the answer that was given.

COMMISSIONER SHEA: He didn't. He had the height, right? He didn't -- that's the Growth Management part of it. That's what I was getting at earlier where we have to approve that. There's no density in Mr. Sabo's --

MR. SABO: Correct. For the record --

COMMISSIONER SHEA: -- recommendation.

MR. SABO: -- James Sabo. There are two petitions before you. They're companion items.

COMMISSIONER KLUCIK: Right. The one that you gave evidence on or that gave a recommendation on is not the one that included density.

MR. SABO: Correct. But the total recommendation is 31.7 density, and then my recommendations on height and setback.

COMMISSIONER KLUCIK: I apologize for attributing that -- misattributing that to you.

MR. SABO: No. Corby Schmidt is a fine planner. I'm happy to accept attributions from him.

MR. YOVANOVICH: Is it appropriate, since he's at the podium, for me to ask a quick follow-up?

CHAIRMAN FRYER: Yes, go ahead.

MR. YOVANOVICH: Mr. Sabo, I'm -- my new threshold is I'm 87 percent sure that the PUD actually asks for 172 residential dwelling units.

MR. SABO: Correct.

MR. YOVANOVICH: And you recommended approval of 172 residential dwelling units?

MR. SABO: Correct.

MR. YOVANOVICH: And that is a density of 31.7 units per acre?

MR. SABO: That is correct.

COMMISSIONER KLUCIK: And I have a follow-up when the time's appropriate.

CHAIRMAN FRYER: Only that, then if you look at the PUD with a 125-foot actual height, you're not going to be able to get that density in with the height.

MR. YOVANOVICH: Remember, we had this discussion. We may have to go a little bit smaller in the unit size to get to that. That becomes a question of does it become financially feasible or not. Mr. Sabo doesn't care how many units I put on that site as long as I do it within his development standards.

CHAIRMAN FRYER: That's correct. I want to get back to let public speaking, if we can.

So, Commissioner Shea.

COMMISSIONER SHEA: No, that's fine.

COMMISSIONER KLUCIK: I did have a follow-up then.

CHAIRMAN FRYER: Sorry?

COMMISSIONER KLUCIK: I had a follow-up.

CHAIRMAN FRYER: Please, go ahead, Commissioner Klucik.

COMMISSIONER KLUCIK: You mentioned -- first of all, I apologize because I brought up the step-up and the relative step-up further east as we get closer that -- you know, that's really a similar pattern that's just being proposed closer to the water.

MR. STUART: Yes.

COMMISSIONER KLUCIK: And I really didn't give you a chance to reply to that. So first I wanted to just give you a chance to reply to the concern I had about -- not the concern, but the idea that it's hard to accept your argument when we already have something similar; we're just having it in a different place.

MR. STUART: Well, yes, that is my argument, Mr. Commissioner, that what's out there are 12-story buildings, and they're 12-story buildings that are separated by 1,140-some-odd feet. In this particular case, it's a 16-story building with much higher -- I believe it's 13 feet per floor, which drives the 208-foot, and so that creates -- and this is different than mass, but it creates an appearance of bulk depending on how you're viewing it. That's why Mr. Sabo's suggestion of the wedding cake design will help reduce the bulk, which makes a lot of sense. But in terms of the waterfront setback, again, I'm just looking at it -- and, again, I respect the applicant. They do great work.

COMMISSIONER KLUCIK: Let me interrupt you here. I really was going to the step-up and step-down. I don't --

MR. STUART: Yes. And I was going to say, the applicant does good work, but they're missing the mark on waterfront compatibility. That needs to be stepped down to -- it's not really even going to match, but right now they're at an 87-foot-tall building that basically dominates the entire seawall is completely out of mass and context. So that's where the step-down in height comes in, and also one of my standards is to mandate that no building footprint along the waterfront can exceed 60 percent of the seawall length, and that will help break apart the mass and make it more compatible and complementary to the Back Bay buildings. So I do use a setback for the waterfront -- a step-down from the waterfront.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Again, you mentioned 16 stories. I believe it's 14 stories. So I just want to make sure the record -- you stated it was 16 floors, and --

MR. STUART: No, it's 16. I mean, two -- well, it's two levels of parking and 14 residential, which is 16 stories, or I could say 14 over two.

COMMISSIONER SCHMITT: Okay.

MR. STUART: But it's 16.

COMMISSIONER SCHMITT: All right. Thank you for clarifying that.

CHAIRMAN FRYER: Thank you.

COMMISSIONER VERNON: Mr. Chairman.

CHAIRMAN FRYER: Commissioner Vernon.

COMMISSIONER VERNON: Yeah. I have not -- as somebody pointed out, I don't think -- I hadn't seen this before today, this three-ring binder and then the pocket part with the 2 different parts to that. And then you gave me the PowerPoint. It was a very thorough presentation, so thank you for that. But you went very fast. I know you were trying to get a lot in. So do I have a copy or do we have a copy of the PowerPoint in this book?

MR. STUART: Yes, Tab 8. And Tab 8 and Tab 3 -- excuse me, Tab 8 and Tab 2 is new data, new documentation. Everything else was submitted to staff weeks ago, and that should have been included in your package a few weeks ago.

COMMISSIONER VERNON: Okay. So everything you put on the screen is at Tab 8?

MR. STUART: Correct, yes, sir.

COMMISSIONER VERNON: Okay. Thank you.

CHAIRMAN FRYER: Thank you. I've got a few questions also, and I'm referring to Page 3 of 7 under Tab 3, which is -- it has some front yard setbacks on it.

MR. STUART: Yes.

CHAIRMAN FRYER: And this concept is very important to me. You list Beachmoor has a -- has 67-foot front setback --

MR. STUART: Yes.

CHAIRMAN FRYER: -- Venetian Sands, 25; then there's one for 26; then is it Sea Watch? Is that the one that's 80?

MR. STUART: Sea Watch is 45. Vanderbilt Beach Harbor --

CHAIRMAN FRYER: Oh, Harbor, okay. That's 80, all right. Then Beach Motel is 62, and Vanderbilt Palms, 41. Barefoot Pelican, is that -- that's 20, correct?

MR. STUART: Barefoot Pelican is --

CHAIRMAN FRYER: I'm having trouble aligning these without a ruler.

MR. STUART: Thirty-five; 35.

CHAIRMAN FRYER: Thirty-five. Okay. So were these -- were these largely from the Vanderbilt Beach neighborhood?

MR. STUART: No. Well, the south Gulf Shore Drive neighborhood, and then, if I go back to that mark, the study area map, using Regatta as -- and Vanderbilt Drive as the east boundary and then using the Watermark condo as the north boundary. So it's a very limited study area.

And, by the way, if I went up -- if I continued going north, my numbers would have been skewed in our favor. And also, if I really analyzed the single-family and the two-story patio homes, the numbers would have been skewed in our favor. I didn't do that.

CHAIRMAN FRYER: Okay. But Regatta has a front yard setback of 150 foot.

MR. STUART: Yes, sir.

CHAIRMAN FRYER: Okay. Do you happen to know what the setback is at the Ritz?

MR. STUART: No, I do not; no, I do not.

CHAIRMAN FRYER: Okay. All right. Let's see.

Mr. Yovanovich.

MR. YOVANOVICH: This could take a while. Do you want to -- is this the right time for a break or -- I'm happy to go for a little bit, take a break, whatever you prefer.

CHAIRMAN FRYER: Let's proceed for a little while.

MR. YOVANOVICH: All right. Sounds good.

Greg, would you mind switching places to there so I can use the visualizer? Or if you

want to stay there, I'll have someone put something on the visualizer for you.

MR. STUART: No, no. Let me just move this. You will want the lady to wipe this down.

CHAIRMAN FRYER: While you're moving around, I have my own opinion of this table here in front, but what do the other Planning Commissioners think about this table which seems to be becoming kind of a permanent fixture here?

COMMISSIONER KLUCIK: I personally just thought to myself that it just doesn't seem appropriate to have it sitting there for the whole proceeding. It should be presented when it's being referenced.

CHAIRMAN FRYER: Others?

COMMISSIONER SHEA: I like it there because we don't have to go through all this wiping down the mics. If he's going to be here for most of the session and talking on occasions, I'd rather him sit there and we don't lose all this time to the cleaning.

CHAIRMAN FRYER: Others?

COMMISSIONER HOMIAK: Are you talking about the table --

COMMISSIONER SHEA: But we need to -- oh, the --

COMMISSIONER HOMIAK: We need it for the space.

COMMISSIONER SHEA: I thought you were talking about the --

CHAIRMAN FRYER: I'm talking about that one right there.

COMMISSIONER SHEA: Yeah, that's what I'm talking about. And -- but we need to make the mics work so he doesn't have to get up.

CHAIRMAN FRYER: So is anyone not okay with that table other than --

COMMISSIONER VERNON: Yeah. Maybe I don't understand. Are we talking about the lead counsel table, which is what I'd call it, or the table with the model?

CHAIRMAN FRYER: I'm talking about the table with the microphones on it.

COMMISSIONER KLUCIK: Well, my answer had nothing to do with that.

CHAIRMAN FRYER: Oh, okay.

COMMISSIONER KLUCIK: So I withdraw it as unresponsive.

MR. YOVANOVICH: I think you're talking about the model table?

COMMISSIONER KLUCIK: I will say, though, since I said it, I think in the future if someone wants to present a model, they should present it when they're presenting, and it shouldn't be there throughout the whole hearing for that issue.

CHAIRMAN FRYER: Point taken.

With respect to that table, these are just my feelings. I get it when, like, we're doing the RLSA and staff is going to be unilaterally all day making presentations for that table to be in use but, personally, although I may be in a minority on this, I don't see how that helps our efficiency other than perhaps wiping microphones to have, you know, someone permanently facing us. But I guess I'm the only one who feels that.

COMMISSIONER SHEA: But if you have somebody like Rich that's intricately involved in cross-examining, it -- I think it saves a lot of time, personally.

COMMISSIONER VERNON: Yeah. I'll just tag onto that. And to me, this is not a hill to die on. I defer to the Chairman. If, you know --

CHAIRMAN FRYER: No. I --

COMMISSIONER VERNON: But to me the petitioner has the burden of proof, and so it makes sense, when you have the petitioner -- and if you look at Mr. Yovanovich, he's all spread out there because there's a lot of ground to cover. And so if I were the petitioner, I'd want to sit there. And I think that's fair since they have the burden of proof.

CHAIRMAN FRYER: Okay. That's -- then that's the consensus that we'll use. Thank you very much.

Mr. Yovanovich?

MR. YOVANOVICH: All right.

Mr. Stuart, I've got a lot of ground to cover with you. I just want to note for the record, he provided what I believe is the expert testimony regarding transportation regarding this project. He went way beyond planning testimony. I would object to them also getting a second bite at the apple with a transportation consultant when that topic's already been covered, because I don't want to have to cross-examine two witnesses on the same topic. So I want to start with --

CHAIRMAN FRYER: You're noting an objection for the record?

MR. YOVANOVICH: I am. If they bring up another consultant to talk about transportation, I just want to --

CHAIRMAN FRYER: I see.

MR. YOVANOVICH: I want to focus my cross-examination on him on traffic issues. I don't want to have to do again another consultant dealing with the same topic.

CHAIRMAN FRYER: Well, I see another traffic engineer listed here.

MR. YOVANOVICH: From the same team. So you don't usually get to have two experts talk about the same topic.

MR. STUART: Mr. Chairman, I'm going to speak to that.

MR. YOVANOVICH: Let me -- I'm just noting the record. We'll see what Mr. Oliver says. I may pop up and say this has already been covered. I'm just putting that on the record.

CHAIRMAN FRYER: All right. Thank you.

MR. YOVANOVICH: Now, you started your presentation using the following word more than one time, and that word was "misleading." You said that -- at the beginning how our team and how our side was misleading in our presentation. So I want to go over a couple of things to get very clear.

Is it your testimony that under C-3 zoning I can only have one 6,000-square-foot restaurant on the entire five-acre parcel?

MR. STUART: Before I answer that, I'm looking at my testimony. I did not say "misleading." I said you were wrong about C-3.

No, my testimony on C-3, if you look at the code, is that it restricts individual, let's say a boutique, to 5,000 square feet or less, and then if you want a larger boutique, you have to go through special --

MR. YOVANOVICH: So I just want to make sure we're clear, because this is very important. I could have multiple 6,000-square-foot restaurants on this 5.42-acre parcel and not have to go through any rezone of the property, correct?

MR. STUART: Not really. Looking at your graphic, you could have one 6,000-square-foot restaurant on one parcel if that parcel was some type of center, and then on another parcel you could have another 6,000-square-foot restaurant.

MR. YOVANOVICH: Well, I'm going to -- I'm going to -- we'll get staff back up here, but that's not what the code says. The code says that an individual user can't be more than 6,000 square feet. I can have multiple restaurants on any one of these parcels as long as each one is 6,000 square feet or less. That's what the code says.

Now, same thing for retail. I can have multiple retail users in a building as long as none of those retailers exceed 5,000 square feet, correct?

MR. STUART: Well, according to your Traffic Impact Statement, your statement is not correct because they're modeling that as a shopping center which clearly would be more than 5,000 square feet.

MR. YOVANOVICH: Thank you. That's exactly what I wanted you to say.

You're aware that these square-foot limitations that you cited don't apply to shopping centers, correct?

MR. STUART: No, I disagree, reading the code, but maybe we could ask staff, and they can provide that.

MR. YOvanovich: Well, we'll deal with that in our rebuttal.

But let's just talk about a shopping center. Let's use one that's kind of nearby. How about we use the Publix shopping center that's at the corner of U.S. 41 and Vanderbilt Beach Road. Are you familiar with that shopping center?

MR. STUART: Yes.

MR. YOvanovich: Okay. How many square feet is in that shopping center?

MR. STUART: I don't know. I've never analyzed that.

MR. YOvanovich: How many restaurants are in that shopping center?

MR. STUART: I have not analyzed that.

MR. YOvanovich: How many little boutique retail is in that shopping center?

MR. STUART: Again, I'm not familiar with the size or shape or access of that shopping center in relationship to my testimony of this five-acre property in a coastal high hazard zone.

MR. YOvanovich: I want to talk about C-3 zoning now in general, because you said that under C-3 zoning we can't do certain things without having to come back. So I just want to talk about it.

Shopping centers are an allowed use in C-3 zoning, correct?

MR. STUART: That's my understanding.

CHAIRMAN FRYER: Mr. Yovanovich, you might want to slow down a little bit.

MR. YOvanovich: I'm sorry. I'm sorry.

So are you familiar with shopping center parking calculations?

MR. STUART: Yes, I am.

MR. YOvanovich: And shopping center parking calculations say you can't have more than 20 percent of the shopping center be restaurant without having to provide additional parking, correct?

MR. STUART: Yes.

MR. YOvanovich: So if I have a 100,000-square-foot shopping center, which is an allowed use in C-3, how many square feet of restaurants am I allowed?

MR. STUART: Well, in C-3 on this site, again, my understanding is that you would be limited to one per parcel, because you're not going to be doing a street vacation.

MR. YOvanovich: Okay.

MR. STUART: But, again, these questions, please direct it to staff.

MR. YOvanovich: No. Well, you testified to it. You're the one who testified --

MR. STUART: Yes, I testified that 100,000-square-foot --

(Simultaneous crosstalk.)

CHAIRMAN FRYER: Gentlemen, gentlemen. One at a time, please.

MR. YOvanovich: You're not letting me ask the question.

MR. STUART: My apologies.

MR. YOvanovich: And I don't want Terri to get mad at me.

MR. STUART: My apologies. I will behave. I will behave, sir.

CHAIRMAN FRYER: Before you start, Mr. Yovanovich, let's go 10 minutes and then take our break.

MR. YOvanovich: Oh, ten more minutes and then take a break.

CHAIRMAN FRYER: Ten more minutes, yeah.

MR. YOvanovich: Oh, I thought you said let's take a break.

Let's go -- if you want to look at it individual parcel by individual parcel, we can do it that way, too. Where does it say in the code I only get one restaurant in each C-3 parcel in this project?

MR. STUART: It seems to me, Mr. Yovovich -- Yovanovich, my testimony was that you haven't provided any evidence, and now you're asking me to provide evidence.

MR. YOvanOVICH: No. What I'm asking you --

MR. STUART: It's strange.

MR. YOvanOVICH: -- is to back up your statement that -- I wrote it down. You said I can't have more than 5,000 square feet of retail or 6,000 square feet of restaurant without having to come and rezone the property. That's what you testified to.

MR. STUART: That's correct.

MR. YOvanOVICH: And I want you to point me to the code provision that you're relying upon.

MR. STUART: Okay. If you give me a minute. It may be in my laptop, though.

MR. YOvanOVICH: You know what, would it be -- I want him -- to be fair to him, I'll give him as much time as he needs to find that.

CHAIRMAN FRYER: Let's take our 15-minute break now. Fifteen and 37 is 52.

(A brief recess was had from 2:35 p.m. to 2:50 p.m.)

CHAIRMAN FRYER: Ladies and gentlemen, let's return.

Mr. Yovanovich, you have the floor, sir.

MR. YOvanOVICH: All righty. I think what we were doing was Mr. Stuart was going to go show us where he was relying upon his prior testimony that we're only allowed to have one restaurant of 6,000 square feet per parcel.

MR. STUART: Per building. If I said per parcel, I meant to say per building. Because if you look at the code, it deals with the principal use.

So my example is that if you have a -- I think it's a 6,000-square-foot restaurant and you want to do a 10,000-square-foot restaurant and it's in a building on a parcel -- because, again, I think you stated that if you were going to do C-3, you're not vacating the parcel, so you have an individual parcel, and given setbacks and all that, it would have one principal building, and the code limits a restaurant to 6,000 square feet for that building, and then you would have to -- if you wanted more, you come back through -- is it a special-use or a conditional-use permit? I always get the two terms confused.

MR. YOvanOVICH: Well, let me ask you this way. If I wanted to do a 4,000-square-foot restaurant in a strip center and I want to do another 3,000-square-foot restaurant in that same shopping center, and I wanted to do another 3,000-square-foot restaurant in that shopping center building, are you telling me I can't do that?

MR. STUART: No. The rule is that 5,000 for the -- what's the best term -- for the establishment in the principal building.

MR. YOvanOVICH: Okay. So the same thing for the restaurant. Per restaurant I cannot exceed 6,000 square feet?

MR. STUART: Yes.

MR. YOvanOVICH: I can have multiple restaurants as long as they're 6,000 square feet or less?

MR. STUART: Yes. And in this case you're claiming to put 39,000 square feet of restaurants on a 4.7-acre site.

MR. YOvanOVICH: And I stand by that. I know you're grinning.

MR. STUART: I know.

MR. YOvanOVICH: But you don't think -- you don't think there are -- multiple restaurants would want to locate on the water on the bay by the beach? Is that your testimony that there's no market for multiple restaurants --

MR. STUART: There are --

MR. YOvanOVICH: -- on the beach?

MR. STUART: -- but not for a 100,000-square-foot center consisting of 61,000 retail shopping based upon Jim Banks' data and 39,000 square feet of restaurant, because look at the parking and open-space requirement. Again, the three tenets of highest and best use, one is, can the site physically accommodate it based on the rules and regulations, and I see no evidence or testimony that it can.

MR. YOVANOVICH: Okay. Now, I know you're familiar with Lee County and you talk about how Lee County Comprehensive Plans are analyzed with regard to traffic. I'd really like to focus --

MR. STUART: Well, and other counties, too. Not just Lee County.

MR. YOVANOVICH: Okay. Well, I'd really like to focus on Collier County.

MR. STUART: Okay, please.

MR. YOVANOVICH: You heard testimony from Ms. Scott that Policy 5.1 is the Growth Management Plan policy regarding traffic --

MR. STUART: Yes.

MR. YOVANOVICH: -- and it specifically applies to proposed amendments to the Future Land Use Element, correct?

MR. STUART: Yes.

MR. YOVANOVICH: So this is the provision that applies to our Growth Management Plan amendment as well as our PUD rezone, correct?

MR. STUART: Correct.

MR. YOVANOVICH: And it refers to the AUIR over a five-year period, correct?

MR. STUART: That is correct.

MR. YOVANOVICH: So is it your testimony that our traffic analysis did not comply with Policy 5.1?

MR. STUART: No. My testimony is that the Traffic Impact Statement is inadequate to evaluate this Comprehensive Plan amendment. It should be at a -- it should look at it through 2040. These were solid principles and practices.

MR. YOVANOVICH: It's your testimony that you don't like the way Collier County does it, and you think they should change their rules to do it a different way?

MR. STUART: My testimony is that it doesn't follow accepted planning practices and principles.

MR. YOVANOVICH: Now, you've been around long enough.

MR. STUART: Unfortunately so.

MR. YOVANOVICH: Doesn't -- doesn't the Collier County Growth Management Plan get reviewed by the State and, ultimately, approved by the State?

MR. STUART: Yes.

MR. YOVANOVICH: And didn't the State approve the Collier County Comprehensive Plan?

MR. STUART: Of course.

MR. YOVANOVICH: Okay. So the State thought that the way Collier County did it is, in fact, appropriate, correct?

MR. STUART: Well, I will hold off on judging the Department of Community Affairs when they adopt -- when they signed off on this policy. But I will say my experience with the Department of Economic Development or Opportunity, whatever they call it, is -- well, they're not exactly friends of growth management.

MR. YOVANOVICH: Now, how about I tell you this, and maybe you don't know, but I'll represent to you that Policy 5.1 predated the creation of the Department of Economic Opportunity. Do you have any reason to believe I'm wrong?

MR. STUART: No, I do not.



MR. YOVANOVICH: So it would have been reviewed and approved under the more stringent Department of Community Affairs, correct?

MR. STUART: Yes.

MR. YOVANOVICH: I think that we'll deal with the transportation-related testimony you provided. I want to go through -- and in fairness to me, there are new exhibits in your binder that you handed out today that I have not had an opportunity to digest in great detail.

MR. STUART: There are two, yes.

MR. YOVANOVICH: Two of them. So I will do my best to address those on the fly. Do you plan on being back here on November 5th when we come back?

MR. STUART: I hope not.

MR. YOVANOVICH: Okay.

MR. STUART: No, I'm serious. I would love to continue participating in this process.

MR. YOVANOVICH: Now, let's talk about -- let's talk about the project. Do you know where on this drawing the Barefoot Pelican property is?

MR. STUART: Yes, of course.

MR. YOVANOVICH: Can you please point to it?

MR. STUART: It's the two buildings, L shape buildings.

MR. YOVANOVICH: What's the density for Barefoot Pelican?

MR. STUART: Barefoot Pelican has a high density of -- just a moment. Barefoot Pelican has a high density of 45.8 units per acre based on a five-story building on 1.3 acres and 60 units.

COMMISSIONER VERNON: I'm sorry. I didn't hear that density.

MR. STUART: I have 45.8 unit per acre based on a five-story building on 1.3 acres with 60 units. Those are -- that's what I understand it to be.

MR. YOVANOVICH: Okay. So Vanderbilt Palms, where is that on this exhibit?

MR. STUART: Yes. Vanderbilt Palms is behind the Back Bay mid-rise, and Vanderbilt Palms is one of my two outlier parcels.

MR. YOVANOVICH: And what's the density of Vanderbilt Palms?

MR. STUART: The outlier parcel at Vanderbilt Palms is 52.8 acres based upon a half acre and 28 units. And just for the record, that's why it's an outlier when you're having a building that's comprised of around 500 square feet to 600 square feet units on a half-acre property. It's not analogous for compatibility and complementary analysis.

MR. YOVANOVICH: You talk about setbacks and how they're measured. Are you aware that setbacks in Collier County are measured based upon the zoned building height and not the actual building height?

MR. STUART: Yes. The zoned, yes.

MR. YOVANOVICH: Okay. So the information you provided regarding setbacks, if I'm correct, was based upon actual building heights; is that correct?

MR. STUART: Well, that's -- that's a good question, because some of the -- well, how about this: For my methodology I relied on the Collier County Property Appraiser and the Collier County GIS sites, and then I used their measuring tool, if you will, to the denoted right-of-way. We did multiple measurements, and then we took the average of that. So it's important to note that -- and just as an example, for Beachmoor I'm showing a 67-foot front setback. You know, it could be -- it could be 65. It could be 69 given the vagueries of the GIS. But for the purpose of compatibility and complementary, you know, the data and information is more than reasonably accurate, you know, for this type of evaluation.

MR. YOVANOVICH: Are you aware that the Property Appraiser has a disclaimer that basically says don't rely on the property line on our GIS maps?

MR. STUART: Oh, yes, and I also use the county's.

MR. YOVANOVICH: Use the county's what?

MR. STUART: I use the county's GIS, and I also use the Collier County Property Appraiser's GIS. And, again, given the fact that there's no detailed data and analysis in the application, I had to generate some -- I had to generate this.

MR. YOVANOVICH: I've got to tell you, what I like is, no matter how long you're doing this, you learn something new. Where do I find the county GIS maps that have all the buildings on them that I can now measure setbacks?

MR. STUART: Well, again, I just stated I used the County -- Collier County Property Appraisers' GIS --

MR. YOVANOVICH: Okay. That -- I'm aware of that one.

MR. STUART: -- for the measurements, and then I correlated that with the other county GIS in terms of uses and the like. So, you know, I was going back and forth, but I used the Property Appraiser's website to measure the front -- to measure the setbacks.

MR. YOVANOVICH: The one that has the disclaimer that says don't rely on those property lines?

MR. STUART: Yes. But, again, for the record, it's reasonably accurate for the purpose of what we're dealing with. Now, if we were dealing with a highly urbanized area like New York City where every foot counts, you would want it surveyed. But for a suburban context, this information is more than reasonably accurate.

MR. YOVANOVICH: I'm pretty sure that if I were to use that as a basis for reviewing someone's property and said, hey, you know what, Your Honor, in my malpractice lawsuit, that I relied upon something that's generally accurate, I don't think that's going to work for me. So you relied on something that's generally accurate?

MR. STUART: For the purpose of a neighborhood study, this is more than reasonably accurate. What you're referring to, if you're coming into an individual case, an individual litigation. We are evaluating an entire neighborhood. So, again, I stand by this data.

MR. YOVANOVICH: I understand. I understand.

Now, I want to talk a little bit about commercial intermediate zoning and how this is a great, wonderful thing for the neighborhood. Did you ever read the definition or the lead-in language to the commercial intermediate district, C-3 district in the Land Development Code?

MR. STUART: Yes. And I don't think I said C-3 will be great for the community. What I, again, stated was that you're using this as a straw dog. You know, I can't be more simpler than that. A 100,000 square feet is not the highest and best use. It's not physically a regulatory or market [sic] fits into this site. So, again, you should be coming up with a realistic assessment of what can actually be placed, then have the traffic analysis based upon a realistic assessment.

MR. YOVANOVICH: And I think you said realistically. Or some of the documents that Save Vanderbilt Beach is publishing, 52,000 square feet is realistic?

MR. STUART: I don't understand the question.

MR. YOVANOVICH: I'm just asking. You guys said it's more like -- you're making all kinds of fun about our using 100,000 square feet, and you said more realistically 52,000 square feet, correct?

MR. STUART: No, I believe I said it was 42,000. But, again, the key -- the key thing to remember is that the site is -- what's it -- without the vacation, it's a 4.7-acre site; 30 percent open space, 25-foot setbacks.

MR. YOVANOVICH: Okay. So let's just -- I'm just going to read you from the Save Vanderbilt Beach talking points. I don't know if you reviewed and approved them before they were actually published. It says, Stock says the site can support 100,000 square feet of development. This is unlikely. A better estimate is a bit more than half of that.

MR. STUART: Okay.

MR. YOVANOVICH: Do you -- is that information that your website is publishing accurate?

MR. STUART: Well, I'm not involved in the website content, but I do remember that specifically. And, again, it's just a generalized statement. It's just a generalized statement.

MR. YOVANOVICH: Okay. So let's --

MR. STUART: And, again, the burden is on you to provide the evidence, not Save Vanderbilt Beach coalition.

MR. YOVANOVICH: I'm just telling you we've provided the information. You're quibbling with our transportation analysis. Were you here two weeks ago?

MR. STUART: I am -- for the record, counsel's trying to put words in my mouth. I am not quibbling with the TIS. The TIS that they submitted was accurate, but their underlying assumption of using 39,000 square feet of restaurant and 61,000 square feet for a shopping center is not realistic, and they should actually have a real development scenario. Then they can come up with some type of comparative analysis.

But I am not -- Counselor, I am not disagreeing with the work by Jim Banks. I'm not qualified to get to that level of detail. My qualifications are in comprehensive land use, which my testimony clearly fits in.

MR. YOVANOVICH: Do you remember this slide at the last testimony where I said, you know what, Mr. Banks, I want you to analyze a bunch of different scenarios just in case we're wrong?

MR. STUART: Yes.

MR. YOVANOVICH: Do you remember this slide?

MR. STUART: Yes, I do.

MR. YOVANOVICH: Okay. And that slide shows the 50,000-square-foot retail/restaurant option that your client admits in their own documentation we can accomplish, correct?

MR. STUART: Yes.

MR. YOVANOVICH: And that is 207 -- 276 two-way peak-hour trips, correct?

MR. STUART: According to the table, yes.

MR. YOVANOVICH: And you're not quibbling with Jim Banks, right?

MR. STUART: No. Jim Banks is a consummate professional.

MR. YOVANOVICH: That's what I thought.

Now, the One Naples project is at 148 two-way p.m. peak-hour trips, correct?

MR. STUART: Right.

MR. YOVANOVICH: So that -- I can't do that math, but it's almost double if we do the C-3 retail/restaurant option versus our proposed residential, correct?

MR. STUART: Yes.

MR. YOVANOVICH: Okay. Now, I want to go back to the definition of C-3 and what three uses actually attract.

MR. STUART: Well --

MR. YOVANOVICH: Can you read the underlined portion of that definition?

MR. STUART: Yes. C-3 is inherently for neighborhood goods and service, business services, and the like. It's a low level. It's for neighborhood or sublevel, not a community shopping center, not a DRI. So the preamble is to provide for a variety of goods and services intended for areas expected to receive a higher degree of automobile traffic.

MR. YOVANOVICH: I don't know where we got into the DRI discussion, but what size shopping center meets the definition of community-type shopping center?

MR. STUART: Well, the DRI comment came in when you were asking me about a shopping center that's part of the Pelican Bay DRI. So I thought -- I'm sorry. I thought you were

going back to U.S. 41. So my apologies to that. I misread your question.

MR. YOVANOVICH: No. My comment, based upon -- I wanted to hopefully find a shopping center that you understood the concept of a shopping center is. That includes Publix.

MR. STUART: I have done many shopping centers.

MR. YOVANOVICH: I'm sure you have. I'm sure you have.

So I want to understand your testimony. Are the C-3-type uses intended for areas that are to expect higher degree of automobile traffic?

MR. STUART: C-3 uses are for neighborhood goods and services of which -- if there was a C-3 shopping center here, it would certainly help take traffic off of the road because it's providing for multimodal opportunities, i.e., biking and walking. That was my testimony.

MR. YOVANOVICH: And would it also attract -- I'm sorry, Terri.

MR. STUART: That was my testimony.

MR. YOVANOVICH: Would it also attract people to an area that would not otherwise be in this area?

MR. STUART: Probably not.

MR. YOVANOVICH: Oh, really?

MR. STUART: Well, let me back off. And that gets back into, if this was a festival or theme-type concept, again -- and there's no evidence -- then you would have, as I would suggest, a marina base with restaurants and that type of thing. So if you do have that, then, yes, you would probably create some type of destination. But the problem is, then, the site is too small because you're not vacating the right-of-way. You have 30 percent open space, setbacks, and so forth.

MR. YOVANOVICH: Now, so let's talk about marina-based attractor. I use that word. Now, I can do a marina as a matter of right under C-3 zoning, correct?

MR. STUART: Correct.

MR. YOVANOVICH: And a marina has a zero-foot setback on the water, correct?

MR. STUART: Yes, for marina -- for a ship store or that type of thing, yes.

MR. YOVANOVICH: And restaurants associated with a marina, private clubs associated with a marina; all different types of things can be associated with a marina including, but not limited to, restaurant, correct?

MR. STUART: Can I say this? I trust you in your acumen, and I'm not that cognizant of the code. I would like to review the code, but I will take your word for it, Counselor.

MR. YOVANOVICH: Well, I'm glad, because it's true.

MR. STUART: I'm sure it is.

MR. YOVANOVICH: So I can do a water-based marina that includes an attractor such as one or more restaurants on this site?

MR. STUART: Yes.

MR. YOVANOVICH: Does that fit your definition of kind of an entertainment-related type of use?

MR. STUART: Well, yes.

MR. YOVANOVICH: Now, could I do another Beach Box? Right where the Beach Box exists today, can I knock it down, replace it with a bigger and better Beach Box with parking underneath it? And maybe I'll get even a little creative and I'll put some tables and chairs that I could bring in at night so it would actually -- they're out on the street enjoying themselves, eating food. Could I do that under C-3 zoning?

MR. STUART: I would, of course, want to see the site plan, because it would have to comply with all of your rules, regulations. I know we discussed FEMA and floodplain. But in theory, sure.

MR. YOVANOVICH: That would be an entertainment type of use to attract people to the neighborhood?

MR. STUART: I don't consider the Beach Box to be entertainment or attractor. I consider that as a convenience-type use.

MR. YOVANOVICH: Do you remember the history of the Beach Box --

MR. STUART: No --

MR. YOVANOVICH: -- and --

MR. STUART: -- I'm not aware of it.

MR. YOVANOVICH: Would you trust me?

MR. STUART: Again?

MR. YOVANOVICH: Yeah. Where -- you could check it. I don't know if Tony's in the room. Tony's Pires represented the neighborhood when they were in opposition to the Beach Box, because the Beach Box was attracting a bunch of people there that they didn't want there. Does that -- is that the type of use your client wants to see expanded at this site?

MR. STUART: Again, when I look at the Beach Box, I clearly see it as a neighborhood locale. I can't envision people driving from --

CHAIRMAN FRYER: Excuse me a moment, sir. I'm going to ask everyone in the room to please put their phone on vibrate or turn it off.

MR. STUART: I just can't imagine people driving from downtown Naples. Hey, let's go to the Beach Box.

MR. YOVANOVICH: Can you imagine people driving from Trieste?

MR. STUART: Possibly, but if I was living in Trieste, I'd hop on my bicycle.

MR. YOVANOVICH: Oh, but they're part of the neighborhood, correct? Because you just said the Beach Box is a neighborhood place that people from Trieste would go to.

MR. STUART: Is that a question or a statement?

MR. YOVANOVICH: Both.

MR. STUART: Both.

MR. YOVANOVICH: You just said --

MR. STUART: Could you repeat the question.

MR. YOVANOVICH: Did you just say --

MR. STUART: Could you repeat the question.

MR. YOVANOVICH: Did you just say that people from Trieste would hop on their bike and go the Beach Box?

MR. STUART: I would suggest that's probably what they would do.

MR. YOVANOVICH: Okay. And didn't you say that the Beach Box is a neighborhood type of restaurant?

MR. STUART: So now you're confusing neighborhood for compatibility and complementary standards with neighborhood for shopping center attraction. Apples and oranges, Counselor.

MR. YOVANOVICH: I'm not confusing them. You may be trying to distinguish them, but I'm not --

MR. STUART: Well --

MR. YOVANOVICH: Hold on a second. You're the one who testified as to how you came up with what you think the neighborhood is. Now, you just told me that people from the Trieste would go to this neighborhood type of restaurant and bar. I think that they are part of the neighborhood.

MR. STUART: And from a planning perspective, for compatibility and complementary assessment purposes, which was my testimony, I stand by my testimony.

MR. YOVANOVICH: And you heard --

MR. STUART: Trieste, on the south side of Vanderbilt Beach Road, along with Pelican Bay, cannot be used for this type of assessment, and I pointed out six specific reasons, and I will

stand by that testimony.

MR. YOVANOVICH: And you heard Mr. Mulhere also testify exactly to the opposite of your testimony, correct?

MR. STUART: Yes, and I disagree with Mr. Mulhere on that, along with his assertion that if he had multifamily to multifamily, it's inherently compatible, which is clearly wrong.

MR. YOVANOVICH: I do want to -- I do want to talk a little bit about Regatta, because I think even you agree Regatta is in the neighborhood that you analyzed.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, sir. Commissioner Klucik.

COMMISSIONER KLUCIK: Before you move on, would you mind if I ask a question?

MR. YOVANOVICH: Absolutely.

COMMISSIONER KLUCIK: Mr. Chairman, is that appropriate?

CHAIRMAN FRYER: Yes, it is, sir. Go ahead.

COMMISSIONER KLUCIK: Okay. So I guess through all of that discussion, I think the point that the petitioner was making is that the C-3 will drive more traffic. If it's actually used for C-3, it would attract traffic. And I just don't -- I understand, you know, who you're advocating here for, but I -- it seems like you're not acknowledging that it will drive more traffic to the site if it's actually used. Your argument is it can't be used, really, for C-3 feasibly, so that's not an issue.

MR. STUART: That's a complete misstatement of --

COMMISSIONER KLUCIK: Well, I'm asking you. I'm --  
(Simultaneous crosstalk.)

COMMISSIONER KLUCIK: Excuse me. Excuse me.

CHAIRMAN FRYER: Gentlemen. Gentlemen. Gentlemen.

MR. YOVANOVICH: I stated on the --

COMMISSIONER KLUCIK: Excuse me. Excuse me, please.

CHAIRMAN FRYER: Let the commissioner finish.

COMMISSIONER KLUCIK: Let me clarify my question, then.

MR. STUART: Please do.

COMMISSIONER KLUCIK: So I'm not sure what you said. I was paraphrasing what I thought you said so that you could clarify it. So if that -- you know, that's what I'm hoping you'll do for us, or certainly for me. I'm trying to understand. We have the -- you see the underlined sentence up there on the slide?

MR. STUART: Yes.

COMMISSIONER KLUCIK: Do you disagree with the underlined portion, that that would be true if this is used for C-3?

MR. STUART: Again, I stated on the record at the beginning of my presentation that commercial traffic -- commercial trip generation rates are higher than multifamily. But, again, this is a straw dog, because if you end up having and using counselor's table showing 25,000 square feet instead of the 100,000 square feet, yeah, you may still have more traffic, but traffic is not the sole determination of the project being approvable or not, and clearly the key variables are compatibility and complementary weighing against the public benefit and cost of having development in the Coastal High Hazard Area. I think that is what I'm trying to say here.

COMMISSIONER KLUCIK: Right. And I'm actually, though -- right now we're isolating this one factor, and that's what I -- and that's what I thought we were all talking about is isolating the factor of traffic, which you actually isolated in your presentation. And so we're going right to the root of what your argument was regarding traffic and only traffic.

Will a C-3 usage -- if this property is used -- in your opinion, if this property is used for this current zoning that they have a right to use it for and they maximize that all within the code, would it increase the traffic and was -- and was that chart -- do you agree with that chart where it's

actually -- if they'd used it at the lowest at the \$25,000 -- 25,000-square-foot rate, that it would actually be lower than the rate of if they used to for the proposed residential?

MR. STUART: Well, I would like Bill Oliver to speak to that. But my opinion is that I would like to see what internal trip capture rates they used to come up with that because, again, given the fundamental character and nature of this site and location, clearly, a neighborhood commercial will be multimodal in use. You know, not everybody's going to be using this. And then, finally, when the neighbors speak, please ask them what they would like to see because, again, many of the people that I said, oh, we wouldn't mind, you know, a mixed-use C-3. I've heard that so many times.

COMMISSIONER KLUCIK: And I just point out that we're going to make our decisions here -- or our evaluation of the overall proposal based on these factors. The petitioner has the burden of proof, and it seems as though they've offered some pretty good burden of proof regarding traffic thus far. And so I'm giving you your opportunity to undermine that or show that, you know, somehow their actual -- just the traffic piece is not accurate, because right now that's not what I'm hearing. I'm hearing you have a disagreement as to whether they can actually use it.

MR. STUART: What I would offer --

COMMISSIONER KLUCIK: And just hold on. And you've got upset with me when I paraphrased that.

I thought, quite clearly, that your argument here is that they can't really use it for C-3 the way they're suggesting and that -- because it would be impractical for a variety of reasons, including not being able to get financing, not attracting tenants, whatever.

I'm trying to understand your argument. I'm giving you an opportunity. It's not really hostile. I'm trying to help you show me that what I believe is so far strong evidence from the petitioner -- on this issue of traffic alone I'm trying to understand your counterargument as to why that isn't a good argument by the petitioner.

MR. STUART: My argument -- my counterargument is that the applicant's counsel and their traffic engineer stated on the record numerous times they can build 100,000 square feet retail. My testimony is that, no, they cannot because it's not highest and best use, and then I briefly went into that.

Yes, the applicant can build retail on the site. The applicant's traffic trip generation in terms of commercial versus multifamily, if you have commercial, it always is going to be greater than multifamily. So there is no disagreement there. The issue is, what's the realistic assessment of that? Because you need a realistic assessment of transportation benefits to counterweigh the compatibility impacts and the hurricane evacuation impacts.

CHAIRMAN FRYER: I'd like to mention for Commissioner Klucik that the next witness is going to be a traffic engineer, and even though this witness has some expertise or some familiarity with, he more or less disclaimed complete expertise as a traffic consultant.

COMMISSIONER KLUCIK: And I do have just one clarification, because I can't recall, because we've heard so much. But have you come up -- or have you stated what you thought was a square footage C-3 use that you thought -- like, a cap that you think would be reasonable for -- if the developer had to, you know, go a different route, and they used it for C-3 alone, do you have a maximum that you think?

MR. STUART: Alone and no mixed use? I mean --  
(Simultaneous crosstalk.)

COMMISSIONER KLUCIK: Yes, just assuming that it just stays as it is at C-3 but no changes.

MR. STUART: But you can do a C-3 mixed use. That is allowable.

Again, I believe I stated it should be somewhere around 40,000 square feet plus or minus, but it's a difficult site, and then they would probably need deviations given the setbacks, open

space, and the like to get 40,000.

COMMISSIONER KLUCIK: Thank you very much.

MR. YOVANOVICH: Well, I want to follow up on it, if I can. Did you actually do any kind of a layout to back up the statement you just said that I can only fit 40,000 square feet, and I would need deviations? Have you done an actual analysis?

MR. STUART: I believe the commissioner asked for my opinion, and I also believe that the analysis is on your shoulders, not mine.

MR. YOVANOVICH: Okay. So shouldn't your answer have been I don't know?

MR. STUART: No. Based on 35 years of design and land development through multiple states and doing multiple shopping centers and knowing how this site works within the context of C-3 rules and regulations, it is highly constrained, and that is why you are asking for all these out-of-context standards, because even you recognize that the setbacks, you know, are difficult and open space is difficult and so forth.

MR. YOVANOVICH: Actually, I don't recognize that at all, because we gave you an exhibit when we put it up on the visualizer that respected the 25-foot setbacks all the way around the building envelope for the C-3 use. I explained to you how we would put parking underneath the buildings. I even showed you where on the parcel we would have our structured parking. We went through all of that. We gave you the -- basically the building block envelope you put in your own presentation.

MR. STUART: Yes.

MR. YOVANOVICH: And, now, I want to know, how many shopping centers have you designed in Collier County?

MR. STUART: Oh, it's been a while. My chief shopping center development was at Rattlesnake Hammock and 941 [sic]. We ended up switching that out to be commercial strip with multifamily in the back. I've done some stuff with the Pulling family years ago. It has been a while.

But, currently, I'm doing a small commercial project in Seattle. Again, my expertise and my opinion are hand in hand. That is my professional opinion; this site can probably sustain around 40,000 square feet.

And getting back to the real issue is that the applicant hasn't provided sufficient evidence because they keep claiming 100,000 square feet, and they show this graphic, and I'm going, where's the 30 percent open space? Where's the 894 parking spaces? So, again, the burden's not on me, Counselor.

MR. YOVANOVICH: You know, I just -- I hate to belabor a point. Could you point -- could you point out to me where in the Land Development Code C-3 zoning has a 30 percent open-space requirement?

MR. STUART: I believe I misspoke. I think it's 20 percent for C-3, but I can check that in the code.

MR. YOVANOVICH: I'm sorry. What was that?

MR. STUART: I might have misspoke. I have to go back in the code. It could be 20 percent. But, again, looking at the graphic, you know, I thought it was 30 percent.

MR. YOVANOVICH: Okay. Would you trust me?

MR. STUART: Again?

MR. YOVANOVICH: Yeah, because I think it's important. I think this board should understand your expertise --

MR. STUART: Yes.

MR. YOVANOVICH: -- with the Collier County Land Development Code. Would you trust me that if a C-3 parcel is less than 50 acres, there's no open-space requirement?

MR. STUART: Oh, well, that's interesting. I'm not aware of that. That said, you know,



again, when I look at that plan and I say, you know, a three-story and a two-story and a five-story building with retail, again, it doesn't fit into the marketplace.

MR. YOVANOVICH: What happens if you're wrong? What happens to your client if you are wrong? We believe we've provided adequate evidence that we can attain the 100,000 square feet. What happens to your client if you are wrong?

MR. STUART: Before I answer that, can I ask, what evidence have you provided? A graphic that's not dimensioned?

MR. YOVANOVICH: I'm just asking you, sir. I think we've met our burden. My question to you is: What happens to your client if you are wrong? Are they happy?

MR. STUART: I really don't understand your question, Counselor.

MR. YOVANOVICH: Okay. I want to -- I don't know how to zoom out. Can you zoom out for me, please, Bob, because last time I zoomed out I shut it off.

This is from what I was previously provided as your -- it was attached to a letter from I think it was Bob Pritt dated September 21, 2020.

MR. STUART: That hasn't changed. That's in the exhibit packet.

MR. YOVANOVICH: I don't know because -- this is one of the graphics that you've included in your presentation, correct?

MR. STUART: Yes.

MR. YOVANOVICH: And this rendering shows a 16-story building over two levels of parking, correct?

MR. STUART: Yes. And before you go any further, I do need to apologize to the applicant and to the Commission on that graphic. I did not proof those graphics accurately. The failure is mine and mine alone. I know that the project is 16 stories, 14 over two levels. So, again, there was no intent to mislead anybody. It was a proofing error and, again, I take full responsibility for it.

MR. YOVANOVICH: Did you prepare this rendering?

MR. STUART: No, I didn't. Again, I subcontracted it out.

MR. YOVANOVICH: So you -- so you -- your firm was hired to prepare all the renderings that appeared on the Save Vanderbilt Beach website?

MR. STUART: Not really. The model and the renderings were done because there was an absence of -- and, again, using your own statement, I believe I've heard from a number of people that you promised the neighborhood that you would develop a model so they could take a look at it, and you never did. So we said, let's develop the model, which we did. Unfortunately, I did not proof that graphic, but I did catch that, and so my application in front of you, the presentation, should be correct, although the cover, if that shows 16-story, again, my sincere apologies. I did not mean to mislead anybody.

COMMISSIONER KLUCIK: Excuse me. I want to jump in on something germane.

CHAIRMAN FRYER: Go ahead, Commissioner Klucik.

COMMISSIONER KLUCIK: How about this model; is this showing 14 over two or 16 over two?

MR. STUART: Fourteen over two, sir.

COMMISSIONER KLUCIK: All right. Thank you.

MR. YOVANOVICH: So, again, what we promised the neighborhood is we would provide architectural renderings, which we did. And I believe you had those architectural renderings in your possession when you prepared your renderings, correct?

MR. STUART: Yes.

MR. YOVANOVICH: So you didn't even take the time to compare the renderings we prepared and promised your client against the renderings that you actually posted on the website?

MR. STUART: Well, as I stated, the fault is mine. I did a lousy job proofing work.

Sometimes I do need to slow down a little bit. And that said, even if it does show 18 stories, given the neighborhood height of 7.4 stories, I mean, the whole thing is not relative to compatibility and complementary, especially when you stated or implied that we were misleading the neighborhood. And we were not misleading the neighborhood. But, again, I can see why you would have a problem with that. And, again, I take full responsibility, Counselor.

MR. YOVANOVICH: You don't think that the renderings that you post on a website for people to view to be representative of what we're proposing is important to the residents to understand the project?

MR. STUART: No. And as I stated in my opening, I was engaged March 17th. There were over 1,000 people already clicking, \$40,000 and 300-plus donations. The renderings were ancillary to the major concern, which was no setbacks and excessive building height.

MR. YOVANOVICH: I'm just going to ask, like, two more questions, because I think it's time to move on to someone else.

When you came up with your analysis -- and I think that was one of the new exhibits.

THE WITNESS: Exhibit --

MR. YOVANOVICH: Three?

MR. STUART: Two. Exhibit 2.

MR. YOVANOVICH: No, I'm talking about how you decided the value of the right-of-way vacation to my client versus the improvements my client is also making and those comments. I think what you've done is you did a mathematical calculation taking the purchase price, I think, of around \$25 million, divided it by the square feet related to that and came up with \$125 a square foot, and that's, like, 4.3 million; is that about right?

MR. STUART: That's about right, sir.

MR. YOVANOVICH: And you decided that not only did I pay for the land, I have to also pay for another \$300,000 per unit for 13 units. So you added another, roughly, 3 point -- it should be 3.9 million. I don't know how -- I don't know how 300,000 times 13 is 3.7, but -- so you decided to not only charge me with paying to buy the land, I have to also pay for the units on top of that to determine the value of the land?

MR. STUART: No. You're misunderstanding the data in front of you, Counselor.

MR. YOVANOVICH: Explain it to me.

MR. STUART: If you are granting the applicant enough land, almost .8 acres, on a density basis that's 13 units. You had -- that is an economic benefit. So what is the value of those 13 units? Based upon everything that I heard from you about these will be insanely high end, I'm saying \$300,000. So \$300,000 at 13 units is an economic benefit the same as if you were buying the 0.79 acres of land.

MR. YOVANOVICH: Well --

MR. STUART: So these are values for benefit, sir, not --

MR. YOVANOVICH: I got it.

MR. STUART: -- cost.

MR. YOVANOVICH: I got it. You're telling me I'm getting 13 additional units. And what I'm telling you is how developers buy property is they say, hey, what am I going to get out of this? If it's \$300,000 -- I'm going to get 13 units at 300,000, I'm going to pay you 3.9 million. I'm not going to pay you another 5 million just to have the right to pay you another 3.9 million. I think you double dipped.

MR. STUART: Not at all.

MR. YOVANOVICH: Well, we can -- you could -- we'll have our -- we'll address that.

Why did you not give us any credit for the fact that we are actually relocating the road that is being vacated to where the county has acknowledged is the better location for transportation?

MR. STUART: That is an internal site development improvement that should be solely

borne by you. It's the applicant that wants to have an intersection aligned with the parking garage. And by the way, if you look in the staff report, there's plenty -- not staff report, but staff correspondence, there's plenty of eyebrow raising about that because it's a congested intersection.

So when you're looking at the code, you know, that would be a site-related improvement. You know, is the county directly benefiting from that? No. Who is benefiting from that?

MR. YOVANOVICH: So I'm not really vacating the entirety of that area, am I? I'm actually relocating an existing road, correct?

MR. STUART: No.

MR. YOVANOVICH: Okay.

MR. STUART: You're vacating 0.79 acres of land, of public land.

And just for the record, if I'm wrong by 50 percent, there's still a public benefit of 3.75 million within the context of deregulation and density increase. My testimony about this being a casebook example of spot zoning still stands.

CHAIRMAN FRYER: Do you have further questions?

MR. YOVANOVICH: Can I have just one minute to talk to my client, and then I'll decide?

CHAIRMAN FRYER: Yes.

MR. YOVANOVICH: Mr. Chairman, wherever you went to -- I'm going to -- I'll wait till Mr. Fryer comes back.

COMMISSIONER HOMIAK: You can --

MR. YOVANOVICH: Oh, I'm sorry. I think what I'll do, instead of dealing through cross-examination, I'm just going to deal with it as part of my rebuttal on the further questions I have for this witness.

MR. STUART: Thank you.

COMMISSIONER FRY: Ned?

COMMISSIONER HOMIAK: I don't know who the next speaker is.

COMMISSIONER FRY: Here he comes.

Mr. Yovanovich has completed his cross-examination.

CHAIRMAN FRYER: Thank you. The next -- did Mr. Brookes want --

MR. BROOKES: No.

CHAIRMAN FRYER: -- an opportunity? Okay. Thank you.

The next public speaker, then, is going to be Mr. Bill Oliver, who is a traffic engineer and who has requested 15 minutes.

Please proceed, sir.

Please don't start his time yet.

MR. OLIVER: I guess I can take off my mask. Good afternoon. I was supposed to say "good morning." My name is Bill Oliver. I'm a Florida registered professional engineer. I'm also a professional traffic operations engineer certified by the Transportation Professionals Certification Board. I've got 42 years of experience in traffic and circulation issues, traffic engineering, transportation planning having to do with land development.

In my 42 years of practice, I've undertaken impact analyses all reviewed on behalf of government agencies, over 170 million square feet of nonresidential development, and over 180,000 residential dwellings.

I've been retained by Save Vanderbilt Beach organization to review the traffic issues associated with the One Naples development. That shouldn't be a surprise at this stage.

The page down. Okay, cool.

As indicated earlier by others, this proceeding is for an amendment to the Growth Management Plan land-use element to allow greater densities on the land parcel in question. As the land-use element amendment, it makes sense to review traffic issues of the development

proposal from the context of the land-use element's companion transportation element.

The proposed buildings will exist for, who knows, 50, 80, 100 years? So it doesn't make a lot of sense to focus your view on a five-year or immediate future short-term site access and traffic impact analysis.

I've reviewed the development proposal from the longer-term perspective of the adopted transportation plan, and I've concluded that the solutions on the table to traffic issues miss some key opportunities to address longer-term issues.

The very first goal of the transportation element says that the county's intent is to develop a safe and efficient mobility system, and those statements are propagated into the Land Development Code as well, cited in this slide as Section 4.07 point, yada, yada, yada.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: Is there anyplace that we have access to for a copy of our own of this, or is this not something that's been available?

CHAIRMAN FRYER: Well, we have access to the Land Development Code.

COMMISSIONER KLUCIK: No, no, no. I mean, these slides that he's using.

CHAIRMAN FRYER: Oh, the slides. Can they be provided to us?

MS. SPECTOR: I have a copy.

CHAIRMAN FRYER: Thank you.

Please continue, sir.

MR. OLIVER: Cool. Thank you. Yeah -- which specifically identifies site access and congestion as legitimate concerns in the review process.

The applicant has presented a rosy picture of solutions to existing traffic issues. And you've got to appreciate Jim Banks' enthusiasm. But in his enthusiasm, I think he's made some statements that I need to address, and I'll make a few comments about some limitations of the applicant's traffic study.

I'll start with the comparison of the proposed development to the C-3 zoning. In addition to Greg's comments regarding the site's developability as C-3, you need to know that the retail land use they've compared their development to, which is the ITE Land-Use Code 820, shopping, is a suburban shopping center; a Publix, Walgreens, dry cleaner, et cetera, a type of land use that does generate quite a few trips.

If a suburban shopping center is developed, as we've talked about, it would only serve folks who live out on the beach, and it will eliminate the need for beach residents to go east to U.S. 41; therefore, possibly reducing trips on Vanderbilt Beach Road.

And why would someone who lives over on U.S. 41 come out to the beach to go grocery shopping when grocery stores are available on U.S. 41? But if they build a more beach-oriented retail, then the trips will be coming to the beach anyway. So there will be no dramatic increase in traffic. If they go for quality restaurants, and night life, those trips will arrive during the evening hours, later afternoon hours, not during the mid-morning to mid-afternoon traffic crunch times.

So to me -- the other thing you have to consider as part of the retail is what is its market? As he indicated here in the excerpt from the ITE trip generation handbook, a shopping center's composition is related to the market area that it has.

So the rates that they have used are not the whole story. You have to take into consideration the type of retail use that's going to be there, who it's going to serve, where the trips come from, how much of these trips are capture from background traffic, what opportunity is there to alleviate other traffic. It's an oversimplified comparison.

Another issue is that the proposed site access plan creates an unsafe condition that should be changed, and I'll address that in a few minutes.

Mr. Banks stated that there is no model that can deal with a parking garage. He'd have

been more correct if he had said that the model he used, SIM traffic, is not capable. There are other models which are abundantly capable, and I'll show you one.

It doesn't appear that other strategies to provide site access and traffic circulation around the site have been explored, as should be done for a land-use plan amendment.

I'll share another strategy that provides greater efficiency and safety while also better addressing some of the currently existing traffic issues in the area.

Five traffic circulation issues have been identified for me by my client and by the applicant. Congestion at the parking garage entrance is one that we've talked about quite a bit. Nobody has talked much about the inadequate quantity of parking. When the 345-space parking garage fills up, they close it, and cars literally park in the turn lane waiting for other cars to leave the garage.

This video clip, yes, running fast, but, basically, this -- the camera's positioned on the north side of Vanderbilt Beach Road looking westward toward the beach, and the parking garage entrance is there on the left-hand side of the road, as you can see.

This video is running at about 16 times normal speed. You'll see the bicycle and pedestrian traffic that exists starting at about 10:38 right now. Perfect. You'll see the entry left-turn lane start to become overloaded, and congestion in both directions builds. This condition continues uninterrupted until about noon on the Saturday that this recording was done.

Then -- I'm going to go ahead and fast forward it a little bit up closer to -- well, at right about -- okay, right about noon. Hold on, there. We've got it. 12:17. 12:02.

All right. Well, they've closed the parking garage. You can see the little signs out there. There's got to be a pointing device here. And then around 12:24 you'll see that a car parks in the left-turn lane as other cars appear and disappear. 12:24, here we go. And he will sit there, and cars back up behind him until about 12:45 when the garage is reopened. From what I hear, this is not an unusual situation on Vanderbilt Beach Road.

You saw the high pedestrian/bike volumes. One traffic count showed a thousand people leaving the beach in one hour right after sunset on the Saturday afternoon. Traffic counts showed about 3,200 people accessing the beach on that Saturday.

An issue raised by residents of the existing developments on the north side of Vanderbilt Beach Road is the long delays they experienced when they try to exit and turn left to go east towards U.S. 41. Residents of Barefoot Pelican and Regatta just east of the One Naples site as well as restaurants of the Beachwalk division over by U.S. 41 have expressed to me the frustrations they've experienced.

Instead of making a direct left turn out to go to U.S. 41, as illustrated by the orange line in this slide, they talk about having to make a right turn onto Vanderbilt Beach Road, go down to Vanderbilt Drive, make a right turn onto Vanderbilt Road, make another right turn onto 91st Avenue North and then all the way across to U.S. 41, adding traffic into this residential neighborhood. And bringing in additional traffic will further intensify these issues.

So the solution that's on the table. A series of improvements were presented two weeks ago that were -- that are summarized on this slide, including improvements to South Bay Drive, extending bike/pedestrian facilities, and so forth. It fails to address the need for additional parking.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, Commissioner Klucik.

COMMISSIONER KLUCIK: Just because I don't really understand, and I really want to understand, otherwise I wouldn't interrupt.

So the Beachwalk residents make this yellow path instead of the direct orange path. Because of what's happening in that video?

MR. OLIVER: No.

COMMISSIONER KLUCIK: Okay.

MR. OLIVER: Two separate issues.

COMMISSIONER KLUCIK: Oh, okay.

MR. OLIVER: If you go back to that --

COMMISSIONER KLUCIK: So this issue -- so what you're saying is, regardless of what time of day it is, the traffic is such that they generally avoid taking the orange route and they tend to take the yellow route?

MR. OLIVER: That's correct.

COMMISSIONER KLUCIK: Okay. And then you're going to address -- somehow the next slide, then, addresses that? I'm trying to figure out how it's connected.

MR. OLIVER: Yeah. The next slide is the solution that's on the table as staff recommendation.

COMMISSIONER KLUCIK: So you just presented two issues; one is the video and one is this beach walk circuitry?

MR. OLIVER: Well, actually, I'm trying to present five -- the five issues listed on that earlier slide.

COMMISSIONER KLUCIK: Okay. Thank you. Sorry for the interruption.

CHAIRMAN FRYER: Timekeeper, please, allow two additional minutes.

MR. OLIVER: Okay, thank you. I could use them.

Okay. So -- yeah, so it does not -- so these solutions don't increase the parking. This new leg that I'll talk about in a minute increases vehicle/pedestrian conflicts and is a safety issue. It does not address the egress from nearby properties. The signalized intersection, it creates unnecessary delay in the scheme of an alternative access solution I'll show you, and the county forfeits right-of-way, but I'm not sure what -- how much they're getting in return.

So let me talk about that unsafe condition at the parking garage. Right now at the parking garage a car that's -- and this is -- the box on the left kind of represents the existing entrance intersection. That WL rectangle represents a car in that left-turn lane wanting to turn left to enter the parking garage. He -- it's a little unusual because he has to deal not only with the opposing traffic, he does need to deal with a fairly unusual level of bike and pedestrian traffic compared to what he's probably normally used to, and he's got to deal with that parking entry. Is there enough throat distance for him to make his left turn and enter the parking garage? His attention, when he's dealing with this left turn, is focused to his left as he's sizing up where -- you know, when's my chance to make this left turn.

So now we're going to come in and add this new north leg, and that north leg is proposed at that parking garage driveway that you saw in the video.

This car that needs to exit the One Naples site to make his left turn to go east onto Vanderbilt Beach Road not only has to deal with the bike and pedestrian traffic on his own side of the road and the opposing westbound traffic on his side of the road, he's got to figure out, is that westbound left-turning car going to make a left turn, or can I go ahead and make my left turn? So he's got to size up not only the stuff on his side of the road but the opposing eastbound traffic, bikes and pedestrians on the far side, the parking entry on the far side, and he's got to guess, what is that westbound left-turn driver going to do?

It's a very complicated situation. It's highly unusual, and when unusual things happen in the road network, it's an unsafe condition.

COMMISSIONER KLUCIK: Excuse me.

CHAIRMAN FRYER: Yes, Commissioner Klucik.

COMMISSIONER KLUCIK: The unusual thing is mainly the parking, the fact that he has -- the wanting-to-turn-left individual has to also factor in the parking, and that inhibits his progress?

MR. OLIVER: The guy who's making the southbound left has to divine what the guy who's making the westbound left is going to do.

COMMISSIONER KLUCIK: And what's unusual about it, though, is that the westbound left guy has to factor in the parking entry?

MR. OLIVER: That -- in addition, an additional --

COMMISSIONER KLUCIK: Well, I guess what I'm saying is, if you didn't have the parking entry, it would just be any other intersection.

MR. OLIVER: Yes.

COMMISSIONER KLUCIK: Okay. That's all.

MR. OLIVER: Yes, other than the heavy bike and ped traffic, but, yeah, unusually heavy there.

Yeah, and the beauty of -- you know, normally when you make that southbound left turn, you can look at that left-turn lane, and you don't make your left turn until it's clear. It's empty. You know, you're not going to pull -- because that westbound left guy has the right-of-way over you.

So -- okay. So the applicant has strongly stated that the parking garage entry improvements will improve access conditions, lessening the long backups that now occur eastward on Vanderbilt Beach Road when cars cannot enter the parking garage, but there's no technical analysis of to what extent that entry will be improved.

I am an engineer. It's not my job just to say, it will be better. My job is to say how much better will it be, and is that going to be good enough? This slide compares how quickly cars can enter the parking garage under the existing pay-as-you-enter scheme. That's the one on the graph on the left. Right now it takes a car, on average, 23 seconds to fork over the money, get change, whatever, and move on through that parking entry, and that's observed through that video recording. And that has a variance associated with it which plays into the operations.

If they change to a ticket spitter type of operation where you pull in, you punch a button, you take the ticket, and the gate opens, you pull on in, average time there is about eight seconds. I went and measured that in a parking garage operation, and it has an associated variance as well.

So Mr. Banks indicated there's no models. Here is one that will deal with the parking entry. And let me hit enter. And this is running right about, I think, real time. Have you ever flown in an airplane, and you look down at the roads and looks like the cars are just crawling? You know, that's what it looks like.

So I've used that improved parking garage entry operation and its associated variance in a more advanced traffic model that is capable of dealing with a parking entry to look at conditions in 25 years, and this analysis includes about a 26 percent increase in traffic which is based on the Collier MPO's traffic forecast.

While I'd agree that in the short term conditions might improve on Vanderbilt Beach Road with the improved parking operation, this video clip indicates that in only a fraction of the building life the queue to enter the parking garage will return.

While the entry process will be quicker, the opposing traffic will be heavier. So it's -- it's just a location of a very complicated combination of gaps allowed, and the model substantiates the need to re-think the proposed access plan for long-term viability and safety.

So what other options might there be available? Would you trust me if I said that the beach will probably remain where it is for a long time? If the beach is going to remain there for a long time and the access to the beach remains, essentially, as it is, as the county grows, the number of people -- the number of people coming to the beach will likely increase. And in that analysis, I did not increase the pedestrian and bike traffic. I did increase vehicular traffic.

So rather than continue to intensify the mix of automobiles with vulnerable pedestrians and cyclists at that Vanderbilt Beach Road/Gulf Shore Drive intersection, why not consider shifting the

vehicular traffic to the north and east side of One Naples to serve vehicular traffic by -- on South Bay, and then creating a more dedicated pedestrian priority zone at and around the beach entrance?

The applicant's already agreed to improve South Bay to provide standard lane widths, bike lanes and sidewalks. Shifting vehicular traffic to South Bay would allow the west and south sides of One Naples to be redeveloped into a lower speed pedestrian-favored zone.

I'd put a roundabout over at South Bay. Okay. Now, this is not the same roundabout that the applicant has dismissed. They were talking about a roundabout over at the intersection of Gulf Shore and Vanderbilt Beach Road. This one is to the east over at South Bay and where pedestrian volumes are one quarter those over at Gulf Shore. And that -- the roundabout would make it easier to travel on a South Bay Drive route.

The advantages and opportunities of this access and circulation strategy are many. The parking garage entrance will operate better and longer because much of the traffic that were opposing that left turn in and the solution that's on the table will now be shifted over to South Bay, reducing the amount of conflict that will occur.

And with a roundabout, I believe you can make --

MR. FRANTZ: You have 30 seconds.

MR. OLIVER: -- longer left-turn lane at the garage entry because you don't need a left-turn lane to turn left onto South Bay. The Vanderbilt Beach experience would be enhanced; it would be safer because roundabouts provide for slower, simpler operations. Aesthetically a roundabout couldn't be beat. It could create a gateway entrance to Vanderbilt Beach, the Ritz-Carlton, and One Naples. And following a storm, best of all, you don't need electricity for the roundabout to operate.

MR. FRANTZ: That's your time.

CHAIRMAN FRYER: Thank you very much.

We need to talk logistics really quickly. Ms. Jenkins, if you've got a mic back there, you won't have to run up because I want to ask you, on the AUIR, is there a -- does it break itself into segments so that, perhaps, you have a 45-minute segment that we could hear today without causing undue interruption?

MS. JENKINS: I think that we would be able to get through it if we could take a break at 4:00 and hear the AUIR. I think we can get through it today, and we need to begin it. I know we have transportation, about a 20-minute presentation, and that was the interest that we heard most from the Planning Commission. And Trinity and the consultant is here and ready to go for that. So we would do a brief overview, focus on transportation and EMS.

CHAIRMAN FRYER: All right. Mr. Oliver, could you return on the 5th of November?

MR. OLIVER: I can.

CHAIRMAN FRYER: All right.

MR. YOVANOVICH: I was going to ask if we can just stop, and then you guys can ask your questions beginning on the 5th, and then I'll follow you, and then you can move into the AUIR. I think it's a natural breaking point.

CHAIRMAN FRYER: Yeah, I think that's right.

COMMISSIONER VERNON: I just had a real quick, and I hope I can get it in before 4:00.

CHAIRMAN FRYER: Go ahead, Commissioner Vernon.

COMMISSIONER VERNON: Did you run this proposed solution by the developer?

MR. OLIVER: We have not. We have -- we reached out to county staff on several occasions and were able to share this with them; however, just this past Monday or Tuesday of this week.

COMMISSIONER VERNON: Okay. Thank you.

CHAIRMAN FRYER: Thank you very much.



COMMISSIONER SCHMITT: Likewise, the same question; you've not talked to Mr. Banks about this, then, either?

MR. OLIVER: No, I have not.

CHAIRMAN FRYER: Okay.

COMMISSIONER SCHMITT: Mr. Yovanovich, if you, at the next meeting would -- I would like to either hear your opinion but also what Mr. Banks -- what Jim thinks.

MR. YOVANOVICH: I'm going to -- I'm going to hope that they're going to make Mr. Oliver available to Mr. Banks and Mr. Treesh. They're far more qualified to ask appropriate questions than I am.

COMMISSIONER SCHMITT: Yeah. Jim and Mr. Oliver to discuss their differing points of view.

MR. YOVANOVICH: And another party you probably want to bring into the mix is the Ritz-Carlton, since it's their entrance. He just -- I think you told me the roundabout was at the Ritz entrance as well as South Bay.

COMMISSIONER SCHMITT: Oh, it would be at the Ritz entrance.

MR. YOVANOVICH: I think that's what he said.

COMMISSIONER VERNON: Mr. Chairman?

CHAIRMAN FRYER: Please go ahead.

COMMISSIONER VERNON: Is that correct?

MR. OLIVER: Yes. The Ritz-Carlton main entrance is south --

CHAIRMAN FRYER: We can't hear you when you're not on a mic.

MR. YOVANOVICH: And one other group, Barefoot Pelican, you might want to ask how they feel about that, and Vanderbilt Palms, since South Bay is their main -- their main entrance as well. There's a lot of moving parts here. I'm just part of it, but not all of it.

MR. OLIVER: Yes, and Bill Oliver again.

CHAIRMAN FRYER: Thank you.

MR. OLIVER: Yes. And the entrance is opposite -- the Ritz-Carlton entrance is opposite South Bay, yes.

CHAIRMAN FRYER: Thank you. All right. With that -- Commissioner Schmitt, did you --

COMMISSIONER SCHMITT: I'm done. Thank you.

CHAIRMAN FRYER: Okay. Thank you. Thank you.

If there are no further questions, then, we will put this matter into a continuance mode again, and we will pick up with the speakers' roster that we've been supplied with or has maybe changed between now and the next meeting, and Mr. Oliver has agreed to return at that time. So we appreciate that. Thank you, all.

\*\*\*Now, the next matter, the last matter to come before us today is the 2020 AUIR and CIE update. It's PL2020 four zeros -- correction -- three zeros 1297. It's a GMPA. It's legislative in nature. And I would call upon staff to begin their presentation.

COMMISSIONER KLUCIK: Mr. Chairman, can you just explain. You said it's legislative in nature, meaning we're not sitting quasi-judicially when we hear this issue?

CHAIRMAN FRYER: That's correct. We don't swear in witnesses. We don't need disclosures. There is no specific adverse party or specially affected party. This is of a general nature, applicable to the whole county.

MS. JENKINS: Staff is on their way in.

CHAIRMAN FRYER: Thank you.

By way of background, particularly for the new commissioners, when I first came on this board, we actually spent two full days dealing with the AUIR and drilled down in excruciating detail. Then under Mark Strain's leadership over the next four years, we reached a point where we

were not taking such a detailed look at it, and we've reached the point, I think, today where -- it's up to us, of course. We can take as much time as we want to consider this. I'm of the view that Chairman Strain was on the right track when he reduced the amount of time we spent on it.

But, once again, the final analysis, it's a GMPA, and so it's in our hands for as long as we need to talk about it, or as short.

COMMISSIONER KLUCIK: And are we going to get a summary of --

CHAIRMAN FRYER: As soon as --

COMMISSIONER KLUCIK: -- staff?

CHAIRMAN FRYER: -- Ms. Jenkins comes up, we'll find out how she's going to proceed.

Is Mr. Schmidt going to start?

MR. SCHMIDT: Yes.

CHAIRMAN FRYER: Okay, good. Would you be in a position, sir, to tell us quickly how staff will proceed?

MR. SCHMIDT: Here is okay?

CHAIRMAN FRYER: That would be fine. Thank you.

MR. SCHMIDT: It's been such a long day already.

CHAIRMAN FRYER: At the risk of repetition, I think the first thing we're going to want to hear from staff is just a very fast two- or three-sentence summary of how you're going to proceed through this rather than leaping right into one of the detailed subjects.

MR. SCHMIDT: We're here today for the 2020 AUIR and the CIE update. For those of you who already have dealt with the AUIR in the past -- far enough away -- you're familiar with what we do.

The document brings you up to date with county facilities, those that are in Category A, B, and C. And I won't go into the details there, but also the capital improvement schedule of capital improvements for the first five years after today or after adoption and a second five-year -- future five years. And you've got a staff report in front of you that summarizes most, if not all. All of you have received the latest schools parts, the components that they do separately, and I think that's enough.

CHAIRMAN FRYER: Okay. Thank you, sir.

MR. SCHMIDT: It is the same every year. It's been worked out quite well by those individuals in those divisions and departments. Unless you have some questions about any aspect of those or of interest or concern --

CHAIRMAN FRYER: Right.

MR. SCHMIDT: I think some of you might, so I'll let you lead your way there.

CHAIRMAN FRYER: Okay. And before you start, then, and primarily for the benefit of the new Planning Commissioners, do you believe you have a sufficient understanding of what we're about this afternoon and how the staff is going to proceed?

COMMISSIONER KLUCIK: Oh, sure.

CHAIRMAN FRYER: Okay. Thank you.

Go ahead, Mr. Schmidt.

COMMISSIONER SHEA: I have a question for Corby.

CHAIRMAN FRYER: Oh, sorry. Yes.

COMMISSIONER SHEA: Is this all focused on capital improvements?

MR. SCHMIDT: It is, except for Category C, which are areas, natural areas of the county, but yes.

COMMISSIONER SHEA: So the operating and the maintenance portion of it that handle fundings and operations is not part of this.

MR. SCHMIDT: That's correct.

COMMISSIONER SHEA: Okay.

CHAIRMAN FRYER: Go ahead, sir.

MR. SCHMIDT: I've got this afternoon a couple of people who are prepared, because I've given the heads-up on who you might want to hear from, and that does include --

CHAIRMAN FRYER: Okay.

MR. SCHMIDT: -- Roads and Bridges, I believe that's Trinity, and she's behind me or somewhere.

COMMISSIONER FRY: But wait, Trinity, you're supposed to be in the hallway coming in as your name is mentioned.

MS. SCOTT: For the record, I did come in, but it was while I was obviously clearing the room. I mean, boy, the AUIR, we know how to clear a room, don't we?

If you will, for the record, Trinity Scott, Transportation Planning Manager.

Based on some of the feedback that that we got from the last Planning Commission meeting where Mr. Schmitt asked that we kind of detail the upcoming road projects, and then for the benefit of some of our newer Planning Commissioners, I have a pretty brief presentation just to kind of walk through the different attachments for the road and bridge portion of the AUIR, and I kind of dive deep into Attachment F, which we hear Commissioner Fryer talk about a lot. Not too deep but, you know, at least putting our toe in the water there a little bit, and then I'll be available to answer any questions.

I do also have Jeff Perry on the Zoom call. He assisted staff with preparation of this, so if there's any specific questions. He does a lot of our QAQC of our traffic counts. So he can jump in as necessary.

So what is the AUIR used for? For this portion, I use it to assist us with planning for capital projects; so what roads are we going to improve? You certainly hear us talk about it for Growth Management Plan consistency for the Transportation Element as well as our Transportation Concurrency System which, while you-all don't see that happens with our Development Review Staff, but also informs the public of the improvements that we anticipate over the next five years.

So the very first page of the Road and Bridge section shows the AUIR facility summary, and this just provides a synopsis of the revenue sources for the Capital Improvement Element. It includes sales tax, gas tax, impact fees, general funds, grants, and developer agreements.

The other thing that you notice on the bottom of that page is a nice little bar chart that talks about approximately how long it takes us from concept to pavement to get a project done. And a straightforward project where funding lines up where you don't have a lot of environmental issues and not a lot of permitting issues can happen fairly quickly; five years. More complex projects can take more than eight years from start to finish. In fact, I have one where I'm working with the Florida Department of Transportation where the planning study itself took over a decade.

So that is why we're looking at projected deficiencies, because it allows staff enough time, hopefully, to be able to plan the project, get it through design, right-of-way acquisition, and hopefully get the pavement on the ground and usable before we're in that deficient status.

So the revenue summary provides a breakdown of revenue sources. We show three different five-year comparisons. We start with the fiscal year '19 through '23, '20 through '24, and then our current '21 through '25.

What I'm going to show is, you know, our impact fees stay steady. You see that the sales tax, there's no funding allocated in the blue column, which would be 2019 through 2023, because it wasn't approved by the voters. Gas tax stays about the same, as does General Fund, but our grants are continuing to go up. So that's a good thing for the county, because we're going out seeking other funding sources to be able to do transportation improvements.

So Attachment B provides an existing conditions summary. I'm going to cover what's on

this slide here more so in Attachment F. But we did -- it discusses how we determine the existing directional volume. So that's the traffic on the road during the evaluation period. And we collect our traffic counts either annually, seasonally, or quarterly, depending on the specific location. So if I have something that's in a very rural area, we may only count twice a year or once a year. But what I can tell you on our -- in our major urban area, we are collecting traffic counts quarterly. And in some instances we have permanent count stations out there to where I can look at an individual day.

The level of threshold -- level-of-service threshold volumes, they're determined utilizing industry-standard software.

COMMISSIONER KLUCIK: Excuse me. I'm looking at the funding source trends, which was the chart -- yeah, there. I'm confused as to what the -- it says, funding source. So those are the different sources. And then you have the different years. If the funding source is "unfunded needs," it's just saying those are things that just didn't get funded?

MS. SCOTT: What we have shown in the past at least three Annual Update and Inventory Reports are an unfunded needs, and those are where we're actively working with our Management and Budget Office perhaps to take -- you know, bond some of our existing gas tax to get funding forward or loan opportunities. So we show those as needs, and then we work with our Office of Management and Budget to determine the best funding strategy for those.

So you see a dip in that second year. That was because you had the influx of the sales tax referendum. We show an increase because we are showing that we have a few roads that we need to do sooner rather than later, and the bulk of that unfunded need is some bridges that we need to do as well as Collier Boulevard widening.

COMMISSIONER SHEA: Question. You don't show any bonds or debt service type. Is that because you don't use that as sources of revenue? It's not available to you?

MS. SCOTT: We do have the option of doing that with our gas tax. These are just the revenues that we have available to us today. In the past, I don't know, probably decade or so, they did bond our gas tax, and so in the expenditure side, we actually have some revenues going out to pay that, but that bonding capacity is available for our gas tax, at least, later on within our five years; like, right at the tail end. So you may see an influx of bringing some bonding availability in to be able to deal with this unfunded needs, but that's a determination that's made by our Office of Management and Budget, and they go through that during the budget process with the Board.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FIALA: Trinity, what impact has the pandemic had on revenues, gas taxes, sales taxes, et cetera?

MS. SCOTT: I don't know with regard to sales tax. I was at the -- I believe the last sales tax advisory committee meeting, and they had asked for that information, but I haven't seen what was presented yet.

From a gas tax perspective it is -- it has trended down. We are waiting for the latest revenue estimates from Tallahassee to determine exactly what that impact is. It's trended down. But as you see, our traffic is starting to rebound. Not -- we're still not back up to 100 percent prior to COVID. We're still about -- I would say about 10 percent -- 10 to 15 percent down. So it has trended down, but we anticipate that shortly it will start on the climb again.

COMMISSIONER FRY: Do you anticipate, because of the drop in revenue, whatever it happens to be, it delays cancellations of projects that are on the horizon?

MS. SCOTT: It possibly could. And I know for the Florida Department of Transportation, that is definitely what they're experiencing.

We have not as of yet, and we will be able to pivot as our Office of Management and Budget tells us we need to.

COMMISSIONER FRY: Thank you.

MS. SCOTT: So some of the observations in the Attachment B, overall systemwide we had about a 7.5 percent increase over -- between 2019 and 2020. We have 141 unique segment IDs; 15 of those decreased, 75 increased, and 51 stayed about the same, which is about within a 5 percent plus or minus.

It's not uncommon for us to have count stations to experience significant year-to-year fluctuations depending on construction in the surrounding area. And the roadway I'm going to use is one that we've talked about all morning long, Vanderbilt Beach Road.

CHAIRMAN FRYER: 109.

MS. SCOTT: Yes. You saw a significant increase in the 2020. That was due in large part because Vanderbilt Road was closed for a majority of the year that we were performing our evaluation. And if it wasn't completely closed, it had intermittent closures because we were doing a major utility and stormwater project within that area.

So from Vanderbilt Beach Road to 111th, folks didn't have that opportunity, so they were kind of doing that circuitous route around. Based on looking at the 10-year trend of that prior, traffic counts had remained about steady. So I fully anticipate next year when we're collecting that it will come -- or over this time that it will come back down to something more reasonable, but --

CHAIRMAN FRYER: Okay. While we're on Segment 109 -- and, in fact, of course, that is the one that is the directly impacted by One Naples. And the comparison between 2019 and 2020 has the level-of-service standard reduced from C to D. Are you saying that we can expect it to improve as a result of the completion of the construction on --

MS. SCOTT: I anticipate once we -- now, what I will tell you is, for the first quarter -- so for the AUIR, when we're analyzing the traffic -- so for the 2020 AUIR, the traffic counts that we use are from April 1st of 2019 through March 31st of 2020. So I try to get as close to what I can before I have to start analyzing the data.

From about the beginning to middle of March of 2020 until June, we did not collect traffic counts, other than our permanent count station, for use -- for the AUIR. So next year we're either going to have to factor by three-quarters, look at some prior years -- we'll have to deal with that, but I anticipate that looking at once we normalize, that those traffic counts will be better because the construction has allowed traffic to return to normal.

CHAIRMAN FRYER: All right. It would be reasonable for us to expect that it could back from a D back to a C?

MS. SCOTT: Yes.

CHAIRMAN FRYER: Thank you.

MS. SCOTT: One of the other items that are noted within this is that several segments on the state highway system are projected to become deficient during our planning period. And we're currently working with the Florida Department of Transportation to program improvements for those roadways.

COMMISSIONER KLUCIK: Can I ask a specific question as to your map on your decreases?

MS. SCOTT: Uh-huh.

COMMISSIONER KLUCIK: I'm just curious, because I know we've had record home sales out in Ave Maria, and I'm just trying to figure out what's the -- how do you factor the Oil Well? What is the underlying reason for that decreasing substantially where it shows up on the map as a decrease?

MS. SCOTT: Let me -- if I can go through two more slides, I think we'll get to that map, and then I'll be able to bring that up.

COMMISSIONER KLUCIK: Oh, I'm sorry. I thought you were --

MS. SCOTT: No, we're close. So also with Attachment B, we also show the I-75 historical numbers, and you see that that trends up. And then also with the 10-year percentage

increase -- and the one that you want to note is 143 percent over the 10-year increase north of Golden Gate Parkway. The Golden Gate Parkway interchange opened in 2007, and the big increase in traffic was 2009. So, obviously, that's when everyone discovered it and decided to start using it.

So Attachment C is a visual of the percentage change from the prior year to this year. So when we're -- to your point of the decrease, so it's a 5- to 10 percent decrease from the prior year. And hold on just a second. I want to look at that segment. So while it shows up as a decrease in here, the net decrease from a numbers standpoint is 20 trips.

So when you're looking at the prior year to this year, it shows up in this, but it's because the volume on the roadway itself is so small that when you have such a small change, the percentage is greater. So that's -- it's a 20-trip difference from the year prior.

And while I understand that there are --

COMMISSIONER KLUCIK: There's just -- that Oil Well Road and the -- and I won't belabor it. Oil Well Road and then the curve where the new Publix is there on Immokalee Road, those areas have so much more traffic than they've had in the past. It's just strange to see that you're showing a decrease.

MS. SCOTT: As I said, Jeff does a QAQC on the traffic counts, and we'll be more than happy just to go back and take a look just to make sure. But that's one of the things that we've done this year that we haven't done in the past, which is a real-time QAQC of the traffic count. So when they're collected -- you met Mr. Khawaja earlier today. His group collects the traffic counts. Those traffic counts are transmitted to my group, and we do a QAQC pretty close to immediately on those. So that if we see something that's not quite right, it's not trending as it has in the past, we ask them to go out and recollect so that we can validate that data. Not something that we've done in the past. Typically we're looking at it on an annual basis, but we're trying to look at those traffic counts as close to being collected as possible.

COMMISSIONER KLUCIK: It also seems like, perhaps, what's going on is that traffic is deviating to use Everglades to go north to Immokalee.

MS. SCOTT: Very well could be.

COMMISSIONER KLUCIK: And that would explain it. Because Oil Well has been crowded.

MS. SCOTT: Yes. So Attachment D. This is really what projects to anticipate over the next five years. It has sales tax funding. It has capacity adding. In our Attachment D, we do include operational improvements and maintenance activities, so our resurfacing program is included in there as a line item. We don't list all the projects out. But they are listed as a line item in the bottom half.

And I'm just going to quickly go through the improvements that we have going on. We have a widening of Vanderbilt Beach Road extension from Collier Boulevard to 16th. In line with that is a bridge over 16th which will connect 16th Street Northeast from Randall Boulevard to Golden Gate Boulevard. It provides a great north/south connector there.

We have Pine Ridge Road from Livingston Road to I-75 and also a Whippoorwill/Marbella Lakes connection that will connect Pine Ridge Road and Livingston Road south of the intersection of Pine Ridge and Livingston.

We anticipate widening Airport Road from Vanderbilt Beach Road to Immokalee Road. We have Veterans Memorial, which is going to be a brand-new roadway, and we anticipate -- Phase 1 of that project will go to the high school to service the high school, the new high school that opens shortly. And Tom's not here. I think it's in two years.

And then we anticipate picking that up and taking that all the way to U.S. 41, so a new parallel road to Immokalee Road -- or a new parallel route to support Immokalee Road.

COMMISSIONER SCHMITT: When is that scheduled for, the Phase 2 and 3?

That's -- you're still working through the railroad right-of-way?

MS. SCOTT: Yes, we are.

COMMISSIONER SCHMITT: It's still two to three years out?

MS. SCOTT: We have it funded for construction in Fiscal Year '23 for Phase 2 and 3.

We're going to do all -- we're going to go from the high school all the way over to 41.

COMMISSIONER SCHMITT: 2023?

MS. SCOTT: Yes, to start construction.

COMMISSIONER SCHMITT: Okay.

MS. SCOTT: Let's see. I think I skipped one here. Santa Barbara Boulevard from Pine Ridge Road to south of Green Boulevard, we're going to be doing some operational improvements to assist with the operations of the roadway. Oil Well Road -- the section of Oil Well Road that you spoke of. Oil Well Road from Everglades Boulevard to Oil Well Road, that is subject to a developer agreement with Ave Maria, that when we collect \$20 million of impact fees from their area, we need to commence the roadway. I believe we're at about seven million right now, so that will probably be turned on sometime in the next five years.

Collier Boulevard, that I mentioned before, from Green Boulevard to I-75, this is the last leg of Collier Boulevard to be widened, and in addition to this, we're also working with the Florida Department of Transportation to do a major interchange improvement at I-75.

We have Goodlette-Frank Road from Vanderbilt Beach to Immokalee Road. Wilson Boulevard from Golden Gate Boulevard to Immokalee. Another extension of Vanderbilt Beach Road extension, picking it up from 16th and taking it out to Everglades Boulevard. We have a little section of Randall Boulevard at the intersection of Immokalee Road back to Eighth Street, so that's a major intersection improvement as well as widening to Eighth Street.

And then we have two operational studies that are hopefully going to button up over the next couple months, and then we'll determine what improvements those will be. We're doing an operational study on Immokalee Road from Livingston to Logan right now to look at innovative intersection designs that may be able to be accomplished within the existing right-of-way to be able to assist with the operations of the roadway, as well as we're looking at Golden Gate Parkway from Santa Barbara to Collier Boulevard to support the Comprehensive Plan changes that they've made and also the Land Development Code changes to support a bikeable/walkable community.

So some of the things that we're looking at beyond just widening a road are we're looking at these innovative intersections, and this is one that we're actually proposing -- that the Board has directed us to move forward with at Livingston and Pine Ridge. This is what they call a partial continuous flow intersection. There's one of these in operation in Lee County. There's videos on the transportation planning website to watch the actual operations of these.

And then we're also working with the Florida Department of Transportation at Pine Ridge and I-75 to do what they call a diverging diamond interchange. There's one of these in operation in Sarasota County. And what I've heard from testimony from folks, transportation engineers in that area, is prior to the improvement, they had miles upon miles of backup to where now they don't have a backup.

So these are within existing right-of-ways, and just how the intersection operates allows you to push more traffic through the intersections, which happen to typically be our pinch points.

Once again, on this one there is a video showing how these operate in the -- on the transportation planning website.

Attachment E is just a summary of our expenses and revenues. Oh, yeah, sorry.

Mr. Schmitt.

COMMISSIONER SCHMITT: Where are we with the State and I-75 and 951, Collier Boulevard?

MS. SCOTT: The actual interchange improvements?

COMMISSIONER SCHMITT: Yeah.

MS. SCOTT: It currently is sitting, I believe, just outside of their work program. And they recently deferred one year, which moved it outside of their five-year work program, and we're currently right now working with them to try to bring it into within their five years.

COMMISSIONER SCHMITT: We're still five years out?

MS. SCOTT: Yes. And it's a major intersection -- major interchange improvement.

COMMISSIONER SCHMITT: Major interchange. All the way to the tollbooth, pretty much.

MS. SCOTT: It actually will extend even south of Davis Boulevard as far as those interchange improvements.

COMMISSIONER SCHMITT: Oh, that's right. It will.

The 951/41, nothing planned there? I mean, everybody complains. I don't find the traffic maybe that big of a deal. But everybody says, where's the overpass, but -- the flyover.

MS. SCOTT: The intersection of Collier Boulevard and U.S. 41 was planned for an overpass in the future. That's why you see a big green area in the middle. All the right-of-way has been set aside. It's been built to where, essentially, we can set it in the middle. It currently is not in the adopted 2040 Long Range Transportation Plan for funding; however, we're in the process of updating in the 2045 Long Range Transportation Plan, and it will be adopted in December of this year. It is now included for construction, and I believe it's about 10 to 15 years out.

COMMISSIONER SCHMITT: Okay. I'll be in the old folks home by then.

MS. SCOTT: We'll come visit you.

CHAIRMAN FRYER: Before we go next -- and I'm going to call on Commissioner Shea and then Commissioner Klucik, but first I need to ask Mr. Miller if he wouldn't mind bringing me the charging cable for the deliberator device. The battery's just about ready to run out.

Commissioner Shea.

COMMISSIONER SHEA: My question was a follow-up, really, to Joe's. I was going to ask that same question; that we've been advertising as a county a couple of different flyovers, and it doesn't appear that any are on the list right now. So that was -- is there another flyover that is -- I don't remember where it was.

MS. SCOTT: Well, we have several that are planned within the county. We have one at Immokalee Road and Randall Boulevard. I don't recall -- currently none of these are within the 2040 Long Range Transportation Plan but, as I said, we're in the process of updating the 2045. I don't recall if that one made it in.

We have another planned at Collier Boulevard and Immokalee Road. We -- based on our --

COMMISSIONER SHEA: What's the status on that one?

MS. SCOTT: Currently not funded, and that one is highly contingent on what happens with Collier Boulevard to the north. When you get that fourth leg really having substantial traffic in there, that will probably be what necessitates that. But for that, we have the right-of-way set aside and the stormwater management set aside. The roadway and the canal we're already configured to be able to allow that for the future.

COMMISSIONER SHEA: Is Collier still being talked about to extend north of Immokalee? I thought that was dead.

MS. SCOTT: It is included in our needs plan of the Long Range Transportation Plan, and it extends north and connects up with Logan Boulevard.

COMMISSIONER SHEA: It makes a 90-degree turn to the left.

MS. SCOTT: It looks kind of like a coat hanger.

COMMISSIONER SHEA: Yeah.

MS. SCOTT: And then what happens north of that is up to Lee County, and there's



varying degrees of if people like it or not.

COMMISSIONER SHEA: Okay.

MS. SCOTT: It's a contentious debate in my household because my husband does transportation planning in Lee County.

COMMISSIONER SHEA: So that's also a long ways out?

MS. SCOTT: Yes.

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: Yes. Thank you, Mr. Chairman.

Okay. For 75 interchanges, anything -- or any update on Everglades and DeSoto or in that area?

MS. SCOTT: So an interchange in the vicinity of Everglades Boulevard is how we've termed it in our Long Range Transportation Plan. The current Long Range Transportation Plan, it's not funded. In the draft Long Range Transportation Plan that's out for public review right now, it is funded. It's about 20 years out.

There is a very lengthy planning process. And when I talked about a 10-year planning process, this will be one that may have a pretty lengthy planning process to go through.

COMMISSIONER KLUCIK: Okay. And what about Commissioner Bill McDaniel's suggestion that the existing -- that we do -- there is a partial use of the interchange; is there anything going on with that?

MS. SCOTT: Commissioner McDaniel is currently working with the Florida Department of Transportation to determine if that is something that we can do. We would also have to get approval from Federal Highway Administration. And I think -- I think the vision is to try to, perhaps, open the existing interchange on a temporary basis, if you will, while they would be doing the planning for a full interchange in some area out in that, like I say, vicinity of Everglades Boulevard. But that is still being discussed through Florida Department of Transportation.

COMMISSIONER KLUCIK: Thank you.

MS. SCOTT: So Attachment E is just a summary of the expenses and revenues for the Capital Improvement Program to show that we're balanced over that five years. And Attachment F is the meat of it. This is where all the data really comes to live.

So as I noted, our traffic counts are collected. The quarters are noted above. They're factored depending on the specific week of the traffic counts to determine the peak hour/peak directional volume.

And Jeff Perry is more of an expert at that than I am, so if we have any questions specific to really getting into the weeds on that, I'm sure he'd be happy to jump in.

And this is just a snippet of our Attachment F, exact Attachment F that's in your packet. The first column that's in there is the ID number. So when you hear Commissioner Fryer, you'll hear Norm Trebilcock or Jim Banks, they'll say, oh, that's Link 43.2. That's this first column number that we're all referring to.

And then we have the road number. County Road 31 is Airport Road. U.S. 41 is U.S. 41 or Tamiami Trail.

We have what our local name of that roadway is with the from and to for that specific link. We note in this table what the existing roadway conditions are. 4D means a four-lane divided highway. A little bit further down you see Carson Road. It says 2U. That's a two-lane undivided highway.

The count station corresponds back to our specific traffic counts and what count station is being utilized for that specific link. The minimum standard, so the minimum -- this is the minimum level-of-service standard that -- and this is determined by the Capital Improvement Element. So, typically, when we widen a roadway to six lanes, we adopt a level-of-service standard of E. A, B, C, D, E. F is bad; however, if we have a two- or a four-lane facility that can

be widened further, it will have an adopted level of service of a D. Once again, this is all based on the Capital Improvement Element of the Growth Management Plan. It dictates about what those levels of service will be.

CHAIRMAN FRYER: Ms. Scott, may I interrupt and ask a question of you while we're on that column.

I compared 2019 and 2020 changes in LOS, and I found that there were 20 downgrades and 10 upgrades. And so my question is, is what, if anything, can we or should we infer from that?

MS. SCOTT: That is actually a later column in here. This level-of-service standard is the standard. That is what we don't want to go beyond. The latter column is the actual operating.

CHAIRMAN FRYER: My mistake. I'm sorry.

MS. SCOTT: So what you ascertain from that is that there was more traffic on the road or less traffic if it deviated -- if it got better. So if it went from a C to a B, you had a decrease in traffic. If it went from a C to a D, then you had an increase in traffic, and it tipped over to what that next threshold would be.

COMMISSIONER SHEA: But does that minimum mean that E, for instance, the ones that have an E, that's -- you'll accept a level of service at an E level for that highway as a minimum?

MS. SCOTT: Yes.

COMMISSIONER SHEA: And others it might be B. You don't have any Bs, but --

MS. SCOTT: Right. Typically, they're D or E.

COMMISSIONER SHEA: Yeah. Okay.

CHAIRMAN FRYER: And on that column, by accepting a lower level of service, we are acknowledging that the situations have deteriorated and that we're not in a position as of now or in the foreseeable future to spend money to increase capacity of that road segment.

MS. SCOTT: What I would say, by accepting a Level-of-Service E is stating that you want to use the maximum amount of capacity that you can out of that roadway. So you don't want to have two lanes that are never used, because we're paying to maintain those lanes. So you want to be able to use your capacity to the fullest.

I'm trying to think of a good analogy of this, but there's -- and there's probably one I'll think of when I'm driving home tonight. I guess clothes: You know, do you want a whole wardrobe when you might wear it once and never touch it again, or do you wear a pair of jeans -- you know, do you have two pairs of jeans because, you know, I might wear jeans every day, but maybe I'm only going to have three or four pairs of jeans. So you don't want to have a bunch of capacity sitting out there that's not being used on the roadway because we're paying to maintain and resurface that roadway whether it's being used or not.

CHAIRMAN FRYER: Thank you.

MS. SCOTT: And what I'm going to note is there's an asterisk that you're going to see which is new this year in the Annual Update and Inventory Report next to the minimum standard. That asterisk indicates if the roadway has been constrained by the Board of County Commissioners. So the Board of County Commissioners can come in and say, this roadway's policy constrained. I don't care if it's two lanes or four lanes, you're not going to widen it any more.

Vanderbilt Beach Road from Gulf Shore Drive to U.S. 41 is one that many, many, many years ago the Board said, it's policy-constrained. You can't widen it. I'm only going to go to two lanes there. It's four lanes in one section, but that's all I can do unless the Board reverses its decision.

So it's come up many times. A lot of the transportation professionals would ask, Trinity, is this board -- is this roadway policy-constrained? So what we did over the past year is try to go

back and review the prior records where the Board had made these policy decisions. And since everyone kind of relies on the AUIR, we put this asterisk there now to be able to kind of keep that moving forward so that the history isn't lost with me; that it keeps moving forward. In fact, if I go back 10 years, it was actually in the AUIR previously. So for whatever reason over the years it had come out. We put it back in.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: When you say "policy-constrained," the right-of-way to expand the road might actually be available, but there is a policy decision that's been made that it will not be expanded?

MS. SCOTT: Yes.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: Commissioner Shea.

COMMISSIONER SHEA: So following up on that, if you need the capacity, what's a typical reason for a policy? It sounds like it's a political decision. It's not a technical decision because, technically, if you have the demand and you have the space, why wouldn't you do it, but there's a policy. I don't understand what that would look like, a policy constraint.

MS. SCOTT: We recently took one to the Board or a Commissioner brought it up. Orange Blossom Road from Goodlette to Airport. It's a two-lane facility. It operates, actually, pretty well right now, but just -- the neighborhood really wasn't interested in having the roadway widened. We looked at long-range models. It really wasn't showing that it was even increasing as far as its usage. And so the Board made a decision to state that that roadway will remain a two-lane facility unless the Board directs us otherwise.

COMMISSIONER SHEA: But in that case, it wasn't -- the highway was not at a loss of service. It was operating where it should operate. Why would they go through the trouble of doing that? Nobody was going to -- you weren't going to propose expanding to two lanes when you don't have the demand for it, I assume.

MS. SCOTT: It was that the residents were concerned. We were actually looking at the other side of Orange Blossom Road between Livingston and Airport Road, and I think that there was just some concern that we would try to make that a major -- more major thoroughfare through that area. It wasn't our intent, but the neighborhoods came together, approached the Board, and the Board opted to policy-constrain that roadway.

COMMISSIONER SHEA: So to undo that policy constraint, that's possible also with the Board?

MS. SCOTT: The Board can do that.

COMMISSIONER SHEA: Okay.

MS. SCOTT: So we show our p.m. peak hour/peak direction. Usually that's northbound and eastbound, but there are segments that go westbound and southbound depending on where you're at in the county.

This is your peak hour/peak direction service volume. This is the p.m. time frame. This is calculated with FDOT-approved software. We're actually in the process of updating this; therefore, there may be modifications in the next AUIR. But it can be -- it can be -- it can be affected if you start putting traffic signals every quarter of a mile. That degrades our capacity of the roadway. And so this hasn't been looked at for about eight or nine years. So we actually have somebody going out, and we're logging where everything is, and we're updating this. So as I said, next time in the AUIR, you may see some differences in that.

The 2019 peak hour/peak direction volume, these are actual -- the actual peak p.m. hour/peak direction volumes from 2019. It's based on the actual traffic counts that have been factored using that FDOT-approved factors. And the time frame for that count was April 1st, 2018, through March 31st, 2019.

The 2020 peak hour/peak direction volume, this is the traffic that's on the road during that evaluation period. So, once again, based on those traffic counts.

Then we show a net change, which is just the math --

COMMISSIONER SHEA: You're getting -- you're faster than I am.

MS. SCOTT: Sorry.

COMMISSIONER SHEA: Can I go back and ask -- on one of the columns. So you have peak-hour volume direction and you have peak-hour service. So you're saying to me -- in the first one, if you're to maintain 22 -- 2,200 trips, that's D level of service?

MS. SCOTT: Yes.

COMMISSIONER SHEA: So those two -- wherever there's an E, that's 3,000, okay. And then the next one is what is actually there.

MS. SCOTT: The next column is 2019, what was there during 2019 time frame, and then the 2020, just because we like to give a comparison of the prior year to this year.

COMMISSIONER SHEA: What decides when something goes from an E level of service to D level of service? Who decides?

MS. SCOTT: It's all based on mathematical.

COMMISSIONER SHEA: Oh, smoke and mirrors.

MS. SCOTT: No. It's numbers. What I like to say is what I do is very numbers related. You know, it's very -- it's not a -- I don't have my wizard hat on like Mr. Strain used to think that I did. It's very number oriented, so...

COMMISSIONER SHEA: Thank you.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Trinity, the very top segment there went from 1,190 to 1,690 trips, 42 percent. It's a very -- it's -- that's Airport from Immokalee Road down Vanderbilt Beach. Traffic went up 42 percent on that one segment in one year?

MS. SCOTT: Yes. And that was actually one -- so we kind of do a preview to the County Manager's Office's ahead of time, and he brought that up. So if I'm looking at that, what was happening during that time? Goodlette-Frank was under construction in front of Arthrex, so people were diverting over and using Airport Road instead of typically going Goodlette-Frank. Now, Goodlette-Frank, I think, still had an increase, but this one you could tell that, really, there was some diversion going on there.

COMMISSIONER FRY: So when you see a great deviation like that, you look for underlying reasons first before we panic and decide we've got to do something?

MS. SCOTT: Absolutely, absolutely. That was one of the things -- so Jeff has -- we have a whole other spreadsheet that does all of this analysis, and it will flag things red for us and flash so that we know, go dive deeper into that. So not only are we doing that QAQC as those traffic counts are coming in, but then as we start seeing anomalies, we're going and we're looking and saying, what's going on in the area? So, yes.

So the net change is just change from 2019 to 2020, and the percent change is just a percentage.

So the total trip bank, this is one we have a lot of talks about here, is this is the traffic from approved Site Development Plans and Plats and Plans. So they've been through zoning or they already have zoning, and they've gone through the development review process.

They're ready to -- typically ready to start construction, but it also includes vested trips from developments that have either prepaid their impact fees, which way back in Joe's days people could prepay their impact fees and get their vesting, and they got their certificate of adequate public facility, and we've been holding their space in line all of this time, or there's been several developments of regional impacts that, when we went to a concurrency-based system, they went through a vested-rights determination, so we also hold their traffic out there.

So while I say these are from a Plats and Plans or a Site Development Plan, they might not be imminent. We've been holding capacity for several things along I-75 and 951 for many, many years because Benderson came in and prepaid their impact fees, and now they're starting to build, so we're starting to get that trip bank down.

So the next column is the actual counts that have been factored out there plus the total trip bank, and that comes up with the total volume.

And then the next item is the remaining capacity.

COMMISSIONER SHEA: So if somebody comes in ahead of somebody -- somebody's approved, but they haven't paid their impact fees, so they're not in the trip bank, so you have an approved development that we've approved that looks like it has capacity, but then somebody else comes in and basically uses that capacity, pays the impact fee, something we've already approved under a certain availability capacity may not be available when it goes through.

MS. SCOTT: So the difference in transportation is -- so when you're approving something, you're approving it for consistency purposes. We are not reserving their capacity. They have to come through -- when they come in for development review, they do a whole new Transportation Impact Statement. So if the ITE trip generation rates have changed, they have to update. They will update based on -- sometimes they'll come in for a shopping center, but they'll have a more specific land use when they come in. So we make them update that Transportation Impact Statement, and we get to do -- we get a second bite at that apple.

Now, the State of Florida does have the option for folks, if there's not available capacity on the roadway, they have the option to do what's called pay and go, and that is a formula of what would it take to improve the roadway? What is that dollar amount, and how much capacity would they be adding versus what they would be using?

So it becomes another mathematical formula, because it seems like that's what I live in, and then they also get a credit for their impact fees paid. So if that proportionate-share calculation is higher than what -- those impact fees that they pay, then they write a check, and then they can move forward because they've paid their proportionate share. If that number is lower than the amount of their impact fees that they paid, they get to move forward.

COMMISSIONER SHEA: Thank you. I know we're really jumping on this one, but this is one of the most critical services that the county provides and probably, for at least me as a board member, sometimes is the most difficult to understand, so you've been very, very helpful. Thank you.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Trinity, under what circumstances do you, if ever, remove trips from the trip bank?

MS. SCOTT: So when -- I'm glad you asked, because I missed that in my notes. What a great question.

COMMISSIONER FRY: Why, thank you.

MS. SCOTT: When something receives its certificate of occupancy, we remove them from the trip bank because they've now been out there and been counted under that volume number. So the traffic has now hit the road, and they're being counted under those actual traffic counts, so we'll reduce that trip bank number.

COMMISSIONER FRY: What about a situation where they have their trips that are vested, they're in the trip bank, they sit there for years, and then those trips are never going to be used by that development? It's obvious what they had vested is never going to be built. Do you ever remove them for that reason?

MS. SCOTT: Only if they -- most of the folks who have that type of capacity -- or reservation on the books have -- typically, that's with a developer agreement, and it does allow them to transfer those, once they're completely done, to another site within the same impact fee

district, and it may even say adjacent. So it may be transferred to another project that wants to come forward but, if not, then we will leave them on the books.

COMMISSIONER FRY: So they don't really give up their rights to trips regardless of events?

MS. SCOTT: No.

COMMISSIONER SHEA: Well, if they did that, you wouldn't give them back -- would you give back their impact fees --

MS. SCOTT: No. Typically they would transfer to --

COMMISSIONER SHEA: They would transfer it, okay.

MS. SCOTT: Right.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. Paul, just to clarify, at plat or plan approval -- we approve the zoning, and we look at the transportation, but then at plat or plan, when what they're really going to do comes in, then they look at it again.

MS. SCOTT: Yes.

COMMISSIONER SCHMITT: That's -- but, Trinity, are we not doing PUD closeouts? Let's say -- good example, Lely, was originally rezoned for 9,000 units. I don't know if they'll ever get 9,000, if they'll ever get 6-. But at some point we do a PUD closeout. Don't we then say, now your banked transportation -- because they were, I think --

MS. SCOTT: We haven't had any of the folks who have had trips that were within the system close out. Lely hasn't closed out. They actually still have a vacant parcel, but they will have considerable trips left on the road, you know, that are within our trip bank; however, they have also been one of the entities that have transferred their units and their trips. I believe they've transferred a thousand across the street to Wentworth Estates maybe, and then I believe that they also may have transferred some to San Marino in the past. So they do then trade them.

But for a typical PUD that comes in, those -- those trips haven't been banked because they weren't associated with a plat or plan. But we do ask them to give up the ghost units. That's what we've been talking about, ghost units --

COMMISSIONER SCHMITT: Right, ghost units is what I was talking about.

MS. SCOTT: -- because that does factor in when we're doing our Long Range Transportation Plan. We're trying to get those, quote-unquote, ghost units out.

COMMISSIONER SCHMITT: Yeah. I mean, that's -- but they still have some commercial development.

Another example, yeah, I'll use Fiddler's Creek. It's 6,000 doors that they're zoned for, and they did get a vested-rights determination.

MS. SCOTT: And they are included in our trip bank.

COMMISSIONER SCHMITT: Yeah, and they're included.

MS. SCOTT: And they -- so --

COMMISSIONER SCHMITT: And actually there may be --

MS. SCOTT: Fiddler's Creek, for example --

COMMISSIONER SCHMITT: -- 2,800 units or maybe 3,000. So they're basically half built.

MS. SCOTT: Exactly. And that's why you'll see U.S. 41 showing as projected deficiency because we have Fiddler's Creek that built like gangbusters for quite some time and then kind of had a little bit of a lull, and now they're building again. But we're showing that projected deficiency with U.S. 41 because of those banked trips.

COMMISSIONER SCHMITT: So they're like make-believe vehicles.

MS. SCOTT: Well -- but at some point they may come online.

COMMISSIONER SCHMITT: Yeah, they'll come -- but they still have the vested right.

MS. SCOTT: Yes.

COMMISSIONER SCHMITT: Okay. Yeah, okay.

MS. SCOTT: So the column --

COMMISSIONER SCHMITT: Is that confusing enough for you?

COMMISSIONER SHEA: No, I got it.

MS. SCOTT: The column that I have highlighted right now is the 2020 counts and trip bank remaining capacity. This is the one you guys care about. This is the column that you care about when folks are coming in with their Traffic Impact Statement, and they're showing -- on that link I'm showing X number of trips in the p.m. peak hour/peak direction, and you want to compare that back to what this column says. So this kind of boils it all down.

And then this next percentage is just --

CHAIRMAN FRYER: Trinity, I'm sorry. Before we go to that column, am I correct that if -- let's, again, take Line 1 or Segment 1 where there are 471 remaining trips, and someone comes in -- a developer comes and proposing an increase of 500 peak p.m., would -- what action would staff take with respect to that?

MS. SCOTT: We would work to have mitigating circumstances come in. It may be to restrict a portion of the development. Say, you can't -- you can have X number of units, but that last 100 units or whatever would need to wait until a later date. We've done that before in the past with Vanderbilt Beach Road.

CHAIRMAN FRYER: But you'd let it go down to zero with an individual developer?

MS. SCOTT: Yes.

CHAIRMAN FRYER: Okay. I think Commissioner Fry had raised that at a previous deal. And in a way it sounds somewhat like a race, but --

COMMISSIONER SCHMITT: It is.

CHAIRMAN FRYER: -- the County Attorney had a slightly different view on that. Thank you.

MS. SCOTT: So the next column is just a percentage of the 2020 counts plus the trip bank volume over that service volume. So this is just calculating the various -- various columns in here.

And then this is the column that Commissioner Fryer was talking about. This is the 2020 traffic count with the trip bank, what the operating level of service is of the roadway. So this is how it's functioning if you had all of those banked trips on the roadway.

CHAIRMAN FRYER: And this is what -- 20 of these have gone down and 10 have gone up 2019 to 2020.

COMMISSIONER SHEA: So that's what you compare, that column to the minimum standard column and you say we've accepted D. This one's at C, so it's okay.

MS. SCOTT: Right.

COMMISSIONER SHEA: But if it were at E, you'd say it's fallen below what we've determined is the minimum for that road segment.

MS. SCOTT: If the minimum level-of-service standard was D, we wouldn't even go to E. They'd go straight to F.

COMMISSIONER SHEA: Okay.

COMMISSIONER KLUCIK: I'm sorry. What do N and W stand for and S?

MS. SCOTT: Oh, back in the peak direction?

COMMISSIONER KLUCIK: Yes.

MS. SCOTT: That is the --

COMMISSIONER KLUCIK: Well, I'm assuming -- I guess you wouldn't ever put them in the column we're at now, but...

MS. SCOTT: Right. So the peak direction, that's the p.m. peak hour/peak direction of

the traffic flow. So that's -- most of the roadways are eastbound in the evening. We look in the evening, say, 4:00 to 6:00 p.m. Eastbound is our main, for the most part, on most of our roadways, and northbound; however, as you get over a little closer to 41, it might switch to westbound. And as you get a little further south in the Rattlesnake area, it might switch to southbound.

COMMISSIONER KLUCIK: All right. And I apologize, because I was comparing that to the column to the left.

MS. SCOTT: That's okay.

COMMISSIONER KLUCIK: So there you go. I just totally had that one wrong.

MS. SCOTT: But I had a great answer for you.

COMMISSIONER KLUCIK: You did. That totally satisfied me, because I was not following.

MS. SCOTT: So this column is the traffic counts year expected deficient. This is taking the existing traffic counts from the current year, and we apply a growth factor, and that growth factor either -- is either -- it's a minimum of 2 percent. So we look at the prior growth of the link, and let's just say it was only growing at 1 percent per year over the last couple years. We're still going to apply a minimum of 2 percent growth factor.

And what this does, these are projections for us. From planning world, as I said before, it takes a while for me to get a roadway built or get a solution in place. That's what we're looking for on this. It's, okay, do I need to be running, or is it okay to watch this one a little bit more?

So from the traffic counts year deficient, as I said, we'll do a minimum of a 2 percent growth factor, and we'll add 2 percent, add 2 percent until it gets to that Level of Service F, until it exceeds its capacity. And then the next one just includes the trip bank.

So as we just talked about, that trip bank may have ghost units, you know, units that are vested that may or may not be built or they may or may not be built soon. So it allows us to have a cushion, if you will.

So we will look at that individual trip bank. I can tell you on any of these trip banks what those trips are associated, which project they're associated to. We look at that and we'll say, yeah, it's Fiddler's Creek. They're not building out that quick. We know we've got a little bit more time on that.

COMMISSIONER KLUCIK: Mr. Chairman.

CHAIRMAN FRYER: Yes, sir.

COMMISSIONER KLUCIK: So, Trinity, if I'm trying to address questions that people might come to me for whatever reason, as a Planning Commissioner or otherwise, or if one of the county commissioners, a constituent approaches him, the perception that a road needs to be widened or capacity needs to be improved might be there, but this -- especially the traffic counts themselves, that actually is an objective analysis of what the status of that road is to handle what we think -- and to provide the level of service that we're expecting to provide to people.

MS. SCOTT: I would say that that's accurate. And the thing that I would also state that -- and we talk about this a lot at Planning Commission, is we don't build our roads for peak season.

COMMISSIONER KLUCIK: Oh.

MS. SCOTT: So when folks have a perception that a roadway is severely congested -- and I hear it. Statistically, the third week of February is our busiest week. They'll tell me, oh, my gosh, January, middle of January I had to sit at that traffic signal, you know, three cycles. I can appreciate that, but we don't build our roads to accommodate peak season.

Going back to that, we don't want a lot of extra pavement out there that aren't used the other eight or so months out of the year where we don't have our visitors here and -- so in order to be able to keep our taxes down and so on and so forth, we have made a decision that it's okay to sit



in traffic during the peak season.

We try to minimize it. Tony's group, Traffic Operations, does a phenomenal job with trying to time our traffic signals to be able to move. We have different timing strategies for season and not season; so from an operational standpoint, there are things that we try to do. We also -- whether it's season or not, we work with our EMS and fire. They're able to -- they have transmitters within their vehicles to be able to change that traffic signal ahead of them. So safety is certainly important to us, but those are the type of things that, from a peak-season standpoint, we understand we might have to sit in a couple traffic signals.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: You didn't use the Norm Feder quote.

MS. SCOTT: We don't build roads for Easter Sunday.

COMMISSIONER SCHMITT: You build the church for Easter Sunday.

MS. SCOTT: Oh, that's right. That is what Mr. Feder used to say, yes.

COMMISSIONER SCHMITT: For Easter Sunday capacity, right.

COMMISSIONER VERNON: Mr. Chairman.

CHAIRMAN FRYER: Yes, go ahead, Commissioner Vernon.

COMMISSIONER VERNON: This is really good. But if I look at this and just rely on this, this is going to help me decide, if I were the decision maker, what road needs to be expanded first and then so on. So am I off base if I just looked at this and I can pick one road, it would be 20.2?

MS. SCOTT: Okay.

COMMISSIONER VERNON: Would I be right?

MS. SCOTT: Well, with the long-range -- so I have the benefit of doing short-range planning, which you all are involved in, and then I do long-range planning -- which isn't really that long a range; it's five years out -- through our Metropolitan Planning Organization.

We actually have plan to improve that roadway. It's actually been a priority of ours. For this particular segment, we've been -- we've had a priority in front of the Florida Department of Transportation for upwards of five years because we need them to look at the intersection, the interchange at Golden Gate Parkway. In the p.m. peak hour, that is our pinch point. In the a.m., it's Livingston.

So with the new Long Range Transportation Plan, what I have in Years 6 through 10 is -- which is the first years of the Long Range Transportation Plan, is a major interchange improvement and a major intersection improvement at Golden Gate Parkway and Livingston Road, which may include an additional overpass. That will be studied, and we'll determine that, and the Board will make a decision on that.

But -- so, yes, we do take this into consideration. As I said, in that particular instance, we've been on FDOT for five years saying, look at this interchange, please. We can't do anything to that particular link without the Florida Department of Transportation signing on with us. And I do my best to beat the snot out of them.

COMMISSIONER HOMIAK: She really does all the time.

MS. SCOTT: So with that, Attachment G is the summary of the data in Attachment F.

CHAIRMAN FRYER: Before we move on to G, I have another question on F, which is something I've raised in previous years, and it has to do with the TCMA excuse, if you will, for meeting the concurrency standards. And in these cases where -- and there are several zones, I guess, where it has been determined that we're going to relax our standards and allow for more traffic even though it is going to potentially impair that road segment on the grounds that we do that in exchange for the developer agreeing to take on some mitigating actions, such as preferential parking for carpools, cash subsidy, flexible work schedules, which I've always wanted to know whether any of these have ever really been tested against reality to see if they, in fact, do reduce the

traffic, or is this just something that is aspirational or that is in the imagination of the experts?

MS. SCOTT: I would say that -- and we're going to talk about the TCMA -- the TCMA and the TCEA in a few slides.

I would say that we are -- we just went through a whole thing about transit impact analysis where I actually had a consultant looking at TCMA's and what other areas are doing with their Transportation Concurrency Management Areas and if they could find their evaluation criteria. What are the standards?

And so what I will tell you is -- and we went, we looked in California, we looked at other areas in the state, they looked at other things out west, and we couldn't find a great monitoring program for this. So I can't give you 100 percent yes, it is going to solve all the congestion problems. Actually, I can probably tell you that it's not going to. When you start looking at offering alternative work schedules or allowing folks to do alternative work schedules, if you could get 10 people from multiple businesses along the corridor to utilize an alternative work schedule, that's 10-plus trips that aren't on there during the peak times. So is it the silver bullet that fixes everything? It's not.

But it's just interconnections when we talk about interconnections and how important they are. It's not that it's going to keep all the traffic all off of the road, but it keeps some of the traffic off of the road, and that's, from a cumulative standpoint, more so of what the goal was.

CHAIRMAN FRYER: In the different scenarios that are provided in our materials, in some cases the developer is required to offer -- or to undertake two strategies, two of the however many, G to J, or however -- however that computes numerically, A through J. So in some cases it's two strategies, in some cases it's three strategies, in some cases it's four, depending upon the type of development. Have we given any consideration -- have the Board of County Commissioners given any consideration to increasing the number of remedial steps that must be taken in particular cases in order to really try to achieve improvement in the traffic?

MS. SCOTT: I don't believe that they have, but what I will tell you is that in what we've been dealing with through this Transit Impact Analysis -- and it's going through the Metropolitan Planning Organization and will -- the can will be kicked over to the Board of County Commissioners.

One of the things that we have noted is that we may need to be more particular with what strategies that they're choosing and that there may be more strategies particularly from a transit perspective in trying to encourage transit use where we have an identified transit route.

And along with that, I've also been talking with Ms. Jenkins about doing an overall in-depth look at our transportation element as it relates to state statutes, which have changed tremendously over the past five years, and looking at how we might be able to shore that up and maybe be able to offer some alternatives with regard to those TCMA strategies of -- those were identified back in the early 2000s, and there might be opportunities to look and update and add to those.

One of the things that came up recently in one of our conversations with a petition was a "we work" station, so being able to have an area if you had, say, a multifamily, that you have an area in the clubhouse where someone can go and work. So I'm not working in my home where my dog might be barking or, you know, my wife might be there, my husband might be there, but I have a place where I'm actually going. But I walk with my laptop, and I go down there. I'm able to do a video conference, not be, you know, interrupted. That might be a better solution for, perhaps, working families who may have the option of being able to work from home but, as I said, if they have a small child or -- I have dogs, and I've been doing a lot of virtual meetings at home. It's really bad.

CHAIRMAN FRYER: So, as a practical matter, taking this to the level of process or implementation, let's say a developer's agent like Mr. Yovanovich or Mr. Mulhere come in and

they propose to employ some TCMA's in order to get some benefits -- get additional traffic on the roadways. Do they come in and make a proposal to you of which strategies they're going to use and what results they're going to get? And then is your role totally reactive? Is there give and take? What happens if you agree? How does that work?

MS. SCOTT: In the past, it's -- and it depends, because it's very rare that it happens during a zoning. Typically, when they're coming before us, there's sufficient capacity on the roadway, and they don't need to utilize the link-by-link concurrency exemption. But it's much driven by them. And I would say that we have been more reactive, and that's where I'm saying that I think that there's some opportunities for us to be more bold, particularly in -- and as I said, we were looking at this from a transit perspective that if you're on a transit route, perhaps you should be choosing at least one of the transit strategies.

CHAIRMAN FRYER: And, likewise, if you're not on a transit route, don't build one of those transit shelters.

MS. SCOTT: Nice bus shelters, yes.

CHAIRMAN FRYER: Okay. Well, yeah, I would really urge you to be as -- considerably bolder and more -- I don't like the word, but here it is -- proactive so that rather than having the developers come in and offer something to you on a simply silver platter where, take it or leave it, and then, you know, you're stuck with that kind of a choice, to work with them and say, well, no, no, I think you need to do these others, and then let us know if that process did not succeed so that we can take that into account when these developments come before us and we find out that the particular developer did not follow your suggestions on which TCMA solutions should be employed.

MS. SCOTT: Absolutely. We'll make sure we note that within our staff report.

CHAIRMAN FRYER: Thank you. Thank you so much.

MS. SCOTT: Attachment G is just really a summary of all the data, and Attachment F talks about what improvement, and kind of taking Attachment D, too, it talks about what improvements we have coming forward; you know, if a roadway is projected to be deficient, what are we doing? And sometimes it's a wait and see, and that's okay, and other times you'll see, okay, there's going to be an operational study. And so those don't show up in your Attachment D, typically. Those are -- they're kind of a line item down there, but my staff do them. As I said, right now we have Immokalee Road going on and Golden Gate Parkway, but we're getting ready to start one up on Pine Ridge Road.

And we're also going to look at the section of Golden Gate Parkway only because I found that if I do a planning study a lot of times I can use that planning study to kick FDOT in gear, like what we did for Pine Ridge Road between Livingston and I-75. And worst-case scenario is I can roll them up and -- I can roll them up, hit them with it. It's getting late, guys.

Attachment F -- or, sorry, Attachment H, it is a very busy map, but it kind of culminates everything together. It shows where the deficiencies are. It shows the planned improvements. It shows some recently planned improvements. It also shows the Transportation Concurrency Management Area and Transportation Concurrency Exception Area boundaries.

So you'll see this is a Transportation Concurrency Management Area. This is the northeast -- I'm sorry -- the northwest. I don't remember the name of this one -- east central, I believe, and then this is the Transportation Concurrency Exception Area.

So just a little bit about Transportation Concurrency Management Areas, because it is the next slide, is that, per Policy 5.7, we need to keep a minimum of 85 percent of the lane miles at or above the adopted level of service. It's okay if some of those roadways go below but, overall, within the area, it has to stay above 85 percent. We monitor this on an annual basis. If it goes below 85 percent, there are provisions within the Comprehensive Plan that they must do.

Transportation Concurrency Management Area mitigation strategies. There's also

congestion mitigation payments so I can charge above and beyond impact fees. So we monitor this. This is something we take very seriously. And this is shown in Attachment I.

Currently, the Transportation Concurrency Management Area, 97.6 percent of the lane miles are operating at or above the adopted level of service, that's operating now, as well as the North Central Transportation Concurrency Management Area; it's at 97.2. That fluctuates depending on if a roadway exceeds its level of service, and then we get something that's programmed. So sometimes it will go down, and then it will come up, or it may also fluctuate based on if you have construction traffic that, you know, diverts, and so it may take a roadway down for a short amount of time, and then it may come back up, so -- but we do look at this. This is something we take very seriously and look at on an annual basis. Not that I don't take the whole thing seriously. This is a lot of work that we put behind it.

And then J is just the activity for projects that are in the current fiscal year that we have under contract as of June 30th, 2020, but they haven't been completed yet.

And I have taken a lot of your time, and that's all that I have.

CHAIRMAN FRYER: Anybody --

MS. SCOTT: Anybody any further other questions.

CHAIRMAN FRYER: -- have further questions for Ms. Scott?

(No response.)

CHAIRMAN FRYER: If not, thank you so much.

MS. SCOTT: I thank you guys so much for your indulgence of allowing me to go through this because, as Mr. Fry said, we haven't done this in quite some time of really going through it, so I appreciate it. Thank you.

COMMISSIONER VERNON: That was really helpful as a new member, so thank you.

MS. SCOTT: And if you get really bored and decide to read it and you have other questions, call me. Commissioner Fryer calls me. It's a great thing for insomnia.

CHAIRMAN FRYER: Oh, yeah, I'm sure. Mr. Schmidt.

MR. SCHMIDT: I've got one other person prepared based on what some of you had responded to, and that's Tabatha from EMS.

CHAIRMAN FRYER: Oh, good.

COMMISSIONER SCHMITT: Mr. Chairman, I'm going to depart, so I don't --

CHAIRMAN FRYER: Thank you for your service, Commissioners.

COMMISSIONER SCHMITT: Thank you.

CHAIRMAN FRYER: Let's take a 10-minute break.

COMMISSIONER FRY: How long are we going tonight?

CHAIRMAN FRYER: And when we come back, we'll talk about that. We're in recess for 10 minutes.

(A brief recess was had from 5:15 p.m. to 5:23 p.m., and Commissioner Schmitt is absent for the remainder of the meeting.)

CHAIRMAN FRYER: Ladies and gentlemen, let's go back to session, and I'll ask the Planning Commissioners who are in the room to please return to the dais so we can establish a quorum and continue.

Mr. Schmidt, is Chief Butcher going to be next? Yes? Okay, good.

Well, I want to extend a warm welcome to my dear friend, Tabatha Butcher. In a previous life of not so very long ago, I was chairman of the Collier County Medical Authority and had the privilege of working very closely with her.

So welcome, Chief Butcher, and thank you for being here.

CHIEF BUTCHER: Thank you.

COMMISSIONER FRY: Was it a privilege working with Ned also?

CHIEF BUTCHER: It was.

COMMISSIONER FRY: Just checking. I assumed that it was.

CHAIRMAN FRYER: Thank you, Chief. Payment will be in the mail. Are you going to -- your availability is to answer questions?

CHIEF BUTCHER: Yes. I don't have any specific presentations prepared, but any questions that you may have, I'm happy to answer them.

CHAIRMAN FRYER: Fair enough. I'm going to have one. Do any other Planning Commissioners have a question before I go ahead?

COMMISSIONER VERNON: Yeah. I'm sorry. Could I get some context. I'm the new kid. So what is your specialty? What are you here to present or talk about?

CHIEF BUTCHER: Sure. For the record, Tabatha Butcher, Chief of Collier County Emergency Medical Services.

COMMISSIONER VERNON: Okay.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SHEA: So I have a question.

CHAIRMAN FRYER: Go right ahead.

COMMISSIONER SHEA: But, no, you asked if anybody will. I will have one.

CHAIRMAN FRYER: On EMS?

COMMISSIONER SHEA: Uh-huh.

CHAIRMAN FRYER: Okay, good. Do you go first?

COMMISSIONER SHEA: Well, it looks like you're operating below levels of service, and all the other groups seem to find somehow -- their expenditures and their revenues seem to balance out, but to me you're one of the most critical ones, and it's not a big-dollar issue. Why are you operating with less money than you think you should have?

CHIEF BUTCHER: Well -- so when we bill for ambulance services, if you are familiar with that, we do have fees for service. So if somebody calls 911, we send a bill. We do also bill insurance companies, Medicare, Medicaid. And, so that sometimes poses a challenge, because if we have an ambulance bill, say, that cost \$800 but a patient is a Medicaid patient, by law we can only collect about \$190 on that bill. So many of our rides we don't actually collect what we bill. So that's one of the challenges.

Medicaid has very similar laws like that as well, and as well as Medicare, we cannot balance bill a patient. So if it's an \$800 bill, we collect \$190, and can't bill the patient for any more to collect.

So our revenues never match, actually, what we bill out, so we do have a deficit in that respect. Also, the impact fees, we just don't collect enough impact fees to fund stations. And that's not my wheelhouse, but I know Amy's here, and she can probably explain that to you a little bit better. But that is basically the two deficits that we have when it comes to revenue and the actual funds that we need to operate.

CHAIRMAN FRYER: It's such a critical service that --

COMMISSIONER SHEA: Exactly.

CHAIRMAN FRYER: -- the county acknowledges that it must pick up the difference out of general operating funds.

CHIEF BUTCHER: Correct.

COMMISSIONER SHEA: Okay.

CHAIRMAN FRYER: Thank you. Anything else, Commissioner Shea?

COMMISSIONER SHEA: Not the EMS.

CHAIRMAN FRYER: Okay. Chief Butcher, the main reason that I wanted to hear from you, as I mentioned a little earlier during the break, we are frequently presented with things called commercial needs analysis by developers who seek to amend the Growth Management Plan, and one of the requirements in the GMP is that we need to see a need established for what is being

requested. And I'm not going to pick on any particular consultants, but those who have memories will remember not too long ago when I had occasion to get into a spirited discussion with a consultant who, among other things, was trying to tell us in relation to one of the RLSA developments that the EMS service will be taken care of and the fire-suppression service will be taken care of better because of Engine House 11. And I said, well, do you know that Engine House 11 is just a maintenance facility, and there are no responding units out of Engine House 11? And the lady did not have a good answer for that.

So it's matters like that that cause me to be concerned that EMS, whether it's at the Dan Summers level or Chief Butcher level; that there is a steppingstone that has to be touched by these developers, by their commercial needs analysis consultants to be sure that when they tell us that it's going to be revenue neutral on EMS, that you've looked at that and you're okay with it. So that is kind of a long question, but I just -- I'd like to know what the process is and to be reassured, if I may, that you are integrally involved in this and that we don't have to worry about people saying that you're okay on the fiscal neutrality when you're really not.

CHIEF BUTCHER: So in recent years when there's been a large development planned, the developers have actually reached out to us to let us know what they are planning, ask us if we have any needs in that area. And so what we do is we take a look at what it is that we do have planned coming up in those areas as well as maybe property that we have that we could utilize down the road, and if there isn't anything in the area and we feel the amount of housing units that they are planning there is going to have a big impact on our system, we will let them know that they need to set aside some areas for fire and EMS for a future station.

CHAIRMAN FRYER: Thank you very much.

Commissioner Fry.

COMMISSIONER FRY: Hi. Give us an update on the status of the relationship and the partnership between EMS and the fire departments.

CHIEF BUTCHER: Great. So the partnership in EMS and fire has actually tremendously improved. As many of you probably know being involved in the community, there was a time that those relationships were strained. But almost across the board in fire as well as EMS, a lot of the leadership has changed. The will to work together is there. Any time we are planning a station or even on the fire side, if they're planning a station, we reach out to each other, let each other know, do you have a need in that area? Would you like to collocate? We actually have a couple collocated facilities in the works with Greater Naples Fire. So those relationships have tremendously improved, and we work very well together.

COMMISSIONER FRY: So for the most part, you are not collocated with fire?

CHAIRMAN FRYER: It's probably about -- it's actually probably 75 percent collocated. But instead of how it has been done in the past where if we have property and we have a station need, we just go ahead and build our station, we actually converse with each other now and see if we can just go into one building together.

COMMISSIONER FRY: During that period you mentioned the concern from EMS was that the firefighters were not getting enough practice, I guess, doing advanced life support and that type of thing. Where does that stand these days?

CHAIRMAN FRYER: Well, they are participating in all of our training. They're also -- we have swap programs and ALS ride agreements with many of the fire districts, so they are getting that ride time on our ambulances.

COMMISSIONER FRY: So they are administering advanced life support as EMS is?

CHIEF BUTCHER: Yes, they are, up to the level that they've been trained, yes. So they do administer ALS, not to the full capacity like EMS does; however, they have enough resources to provide care prior to us arriving.

COMMISSIONER FRY: Great. Thank you.

CHAIRMAN FRYER: On the scene, right.

Chief Butcher, the -- oh, on behalf of District 4, which is where I come from, my appointment, an engine house and an EMS station near by outside of the geographic limits of District 4 but very, very close to it is Engine House 40 in North Collier where there's also an ambulance. There had been talk of perhaps that engine house being sold to EMS and then North Collier moving eastward down Pine Ridge. What's the status of all of that?

CHIEF BUTCHER: The status of that is that North Collier has made the decision that they will stay in place at Station 40, so we will continue to collocate at that facility.

One of the points that were brought up during that whole discussion was that the firehouse needed some updates. There might not be enough room for everything that is housed there, so we have discussed getting together and looking to see if maybe we could partner on those upgrades that need to be done, but they do not plan to move that station at this time.

CHAIRMAN FRYER: That's great news for the folks in the City of Naples, because that's -- a lot of mutual aid comes in both on EMS and fire from that station, so thank you.

COMMISSIONER FRY: Is that the Jack Pointer station on Livingston, or is that a different --

CHAIRMAN FRYER: No. It's at Pine Ridge approximately at Goodlette-Frank.

COMMISSIONER VERNON: Mr. Chairman?

CHAIRMAN FRYER: Yes, sir. Commissioner Vernon.

COMMISSIONER VERNON: I actually want to follow up on your first question. And I don't want to create more unnecessary work for the staff or for you, but I know some boards I've been on there's sort of been a one-page sign off -- and maybe it's already in the staff report -- that you've signed off that you're fine with the proposal or that it's budget neutral, or whatever we decide the form says, just so it would lessen our discomfort that maybe something's being slid through and not fully vetted by you.

I don't know that -- you see what I'm asking for is just a sheet, and we know we'd look at the back, and we'd see that sheet, boom, it's budget neutral or she's checked it off on it or she hasn't.

CHAIRMAN FRYER: I think that's an excellent idea. Is there such a thing?

CHIEF BUTCHER: I'm not aware of it, and I can tell you that I had mentioned before is being involved in taking a look at some of these developments and meeting with the developers. I can tell you that I don't do every one of them, but some of the larger ones have come to me.

COMMISSIONER VERNON: Well, it would be even more important if that's true, because we might think you've vetted it and you haven't.

CHIEF BUTCHER: Understood.

COMMISSIONER VERNON: I don't want to -- in my opinion, it shouldn't be a big report by you. It's just sort of a checkoff.

CHAIRMAN FRYER: Exactly, yeah. That's an excellent suggestion. I'm going to ask Ms. Jenkins to give some serious thought to that, not only for us but for the Board of County Commissioners when GMPAs come through us so that we can look and see that the various providers of service have signed off on fiscal neutrality issues or economic analysis and the like so that it wouldn't be necessary for us to ask for a Chief Tabatha Butcher or a Dan Summers or someone like that to have to come in examine it. And all it really has to be is a checkmark. Perfect. Thank you very much, Ms. Jenkins. Thank you.

Anyone else have questions for Chief Butcher?

(No response.)

CHAIRMAN FRYER: Chief Butcher, great to see you again, and thank you for coming in.

CHIEF BUTCHER: Thank you.

CHAIRMAN FRYER: Thank you.

Mr. Schmidt.

MR. SCHMIDT: I've got no one else scheduled but a number of people out in the hall waiting who can make presentations or answer your questions.

CHAIRMAN FRYER: Oh, all right. I only have one more question. So I'm going to poll the members of the Planning Commission if they also have questions and to find out what the area is. Let's tell Mr. Schmidt what the area is so we can get the --

COMMISSIONER SHEA: I have a lot of different ones and, probably, I think he can answer them. It's just more me understanding the documents that we've looked at. Do we want to try some of the questions on him and determine whether we need --

CHAIRMAN FRYER: What do you say, Mr. Schmidt?

MR. SCHMIDT: I'd be happy to try.

COMMISSIONER VERNON: Is there any harm in bringing them in? Because I'd like to know what departments we have access to. If they'd just introduce themselves.

COMMISSIONER SHEA: Oh, no, no. If they're here, it probably is --

COMMISSIONER VERNON: Who we have access to.

COMMISSIONER SHEA: Well, I had a question on the jail's budget, for instance. It always shows the same issue with EMS that we're always under, and I don't see any big capital projects coming through. So we're accepting -- I don't know if you call it deficient. It says this is what's required, this is what we have, and I don't see any attempt to bridge that gap, and maybe that's just me misunderstanding the documents.

CHAIRMAN FRYER: Let's -- Commissioner Shea, if you could tell us quickly the subject matter of your questions, and then we can perhaps dismiss the people who are not covered by yours or other Planning Commissioners' questions.

COMMISSIONER SHEA: Jails is one.

COMMISSIONER FRY: I have sewer, one question for sewer.

CHAIRMAN FRYER: Jails, sewer.

COMMISSIONER SHEA: Tom's here.

COMMISSIONER FRY: And one for solid waste.

CHAIRMAN FRYER: And solid waste. Commissioners on the side?

COMMISSIONER KLUCIK: Law enforcement.

CHAIRMAN FRYER: Law enforcement, okay.

COMMISSIONER SHEA: Government buildings.

CHAIRMAN FRYER: Government buildings.

COMMISSIONER SHEA: Parks and recs.

CHAIRMAN FRYER: Okay.

COMMISSIONER SHEA: Solid waste I think we already got.

COMMISSIONER FRY: Oh, that's just about everybody.

MR. SCHMIDT: And you're halfway there.

CHAIRMAN FRYER: All right. So now we need to ask ourselves how long we can be here and whether we need to try to carry this over to another day and finish it up.

COMMISSIONER FRY: I literally have two singular questions, one for each of those departments.

CHAIRMAN FRYER: Who's able to stay here till, like, 6:15?

COMMISSIONER VERNON: I can stay as long as needed. I don't have any questions, though, so...

CHAIRMAN FRYER: Okay.

COMMISSIONER SHEA: I can drop a lot of my questions. They're more information --

CHAIRMAN FRYER: Well --

COMMISSIONER SHEA: -- if time's a concern.



CHAIRMAN FRYER: Yeah. It might be a good idea, Commissioner Shea, if you -- I mean, I'm sure they're great questions, but perhaps Mr. Schmidt could tell you whom you should talk to, or maybe he could answer them off-line. That would be great.

Okay. Well, let's proceed and see if we can get through this today as quickly as possible. And, Commissioner Shea, is there anything that you would like to ask now online or off-line afterward?

COMMISSIONER SHEA: Well, it's more of a procedural issue with these unfunded. A lot of the unfunded needs, what is the protocol for -- is that something the commissioners deal with, whether they want to find funding for the unfunded needs or -- it's not something we deal with?

CHAIRMAN FRYER: It really isn't except insofar as it relates to the AUIR. That, I think, is the extent of our input; am I correct?

MR. SCHMIDT: You are correct with that. There may be a number of places where you see those kinds of dollars, but they're always found.

CHAIRMAN FRYER: We're not really part of the appropriations process, I don't think.

COMMISSIONER SHEA: Okay. I'm good. I'm done with questions.

CHAIRMAN FRYER: Okay. Commissioner Fry?

COMMISSIONER FRY: So for the sewer district, Page 1624, it just shows that system availability -- or future availability with expansions, it shows a deficit of 23 percent on the south area based on a max three-day, which I understand is a very short time frame, and I just wondered how serious is that, what is the impact of a -- not being able to handle 23 percent of the sewage over a three-day period, and is there an accommodation for that?

MR. FEY: You said -- for the record, Eric Fey, Principal Project Manager with Public Utilities.

Can you tell me what page you're looking at? Is it 16 --

COMMISSIONER FRY: 1624.

MR. FEY: What page is that in the --

COMMISSIONER FRY: It's 21 of 24.

MR. FEY: Okay. What's the heading, because I --

COMMISSIONER FRY: Collier County Sewer District System Utilization and Diminishing Capacity Report.

MR. FEY: Okay. That's the checkbook.

COMMISSIONER FRY: Checkbook, yes.

MR. FEY: Okay. So the deficit that you see on the second page of the wastewater checkbook, the 23 percent, is that what you're looking at?

COMMISSIONER FRY: Yeah. Is that anything to be concerned about? Is it --

MR. FEY: It is cause for concern in that, you know, at some point in the future we're going to need additional capacity. But if you look on the prior page, our wastewater system is getting close. You know, we're at 3 percent in the south service area with our diverging capacity.

The checkbook uses a different methodology than the AUIR to some extent. You know, what we do in the checkbook is we're looking at the historic peak event, which is in excess of our level-of-service standard. This happens when we have wet-weather events like we just had in September where we get a huge slug of flow to the plant that isn't a normal condition.

So from that standpoint, it is certainly a concern on those extreme events. You know, we need the ability to respond. And we got through the event in September.

But the checkbook is looking at that peak event, as you'll see -- let's see. Where is that? Line 2A and 2B, you can see that in the south we're starting at a deficit based on peak -- our peak event of 18.985 MGD compared with the permitted capacity of 16.

So, you know, divergent is important to the south service area, maintaining its concurrency going into the future, but that's not a normal day. So it's not a -- it's not a high-level alarm,

something to panic about, but it is a cause for concern.

COMMISSIONER FRY: Okay. And I'm sure that it's being evaluated and addressed.

MR. FEY: Yes. And then the deficit on the middle on the second page of 23 percent, that's with future commitments. So we're taking that peak historical event and we're adding all potential wastewater flow for everything that's currently zoned PUD. So if all the PUDs were built out today, we'd be at a 23 percent deficit, so that doesn't mean that we're at that deficit today, just that the potential is out there.

COMMISSIONER FRY: The reason I ask is that the other charts seem to show that our capacity's up here and our usage is climbing, but still there's a pretty good gap, a surplus, but yet this one looks a little bit negative. And I just wasn't sure if it was room for concern or whether it was being addressed, if there was a plan to address it, or if it's not that critical.

MR. FEY: Right. And just to clarify, the charts in the AUIR, we're using max three-day as our basis of concurrency analysis, and that peaking factor comes from our 2014 master plan which looked at the average of the max three days over a certain period of time. So the checkbook is looking at the maximum. The AUIR is looking at what's typical for a given year for our max three-day. So that's why there appears to be a discrepancy.

COMMISSIONER FRY: Okay. I'm ready to move on from that. Thank you.

CHAIRMAN FRYER: Thank you. Are you solid waste also?

MR. FEY: No. Kari.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: Thank you, sir.

MR. SCHMIDT: They have my back today.

COMMISSIONER FRY: My question for you is hopefully quick. It showed that the landfill would fill up in 2060, like a 40-year horizon. I just wondered what provisions are in place or how far in advance do you plan? That sounds like a major event 2060, the landfill fills up, if I read that correctly. How do you plan beyond that and at what point do we start to make accommodations for additional landfill space, or is it already in the works?

MS. HODGSON: Good afternoon. For the record, my name's Kari Hodgson, the Director of Solid Waste.

And that's an excellent question. And there are processes in place to update the strategic plan to plan in the future so that you are not in a crisis situation and looking at different options for disposal including partnerships out of county and things of that nature.

COMMISSIONER FRY: Would there be an additional landfill or another landfill site identified at some point, then, to take over for this one?

MS. HODGSON: It's one of the disposal options that are evaluated as part of the process for -- that would be presented.

COMMISSIONER FRY: But it might go off site is what you're saying? It might be --

MS. HODGSON: Very much.

COMMISSIONER FRY: Okay. Thank you.

That's all I had.

CHAIRMAN FRYER: Commissioners, do you have any questions?

COMMISSIONER VERNON: I don't have any.

CHAIRMAN FRYER: Okay.

COMMISSIONER KLUCIK: For law enforcement.

CHAIRMAN FRYER: Okay. Law enforcement.

COMMISSIONER KLUCIK: Is there anybody here?

COMMISSIONER FRY: Yes, there is.

CHAIRMAN FRYER: We can cover -- was there a jail question as well? Because law enforcement covers jails, too.

COMMISSIONER KLUCIK: So my question is really simple. Have you -- you've seen your portion of the report? So I'm just looking at the map with all the substations. One real basic question. I'm a little confused only because I know you have a presence in Ave Maria that I thought was going to be expanding into Ave Maria once the new building that's being -- you know, under construction right now as a fire station, also has a component there for you. Is that going -- would that be considered one of these substations, and is that budgeted, or is that --

MR. LAMBLEY: No, it's not. And for the record, my name is John Lambley, Facilities Manager.

There's going to be offices located in that facility for us to use to be a satellite-type substation.

COMMISSIONER KLUCIK: Okay. My real question -- real reason for calling you is I just want to make sure -- and I'm sure I'm not the only one who's thought of this but, you know, I'm on the Planning Commission now, so it seems like, you know -- this is going to the Commissioners, I guess next, is that right, this would --

CHAIRMAN FRYER: Yes.

COMMISSIONER KLUCIK: -- would go to the County Commissioners?

MR. SCHMIDT: Yes.

COMMISSIONER KLUCIK: Because of the recent events, do you perceive any need that isn't being addressed -- you know, not you but, obviously, the Sheriff's Office -- that isn't being addressed for increased security needs because of the increased threat to law enforcement officers, and is there any -- anything that isn't on here that needs to be on here or that isn't being funded that's related to that?

MR. LAMBLEY: Well, as far as capital, there is additional substations because of the increase of population and calls for service, but there is also the need for security fencing at some of our substations that don't already have that in place.

COMMISSIONER KLUCIK: And is that -- is this plan as presented, is it being addressed, or is that still something that's unfunded?

MR. LAMBLEY: This right now is unfunded, and we're looking at sources to try to facilitate that.

COMMISSIONER KLUCIK: All right. Is there anything that you would then say to us in relation to the approval process for this plan that would need to be -- we ought to be changing or adding to our recommendation or --

MR. LAMBLEY: Well, as far as the substations, last year there were -- it was in the AUIR for District 1, which is North Naples substation, to be relocated and a new substation, as well as District 5, which is down at 951 and 41, and that's a leased space right now. So those two. And going back into the jail, there's also a need or an increase for our mental health and medical facility there, because right now it doesn't meet standards.

COMMISSIONER KLUCIK: Thank you.

CHAIRMAN FRYER: Was there another jails question?

COMMISSIONER SHEA: Yes. Yeah.

CHAIRMAN FRYER: Commissioner Shea.

COMMISSIONER SHEA: Yeah. I was wondering, on the data in your report, it showed that we were continuously under in terms of our cell -- our -- you know, we needed so many cells, and it was always less than the amount that -- you know, we always had less than the amount that we projected. There was a big continuous gap, and I'm just wondering if there's something that we are doing about it.

MR. LAMBLEY: Well, we are doing -- there is a study for the mental health and a medical facility because we don't meet ADA standards right now, and we need to increase the room that we have both for the male and female dorms there, and so that is a need that's -- and being

looked at right now.

COMMISSIONER SHEA: It sounds like a big part of the gap is the attributed to the mental health side of things.

MR. LAMBLEY: Yes.

COMMISSIONER SHEA: So a lot of closing that gap would be in pursuing alternate means of dealing with mental health issues?

MR. LAMBLEY: Correct.

CHAIRMAN FRYER: Okay. As Sheriff Rambosk frequently says, the largest mental health facility in Collier County is the Naples Jail.

MR. LAMBLEY: Yes.

CHAIRMAN FRYER: Any other questions --

COMMISSIONER SHEA: No, sir.

CHAIRMAN FRYER: -- for the Sheriff?

Thank you, sir.

MR. LAMBLEY: All right. Thank you.

CHAIRMAN FRYER: Do we have any other questions at all?

(No response.)

CHAIRMAN FRYER: I have a quick one, and it has to do, Mr. Schmidt, with the certificates of occupancy that are being issued and the changes in numbers. Who would we want to call in for that?

MR. SCHMIDT: I could try it.

CHAIRMAN FRYER: Okay. And this appears at Page 1538 of 1798 in our agenda packet, and it's the table that provides CO figures issued per year since 2010. And my -- the only question I have on this has to do with what seems to be a fairly significant increase in the number of single-family COs that have been applied for and issued and, surprisingly, a decrease in multifamily COs that have been issued. And so my question is, is there anything that we can or should infer from that statistic with respect to affordable housing supply and demand in this county?

MR. SCHMIDT: I saw those numbers as well and tried to draw something from them, and I would answer no, you can't.

CHAIRMAN FRYER: Okay. That's fair enough.

Are there any other questions?

(No response.)

CHAIRMAN FRYER: Okay. I have one quick announcement that I should have said under the Chairman's report but just, I believe, the Planning Commission has a right to know this, and it relates to the Rivergrass litigation. Yesterday I spent seven hours in a deposition testifying as a result of a subpoena that was issued to me by the Conservancy of Southwest Florida, and I was speaking only as an individual commissioner, but I thought that it would be important for me to inform the Planning Commission that that had happened.

And with that, is there any old business?

COMMISSIONER HOMIAK: Are we going to vote on this?

MR. SCHMIDT: You've got --

CHAIRMAN FRYER: You know, that's a darn good idea. Thank you.

MR. SCHMIDT: Your recommendation appears on your final page, and it's all five items.

CHAIRMAN FRYER: Yes. It's on Page 1540 of 1798. I'd entertain a motion, unless -- Mr. French?

COMMISSIONER HOMIAK: Did we have to do it separate, or should it -- oh, were you going to say something?

MR. FRENCH: One question, if you wouldn't mind. Mr. Chairman -- or let me try to

offer you some information.

CHAIRMAN FRYER: Please.

MR. FRENCH: For the record, Jamie French, Deputy Department Head for Growth Management.

Your question regarding the number of COs issued, that comes out of another one of my shops. And the reason why you don't see a multifamily breakdown is because we do follow through the Florida Building Code. We do look at those fee-simple properties.

So a single-family home or even a single-family guest home, they're going to have a separate -- they're going to have a separate CO; whereas, with a multifamily property, it may just be the shell. So you may not know the number of units that actually exist within that structure.

CHAIRMAN FRYER: Got it. I see.

MR. FRENCH: So you may have -- you see a differential. It's still for residential use, but the building in and of itself may have multiple units within it.

CHAIRMAN FRYER: Understood. That completely clarifies it for me.

MR. FRENCH: It's still residential, though.

MS. ASHTON-CICKO: Stated another way, for the benefit of the new members, is that under our Land Development Code, they may be classified as multifamily but under the building code they may be classified as single-family, correct?

MR. FRENCH: They would be for use, you're correct, but as far as the classification, it could actually -- it would track it by use; whereas, that multifamily dwelling is going to be under the commercial building code and not -- because you've got multiple families in there, if there's a fire, fire emergency management plan consideration that goes into those buildings as well.

CHAIRMAN FRYER: Okay. Well, I'm satisfied, then, that it would not be appropriate to make any -- draw any inferences about affordable housing, then, from these numbers, and I appreciate that.

All right. As we lead up to a vote on this, any other Planning Commissioner have a question or comment with respect to the 2020 AUIR and CIE?

(No response.)

CHAIRMAN FRYER: If not, I'd entertain a motion, please, to adopt the recommendation that appears on Page 1540, which I can read if anyone wants it read.

Commissioner Klucik.

COMMISSIONER KLUCIK: Mr. Chairman, I would just say that I personally don't feel like I understand what I'm voting on thoroughly enough to actually register a vote that is meaningful or is doing due diligence. And so -- I thought I would understand it, but I guess I'm -- so I'm not -- I guess, can I abstain or --

CHAIRMAN FRYER: Probably not, but the easiest solution is for you to just bid us farewell.

COMMISSIONER KLUCIK: Okay. Well, then, I am leaving the meeting.

CHAIRMAN FRYER: Okay. Am I correct, Heidi? Can he abstain?

COMMISSIONER KLUCIK: I'll either abstain or vote no. I don't really think that puts it in jeopardy, but I just wanted to explain.

CHAIRMAN FRYER: Understood. What's your advice, ma'am?

MS. ASHTON-CICKO: Well, generally, under the Florida Statutes, it does say you're supposed to vote unless you have a conflict. That's under, I think it's Chapter 286. So if you feel that you need to leave the meeting, that you can no longer --

COMMISSIONER KLUCIK: No. I'm just explaining. I'm going to vote no, and the reason I'm going to vote no is because I just don't feel that I understand what I would be standing behind by voting yes. And it really isn't a reflection on the fact that there's a problem with it.

CHAIRMAN FRYER: Okay. Would you -- this is a -- respectfully, from me to you,

would you consider simply leaving the meeting now rather than voting no, or would you prefer to vote somehow on it?

COMMISSIONER KLUCIK: No. I mean, it -- that it would just be a farce for me to leave now. I mean, I -- you know what I'm saying? It's like --

CHAIRMAN FRYER: All right.

COMMISSIONER KLUCIK: -- I already stated on the record, you know, what's going on, so...

CHAIRMAN FRYER: I understand exactly.

COMMISSIONER KLUCIK: I don't think it will reflect anything -- I hope it doesn't -- no one thinks it reflects poorly on the Planning Department or, you know, what we're -- our work.

CHAIRMAN FRYER: I'll ask Mr. Schmidt if staff has a problem with garnering a no vote on this for the reasons that Commissioner Klucik has stated.

MR. SCHMIDT: I don't think so.

CHAIRMAN FRYER: Okay.

MS. ASHTON-CICKO: When staff presents this to the Board, they will state that Mr. Klucik voted no and the reason why which, apparently -- which you're stating today that you feel that it's complex and you don't understand all the details.

CHAIRMAN FRYER: That's a good --

MS. ASHTON-CICKO: Is that an accurate statement?

COMMISSIONER KLUCIK: Absolutely. Absolutely.

CHAIRMAN FRYER: Fair enough.

Any further discussion? If not, I'd entertain a motion, please.

COMMISSIONER VERNON: Vernon moves approval.

CHAIRMAN FRYER: Is there a second?

COMMISSIONER SHEA: Second.

CHAIRMAN FRYER: Further discussion? And this is on the five recommendation points on Page 1540. Anyone believe they need these to be read before they vote?

MR. SCHMIDT: Excuse me, Mr. Chairman.

CHAIRMAN FRYER: Yes, sir.

MR. SCHMIDT: You'll have to vote on one separately from the remainder.

CHAIRMAN FRYER: Each one separately?

MR. SCHMIDT: No. So just one as separate from two.

CHAIRMAN FRYER: We vote on one, and then we vote on 2 through 5?

MR. SCHMIDT: Yes.

CHAIRMAN FRYER: Okay. All right. So let's -- will the mover and seconder accept an amendment to their motion and second that this vote is on Point No. 1?

COMMISSIONER VERNON: Yes.

COMMISSIONER SHEA: Yes.

CHAIRMAN FRYER: Thank you. Any further discussion?

(No response.)

CHAIRMAN FRYER: If not, all those in favor, please say aye.

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN FRYER: Opposed?

COMMISSIONER KLUCIK: Opposed.

CHAIRMAN FRYER: It passes with one negative vote for the reasons stated by

Commissioner Klucik.

Now, voting on Items 2 through 5, is there a motion of approval of that recommendation?

COMMISSIONER VERNON: Vernon moves.

CHAIRMAN FRYER: Is there a second?

COMMISSIONER SHEA: Second.

CHAIRMAN FRYER: Any further discussion?

(No response.)

CHAIRMAN FRYER: If not, all those in favor, please say aye.

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER KLUCIK: This is severability?

CHAIRMAN FRYER: No, this is Points 2 through 5.

COMMISSIONER KLUCIK: Is that severability and following? I guess -- what page is the actual --

CHAIRMAN FRYER: It's on -- it's on Page 1540 of the agenda packet. Number 1 was to recommend -- to accept and recommend approval of the attached document, 2020 AUIR, and then 2 is to accept and recommend approval to BCC of Category A, B, and C facilities, et cetera; 3 has to do with the no inconsistencies within the AUIR or CIE; 4, to consider alternative levels of service; and 5, to recommend adoption of the CIE, and I would assume --

COMMISSIONER KLUCIK: It's no on all of them.

CHAIRMAN FRYER: Okay, fine.

Any further discussion?

(No response.)

CHAIRMAN FRYER: If not, all those in favor, please say aye.

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN FRYER: Those opposed?

COMMISSIONER KLUCIK: No.

CHAIRMAN FRYER: For the reason that Commissioner Klucik has stated.

All right. Thank you for not letting me let us out of the room without taking action.

COMMISSIONER HOMIAK: What are we doing here?

CHAIRMAN FRYER: Yeah. Good point.

All right. Now we can say, is there any other old business?

(No response.)

CHAIRMAN FRYER: I don't believe there is.

Any new business?

(No response.)

CHAIRMAN FRYER: Any public comment on matters that people -- that are not on the agenda at this time?

(No response.)

CHAIRMAN FRYER: If not, without objection, we are adjourned.

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There being no further business for the good of the County, the meeting was adjourned by order of the  
Chair at 6:00 p.m.

COLLIER COUNTY PLANNING COMMISSION

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EDWIN FRYER, CHAIRMAN

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

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