

November 5, 2020

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida, November 5, 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. (absent for roll call)  
Christopher T. Vernon  
Tom Eastman, Collier County School Board Representative

ALSO PRESENT:

Jeffrey Klatzkow, County Attorney  
Heidi Ashton-Cicko, Managing Assistant County Attorney

P R O C E E D I N G S

CHAIRMAN FRYER: Good morning. And welcome to the November 5, 2020, meeting of the Collier County Planning Commission.

Will everyone 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?

(No response.)

COMMISSIONER FRY: Mr. Chairman, we have a quorum of six.

CHAIRMAN FRYER: Thank you, Mr. Secretary.

Before proceeding, I've been informed that Mr. Yovanovich has raised an objection to my continuing in this matter as a result of having handed out a compendium of what I believe is already in evidence, and so I'm going to turn the matter over to the County Attorney for his advice, please, sir.

MR. KLATZKOW: Yeah.

And Mr. Yovanovich came up to my office about 15 minutes ago. My understanding is that you have compiled a list of properties with information on it as far as actual height, feet, density, whatever. Mr. Yovanovich told me that he wanted to cross-examine you as a potential witness in this. Because of that, you cannot sit as a role in a quasi-judicial aspect and be a witness in the same proceeding, and so you'll need to, for this meeting, step down and, Ms. Homiak, you have the chair.

CHAIRMAN FRYER: Is that correct, Mr. Yovanovich? Is that your position, sir?

MR. YOVANOVICH: Mr. Fryer, you know I have the utmost respect for you as your role as a chair, but I do think it is not appropriate for any -- anybody on the Planning Commission to compile information, provide it to their colleagues as part of the hearing process, and now put me in a position where, one, I have to fact check it as part of the hearing process right before the hearing, and then I may have to ask you questions about the material.

So with all due respect, I do think that you need to step down as a judge in this case, and that's why I've raised the objection because I just don't think it's appropriate -- and I would do it to anybody who decided they wanted to provide information that they think is fact worthy to people on this board.

CHAIRMAN FRYER: Naturally, I'm going to take the advice of the County Attorney, but by your leave, I want to explain what this is and why I --

(Simultaneous crosstalk.)

MR. YOVANOVICH: I would like that information to be removed.

COMMISSIONER VERNON: I'm sorry to interrupt, Mr. Chairman, but could I ask a couple questions?

CHAIRMAN FRYER: Yes, sir.

COMMISSIONER VERNON: Mr. Klatzkow, could we -- I haven't even looked at it. Could we just not consider it, deem it inadmissible, ignore it, and we've solved the problem?

MR. KLATZKOW: I can't unring the bell. I mean, had Chairman Fryer come to me before the meeting and said, I'd like to hand this out, I would have said, no, that's a terrible idea.

Now that he's handed this out, I can't cure it at this point in time. I've got an objection by the petitioner on a matter that has -- controversial, all right, and in the interest of caution so that the applicant does not feel that the proceedings are somehow tainted, I've asked the chair to remove himself from this particular item.

COMMISSIONER VERNON: Second question. Is he able to vote?

MR. KLATZKOW: No.

COMMISSIONER VERNON: Is he able to participate in deliberations?

MR. KLATZKOW: No.

CHAIRMAN FRYER: And, naturally, I'm going to follow the advice of our esteemed County Attorney, but I would like leave just to explain why I did what I did, what this document is, and what it isn't, since I will be not taking any part in these proceedings.

I added no information to this document. In fact, it's annotated to show where it comes from. Most of it comes from the applicant itself through its consultant, Mr. Evans; some of it came from Mr. Stuart; and some of it came from the president of the Pelican Bay Foundation. So I added nothing to this. And I just wanted everyone to understand that I hadn't done that. But I accept complete responsibility for the error that I made, and it's a learning experience for me. And you may rest assured, County Attorney, that I won't let it happen again.

MR. KLATZKOW: No. And I'm not even critical of this, all right, because I understand the intention of this. I understand why you did this.

But at the foundation of all of this, you guys are volunteers. You put in a lot of time for the county. The last thing I'm going to allow is somehow you become enmeshed in litigation, where you become enmeshed in some sort of complaint that's filed. It's not worth it. I mean, you're volunteers.

And, you know, so both for the interest of this case and your own personal interest, I'm very cautious about these things and just think it's -- the most prudent thing for you to do is simply remove yourself from this proceeding.

CHAIRMAN FRYER: Thank you for your advice, which --

COMMISSIONER SHEA: Question.

CHAIRMAN FRYER: Oh, I'm sorry.

COMMISSIONER SHEA: Is this legal advice or legal direction?

MR. KLATZKOW: I can only counsel you.

COMMISSIONER SHEA: Okay.

MR. KLATZKOW: At the end of the day, I can only counsel the Board. My function as an attorney is to counsel. What people do -- I don't direct. I counsel.

CHAIRMAN FRYER: I will say this, though, before -- and if I may interrupt, Commissioner. And, County Attorney, please correct me if I'm wrong, but I believe with respect to the indemnification provisions that apply in this county, should a planning commissioner or any other official government fail to follow the County Attorney's advice, I think he's essentially on his own.

MR. KLATZKOW: That is correct.

CHAIRMAN FRYER: All right. And -- prudence and great respect for the County Attorney -- and I apologize to everyone for the error I made including, of course, to

Mr. Yovanovich, and so I will be removing myself from these proceedings, and my apologies also to Vice Chair Homiak who --

COMMISSIONER HOMIAK: Yeah, thanks.

MR. EASTMAN: Right.

MR. KLATZKOW: It's fortunate this is just a small matter.

COMMISSIONER HOMIAK: Yeah.

COMMISSIONER VERNON: I did have one other question. In light of your recusal, do you intend to cross-examine him?

MR. YOVANOVICH: No, but -- sorry. Let me get to the mic. No, I don't, but I would like everybody to hand in, if they have not looked at the information, hand that back and not have that be part of the record, if that's okay.

Any objections, Mr. Klatzkow?

MR. KLATZKOW: No, I'm going to make this part of the record only in case this issue pops up. Somebody's going to have to see what this was, so...

MR. YOVANOVICH: That's fine. The clerk can obviously have a copy. But I don't want anybody to have it front of them and then maybe they scan down and look at the information. That's the only question.

MR. KLATZKOW: Yeah, that's fine.

COMMISSIONER SCHMITT: Are these pictures part of it because these --

MR. YOVANOVICH: No. I don't know where those pictures came from.

COMMISSIONER SCHMITT: Those were email -- I got an email of these pictures the other day as well. I don't know where these came from.

MR. YOVANOVICH: I don't know either. I'm assuming it's part of -- hopefully, if you got an email from somebody, they also sent it to the county, because I don't think I've seen it.

COMMISSIONER SCHMITT: One of my 1,196 emails of -- on this petition. So the county is welcome. It's all in my record.

CHAIRMAN FRYER: I'm going to ask that we take a five-minute recess so that we can adjust our positions in the room and proceed from there.

COMMISSIONER HOMIAK: Isn't this all right?

CHAIRMAN FRYER: I'm sorry?

COMMISSIONER HOMIAK: You mean change our seats?

CHAIRMAN FRYER: No, not necessarily. Are you ready to go?

COMMISSIONER HOMIAK: Well, yeah. What am I going to do?

MR. YOVANOVICH: Give them two seconds.

COMMISSIONER HOMIAK: If he had done -- okay.

CHAIRMAN FRYER: Take five.

COMMISSIONER HOMIAK: Okay.

CHAIRMAN FRYER: We stand in recess for five minutes until 9:14.

Commissioner Fryer left the board room for the remainder of the meeting.)

(A brief recess was had from 9:08 a.m. to 9:16 a.m.)

CHAIRMAN HOMIAK: Let's start the meeting again. Could everybody please sit down. Okay. Addenda to the agenda -- what's that? Okay. Addenda to the agenda. We're all set now?

MR. FRANTZ: Yeah. Just a couple of continuances on our agenda today. I wanted to make sure that you-all are aware of those and we can announce those early.

So each of the items 9A3 through 9A7, if you want to take a vote to continue those to the November 19th meeting, I would appreciate that.

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

COMMISSIONER FRY: So moved.

MR. FRANTZ: This is 9A3 through 9A7, so several items.

COMMISSIONER FRY: Jeremy, am I correct, 9A5 through 7 were already continued in our packet, but 3 and 4 were to be heard today?

MR. FRANTZ: That's right, and I think we still want to announce those continuances today even for 5 through 7.

COMMISSIONER FRY: Thank you. So moved.

CHAIRMAN HOMIAK: Three through 7.

COMMISSIONER FRY: Yes. Move to continue Items 9A3 through 9A7.

CHAIRMAN HOMIAK: And a second was Paul.

COMMISSIONER SHEA: Second.

CHAIRMAN HOMIAK: All those in favor, signify --

COMMISSIONER SCHMITT: Well, I just have a question. Is that based on a premise that this upcoming petition's going to take all day? Is that why we --

MR. FRANTZ: That was the thought process.

COMMISSIONER SCHMITT: Is this a request from the applicant, or is this just staff making the proposal? That's what -- I'm curious as to why we wouldn't wait to see if at some time this afternoon we wouldn't have time to get to one of these. I'm puzzled by all this.

MR. FRANTZ: And I think that the communication that's gone out to the public and some of the agents has been that One Naples would likely take all day, and so I don't know that we have the applicants available for all those items. We can -- we could find out if anyone is available at the end of the day and continue them at the end of the day, if you'd prefer, for those that weren't already continued.

MR. KLATZKOW: No, no. No, no, because then you have the public. I mean, it's not fair to them. So I think the die is cast on this one based on the staff communications.

COMMISSIONER SCHMITT: Well, I guess my second question is, why were we not notified prior to today these were going to be continued? The others were clearly going to be continued, having spent time reviewing these petitions in preparing for today's, and then I'm now told that it's not today. I just find that unacceptable from staff. I should have been notified earlier.

MR. FRANTZ: Understood. And I think there was some communication to the chair; however, when the agenda went out, I think we were still trying to determine whether we'd be able to hear them or not, you know, continuing to work with the community. And the applicant on the One Naples projects felt that the items probably would not get finished today.

COMMISSIONER SCHMITT: Well, don't you think it's somewhat an obligation to let us know instead of coming in today and telling us?

MR. FRANTZ: We'll make sure to --

COMMISSIONER SCHMITT: You had planned this was going to take place. I would even like have to know this morning. I'm really annoyed by this.

MR. BELLOWS: For the record, Ray Bellows, Zoning Manager.

On the Sabal Bay one, the one I've been involved with, the applicant requested this yesterday. We brought this to the attention of the chair yesterday. So that's when the decision was made for all of them to be continued.

COMMISSIONER SCHMITT: How many hours are from yesterday to today, Ray?

MR. BELLOWS: Oh, I understand that, and I apologize. That should have been my responsibility to forward to you.

COMMISSIONER SCHMITT: Okay. Just count me as pretty much annoyed by it. You should let us know.

COMMISSIONER FRY: Just to lighten the mood a little bit, we had a 2,800-page packet so I'm, in a way, grateful to have been able to review a couple of them and not have as much to

review for next time. But your point is well taken, Joe. It would be nice for us to know. We should be informed.

MR. FRANTZ: I do also have your next few meetings on the screen if you have any questions about those schedules, just noting that we've got quite a few continued petitions for the 19th as well as one new petition on the schedule, and a set of LDC Amendments at 5:05 p.m.

COMMISSIONER FRY: So we are meeting through the day and then reconvening at 5:05 that same day?

MR. FRANTZ: That's the intention.

CHAIRMAN HOMIAK: Will everyone be here on the 19th?

COMMISSIONER SHEA: Yes.

COMMISSIONER FRY: Yes.

COMMISSIONER SCHMITT: Yes.

COMMISSIONER VERNON: I'll have to check my schedule. I assume I will.

COMMISSIONER FRY: That's the regularly scheduled meeting, correct?

COMMISSIONER SHEA: It's already on the calendar.

MR. FRANTZ: That's right.

CHAIRMAN HOMIAK: Well, I just want to know if anybody's going to be here.

COMMISSIONER FRY: I wouldn't miss it.

CHAIRMAN HOMIAK: Okay. Approval of the minutes. September 25th, 2020, meeting minutes, is there a motion or --

COMMISSIONER FRY: Move to approve.

COMMISSIONER SCHMITT: Second.

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

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN HOMIAK: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN HOMIAK: Opposed, like sign?

(No response.)

CHAIRMAN HOMIAK: And October 1st meeting minutes.

COMMISSIONER SCHMITT: I move to approve.

COMMISSIONER FRY: Second.

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

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN HOMIAK: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN HOMIAK: Opposed, like sign?

(No response.)

CHAIRMAN HOMIAK: And October 8th.

COMMISSIONER FRY: Move to approve.

COMMISSIONER SCHMITT: Second.

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

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN HOMIAK: Aye.

COMMISSIONER VERNON: (No verbal response.)

COMMISSIONER SCHMITT: Aye.

CHAIRMAN HOMIAK: Opposed, like sign?

(No response.)

CHAIRMAN HOMIAK: And October 15th meeting minutes.

COMMISSIONER SCHMITT: I move to approve.

COMMISSIONER FRY: Second.

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

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN HOMIAK: Aye.

COMMISSIONER VERNON: (No verbal response.)

COMMISSIONER SCHMITT: Aye.

CHAIRMAN HOMIAK: Opposed, like sign?

(No response.)

CHAIRMAN HOMIAK: Okay. BCC report and recaps, is there anything, Ray?

MR. BELLOWS: No. For the record, Ray Bellows. No, we don't have a recap for today.

CHAIRMAN HOMIAK: Okay, thank you.

And there's no chairman's report, no consent agenda, so we'll move into the public hearings.

COMMISSIONER SCHMITT: Just a question: Where are we? Today is pretty much the rebuttal or -- okay. We have staff coming up first, then.

MR. SABO: For the record, James Sabo, Principal Planner.

Today there are a continuation of the public speakers and the representatives from public groups. Seven minutes each Sarah Spector, Ralf Brookes, Bill Schumann, John Bamberger, Betty Pircio, George Marks, and then Buzz Victor. Tony Pires is 15 minutes, and Mr. English from Pelican Bay is 10 minutes, and I have this list here if we need the order.

CHAIRMAN HOMIAK: Okay.

MR. YOVANOVICH: I think we left off -- for the record, Mr. Yovanovich. Mr. Oliver had just completed his direct testimony, and we ended. And I believe at that point Mr. Schmitt asked me to reach out to Mr. Oliver about the traffic circle issue, and I hadn't yet had my opportunity to do a cross. So I think that's where we left off, Madam Chairman.

COMMISSIONER SCHMITT: Yeah. And just for the record --

CHAIRMAN HOMIAK: First, I'm going to have people -- anybody that wants to speak on this item, please rise and be sworn in by the court reporter.

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

CHAIRMAN HOMIAK: Okay. And then I'm going to have disclosures, if there's anything else, Tom.

MR. EASTMAN: No disclosures other than the materials in the public record.

CHAIRMAN HOMIAK: Paul?

COMMISSIONER SHEA: Staff materials and residents.

COMMISSIONER FRY: Staff materials, emails, documents and attachments all through public record.

CHAIRMAN HOMIAK: Okay. And I just had more emails.

(Mr. Klucik is now present in the boardroom.)

COMMISSIONER SCHMITT: In addition to emails, I did speak to Mr. Yovanovich; two things I requested that he address in his rebuttal because I wanted to make clear, one is a list of all the surrounding properties and densities, again, to include height and densities.

I did not compile the information, but I asked that he make that clear as part of his rebuttal.

Certainly, anybody else can raise that as well, but the second thing I asked him to do is to resolve this issue between his transportation consultant and the presentation we had regarding the traffic circle, because though there was some evidence submitted regarding the traffic circle, it was never made clear as to whether this property could be acquired for the traffic circle, whether the Ritz-Carlton would even agree to give up property, and who would do the -- and who would construct the traffic circle. So I asked that the two consultants resolve that issue, and those were the discussions I had with Mr. Yovanovich.

CHAIRMAN HOMIAK: Mr. Vernon?

COMMISSIONER VERNON: Staff materials, emails, and a brief conversation with Mr. Yovanovich. We were actually talking about some other matter, and he brought up an issue regarding setbacks; brief conversation.

CHAIRMAN HOMIAK: Mr. Klucik, do you have any disclosures on One Naples?

COMMISSIONER KLUCIK: Yeah. I guess I'm here now. I apologize. I got caught in traffic. I do not have any disclosures.

CHAIRMAN HOMIAK: Okay. I'm just going to read off these numbers, because we're now continuing with the One Naples PL20190000696, the GMPA, and PL20190000697. It's a PUD.

COMMISSIONER KLUCIK: Madam Chair, just in an abundance of caution, I will say I received many emails, but they're coming to my personal email account, so I'm not reading those. So I actually will have my account as of today, so I will start reading the emails I get. But just -- I did receive a bunch of emails from people.

CHAIRMAN HOMIAK: Emails like everybody else, okay, thank you.

COMMISSIONER KLUCIK: Yep.

CHAIRMAN HOMIAK: Okay. So you're going to continue with your --

MR. YOVANOVICH: He was done with his presentation. I think it was my turn to ask him questions.

CHAIRMAN HOMIAK: Oh, okay.

MR. OLIVER: Or should the planning board -- I guess typically the planning board goes first with questions, I would think, before you --

MR. YOVANOVICH: I thought they had done that, but if I'm wrong, I'll --

MR. OLIVER: You are wrong. I got to Slide 14 or 15; was cut off.

CHAIRMAN HOMIAK: Okay. Are there any questions before Rich starts? Go ahead, Rich.

MR. YOVANOVICH: So, Mr. Oliver, are you comfortable switching podiums with me now?

MR. OLIVER: I think so, sure.

MR. YOVANOVICH: I just have a couple of questions of you, Mr. Oliver.

But before, in response to Mr. Schmitt, we did reach out to Mr. Oliver to discuss the possibility of the roundabout that he showed you in his presentation. Jim Banks reached out to him and, ironically, we had studied the same roundabout in our analysis and Mr. Banks, in his rebuttal, will get into the details as to why that roundabout doesn't work. And we talked to staff about why the roundabout doesn't work. So we'll present that in the rebuttal testimony.

So hopefully I turned the visualizer on correctly. And my first question to you, Mr. Oliver, is, are you familiar with the Collier County Growth Management Plan Provision 5.1 with regard to analyzing traffic impacts for Growth Management Plan amendments?

MR. OLIVER: I'm not sure exactly what section you've highlighted, but I've read through it, so I would probably recognize that if you read it to me.

MR. YOVANOVICH: Can you see the screen over there, Mr. Oliver?

MR. OLIVER: Yep.



MR. YOYANOVICH: Are you familiar with that provision?

MR. OLIVER: Somewhat, yes.

MR. YOYANOVICH: Have you -- do you have any evidence or professional opinions that the traffic analysis that we did for the Future Land Use Element and the proposed PUD are not consistent with Policy 5.1?

MR. OLIVER: I'm glad you brought that question up. The county has adopted a traffic impact study procedure which the engineers are required to follow. And it's like Paul Harvey, "Here's the rest of the story."

I asked county staff to send me those guidelines. The guidelines, if you look in the properties of the document, is named Traffic Impact Studies 041504 indicating the document was probably originally created on April 15th, 2004. The last time, according to that record, it was printed was in 2006.

You may remember some conversation in earlier testimony about how growth management legislation was introduced into the Florida Statutes in 1983 or '84. And in that process, the concurrency process was established. It required that infrastructure be provided, that the infrastructure meet standards, and all the counties, everybody -- and required that applicants or developers contribute financially to those improvements. So all counties kind of caught onto the idea, created these traffic impact study procedures.

But in 2010, the complexion changed. The Florida legislature -- there's history here.

MR. YOYANOVICH: My question was, does he have any evidence that this policy was not complied with? I didn't ask him to give you a testimony about legislative history for the Florida Statutes.

The question is: Do you have any evidence that the policy that's sitting in front of you has not been complied with?

MR. OLIVER: And my answer is: I don't think so, but there's more to the story. I think in a sense --

MR. YOYANOVICH: He answered the question.

MR. OLIVER: I think Mr. Yovanovich is trying to tell you the limit --

MR. YOYANOVICH: Mr. Oliver --

MR. OLIVER: -- what you can do.

MR. YOYANOVICH: Mr. Oliver, it's my turn to ask questions.

(Simultaneous crosstalk.)

MR. YOYANOVICH: And you have an attorney who represents your side, and if your attorney wants to address it in his or her comments, that is fine.

Have you, yourself, prepared a Traffic Impact Statement for the PUD amendment that is before this county commission -- I mean the Planning Commission?

MR. OLIVER: No, I have not.

MR. YOYANOVICH: So you have no evidence at all that Mr. Banks and the county's own transportation consultant's conclusions are incorrect?

MR. OLIVER: I have followed back through the analysis and the data that the applicant has provided, collected and provided.

So from that perspective, I have formulated a reanalysis and indicated the safety issues that I previously indicated at the site access point. I think there's opportunities for better solutions than have been provided. And there are infrastructure deficiencies coming out of that analysis which remain unaddressed.

MR. YOYANOVICH: So is that your way of saying, no, you have no evidence that the county's own transportation consultant is incorrect?

MR. OLIVER: I don't think there's a right and wrong answer, correct or incorrect. I think this is a matter of public policy, a planning environment where you create a vision for the

community and seek to implement that vision. I'm not sure that one solution is better than another. I think some solutions are better than others. In the case -- I think we're getting sidetracked, perhaps, onto the roundabout issue when the fundamental issue is a deficiency in public parking.

MR. YOYANOVICH: Mr. Oliver, I appreciate that you want to supplement the record and answer questions I didn't actually ask of you, but I really am going to request, if we're going to get this thing to move forward, that you actually answer the questions I ask. You have your own attorney who, if they want to in their comments address that, they're perfectly capable of doing that.

Did you do a traffic impact analysis for the potential C-3 zoning development for the property?

MR. OLIVER: I didn't do a complete traffic impact analysis. I did review the applicant's submission about the comparison between a shopping center, Land Use Code 820, and what could happen there.

MR. YOYANOVICH: Again, so your answer is no, you didn't do an analysis?

MR. OLIVER: Well, I did do an analysis. I reviewed the information and supplemented that with my own experience. So, yeah, in a way I kind of did do an analysis.

MR. YOYANOVICH: You criticized the county and our consultants for not looking out beyond the years called for in the Growth Management Plan, correct?

MR. OLIVER: Yes, I did.

MR. YOYANOVICH: Okay. And you -- even though that's not required of the county's Comprehensive Plan, you believe that analysis should have been done?

MR. OLIVER: And that goes back to part of the answer and the history I was laying out. Yes, I believe the Planning Commission has the ability to look beyond this limited traffic concurrency study that was done.

MR. YOYANOVICH: And it is your position that you, as a traffic consultant, would have done that analysis?

MR. OLIVER: Oh, had I been involved in you -- you mean as if I were the applicant's transportation engineer?

MR. YOYANOVICH: If you were Jim Banks, would you have done --

MR. OLIVER: I have done so in the past in other communities that looked beyond a five-year horizon, yes.

MR. YOYANOVICH: And you will agree with me that in other communities you have elected not to do that type of an analysis, correct?

MR. OLIVER: I would concede that, yes.

MR. YOYANOVICH: Okay. So is this a typical --

MR. OLIVER: If staff didn't require it, I wouldn't have done it.

MR. YOYANOVICH: Okay. So, basically, do as I say not as I do, correct?

MR. OLIVER: No. I think -- I think the planning -- when you're considering a land-use plan amendment, you have the ability to look beyond a five-year horizon or a two-year horizon.

MR. YOYANOVICH: So you don't think as a professional you have an obligation to tell the county that they're not asking you enough questions?

MR. OLIVER: I think I would -- I tend to do that; however, if the regulations say this is what you do, sure. Working for the applicant, I'm not going to spend more of his money than I need to spend.

MR. YOYANOVICH: That's all I have. Thank you.

CHAIRMAN HOMIAK: Okay.

COMMISSIONER FRY: Were we -- looking for interpretation from you, Jeff. Were we able to interject questions at all during that process, or are we silent observers to that?

MR. KLATZKOW: Ask away.

COMMISSIONER FRY: I wanted to ask Mr. Oliver a question, because just refreshing

our memory from the last meeting, could you please elucidate your concerns in the access point that -- you alluded to it -- you alluded to it in your statement there, but I'd just like you to refresh our memories on what your specific concerns were.

MR. OLIVER: Sure. The intersection right now at the entrance to the parking garage is a very complicated operation. It has to do with the volume of bicycle and pedestrian traffic. And I was coming over here so I could use the PowerPoint if necessary or maybe just verbally.

It's an unusual intersection because of the volume of pedestrian traffic, vehicular traffic, bicycle traffic, and the operation of that parking garage entrance 50 feet away from the edge of Vanderbilt Beach Road. When you introduce this new leg into the intersection, the complexity for the cars exiting the One Naples site gets exponentially more complicated.

The -- not only did that driver have to contend with the bicycles and pedestrians on his side of the street and the traffic on his side of the street, he has to assess the parking garage entrance, the traffic on Vanderbilt Beach Road coming from the beach side towards U.S. 41, and even though he -- his right-of-way is subordinate to the car turning left to enter the parking garage, if that car is frozen because of things that are happening in the parking garage, he's got to decide, can I -- is it safe for me to make this left turn out of the driveway, or is the car that's waiting to make his left turn going to make a move. That driver of the guy making the left turn to enter the parking garage, he's looking to the left. There's a car over here to the right that might be coming ahead of me. I don't know. It's complicated. Very unusual, which makes it unsafe.

COMMISSIONER FRY: Thank you.

COMMISSIONER VERNON: Can I just follow up, Madam Chair?

CHAIRMAN HOMIAK: Yes.

COMMISSIONER VERNON: In your fix, is a roundabout -- your recommendation, if we wanted to --

MR. OLIVER: Not for that solution. Not for that intersection. My solution there is just don't put a driveway connection there. Get access off of the back side of the property.

COMMISSIONER VERNON: Explain that.

MR. OLIVER: Well, okay -- first of all, okay, the concept of not putting a driveway connection at that point is easy enough, right? That doesn't --

COMMISSIONER VERNON: You said put it on the back side. What do you mean?

MR. OLIVER: Well, yeah. They have an access circulation -- well, let me --

COMMISSIONER FRY: South Bay. South Bay Drive.

MR. OLIVER: And they have internal circulation which connects both to the north and to the east to South Bay.

COMMISSIONER SCHMITT: We'll have to turn the projector on -- take the overhead off and turn on the computer so that we can see it on our screen.

MR. OLIVER: Technologic podium computer, perhaps? And there was a nifty little pointing device.

Okay. So right now, okay, it's proposed to have a driveway right there where the arrow is, and that's opposite the entrance to the parking garage.

COMMISSIONER VERNON: And that's what you were just discussing with Commissioner Fry?

MR. OLIVER: Correct. That's the location that I think poses safety issues. However, part of their Site Development Plan is the construction of a driveway across eastward over to South Bay. So my thought is -- and the concept -- remember the fundamental objective is let's separate vehicular traffic from the vulnerable pedestrians and bicyclists over by the beach entrance.

So the idea is -- okay, so the idea is to make South Bay the more -- the route for through traffic and have the yellow part there of Gulf Shore Drive and Vanderbilt Beach Road become the bicycle and pedestrian area. Just physically separate the vehicular traffic as best we can from the

pedestrian and bicycle traffic.

So consistent with that theme, you might bring in access at this location or at this location to serve the development, because they had planned this internal circulator roadway anyway.

COMMISSIONER VERNON: Okay. So you're just moving -- you're cutting off the entrance and then moving that entrance/exit further east?

MR. OLIVER: To the east, correct.

COMMISSIONER VERNON: And that's where you're proposing a roundabout.

MR. OLIVER: Yeah.

COMMISSIONER VERNON: Okay.

COMMISSIONER KLUCIK: Madam Chair.

MR. OLIVER: And the roundabout, in my mind, is secondary to the fundamental issue.

COMMISSIONER VERNON: Of location?

MR. OLIVER: Well -- or even if you -- a few slides back I had listed five key issues.

Number 2 is the inadequate quantity of public parking, and I think what you're going to hear in testimony from the applicant's traffic engineer is that the real problem occurs when the parking garage fills up and traffic backs up eastward on Vanderbilt Beach Road. Yes, that's going to happen whether you have a roundabout. It's going to happen whether you have a two-way stop. It's going to happen whether you have a four-way stop.

The fundamental problem is there's not enough parking to serve the people who want to go to the beach, and that problem, that inadequacy of the county's infrastructure, is creating problems that literally spill over into the county's public roads.

So in my mind what doesn't make sense is how does it make sense to allow an increase in intensity on the property when the existing infrastructure is inadequate. And I don't see county plans, I don't see the applicant's plans to resolve that fundamental inadequacy.

CHAIRMAN HOMIAK: Mr. Klucik.

COMMISSIONER KLUCIK: Yes. Could you go back to show me the map that you had up.

MR. OLIVER: This one?

COMMISSIONER KLUCIK: Well, that one. What are those -- what are the blue buildings?

MR. OLIVER: The blue buildings that's -- is that Pelican Bay?

COMMISSIONER KLUCIK: So that's existing.

MR. OLIVER: Correct.

COMMISSIONER KLUCIK: Okay. And then what are the buildings on the north side?

MR. OLIVER: Building 3 and Building 4?

COMMISSIONER KLUCIK: Yes.

MR. OLIVER: I think those are part of the applicant's development.

COMMISSIONER KLUCIK: New project?

MR. OLIVER: Yes, sir.

COMMISSIONER KLUCIK: So it seems like what you're suggesting is to route a lot of traffic in front of a residential area, and that doesn't seem like that's what -- I would be surprised that that's what the people that you are advocating for would -- those people that are in the blue buildings, I don't think they would want a huge increase in traffic that way. But that's -- that seems like an issue with me to --

MR. OLIVER: So it's an issue in my mind that isn't being adequately vetted. In the long run, what the tradeoff is, is do we create a safer environment for the 3-, 4,000 people a day that use the beach and cross Gulf Shore Drive and Vanderbilt Beach Drive because we can. It's a public right-of-way. The Barefoot Pelican, actually those units front on the water side of their buildings, not necessarily the street side. And the volume of traffic that it would put onto South Bay, in my

mind, is consistent with a residential collector road when, in fact, it's a major collector road -- or designated as a collector road -- well, Vanderbilt Beach Drive is designated as a collector road.

COMMISSIONER KLUCIK: Well, it just seems to me that you're going to have a bunch of people using that as a shortcut so they don't have to use the main signal.

MR. OLIVER: And that's the objective.

COMMISSIONER KLUCIK: That's the objective, okay.

MR. OLIVER: Yes, because we want to move the through traffic, the vehicular traffic, away from all of the pedestrians that are crossing and using Gulf Shore Drive at Vanderbilt Beach Road.

COMMISSIONER KLUCIK: And redirect it into a residential area?

MR. OLIVER: That's why it's important to make those plans now to start setting up and making the improvements consistent with such a strategy.

CHAIRMAN HOMIAK: I don't know why you'd want to dump a bunch of traffic like that in a residential area. I'm sure those people that are living now aren't even aware that you -- what would happen to them if you did that or what you're suggesting anyway. There's always issues with traffic in a residential neighborhood here, and it's always an issue, and it's an issue here on this board. So -- go ahead, Joe.

COMMISSIONER SCHMITT: Yeah, Mr. Oliver, I respect your opinion but totally disagree. I don't think it would make any sense to move traffic through that area, especially, if these buildings are built, the residents of those two northern units will most likely be crossing the street to visit the amenities in the main building. Again, if the -- if it is built. And I would believe that this area's best as a walking area rather than moving traffic through there. I totally disagree with your approval to move traffic through that area. And I'm not looking for a response. I'm stating it on the record. No need to respond. I am looking forward to the -- Mr. Banks responding because I'd like to hear his opinion.

MR. YOVANOVICH: May I ask a question? I don't want to cut anybody off. Have you all asked?

(No response.)

MR. YOVANOVICH: If we were to do a commercial project there, are you advocating that we run all the commercial traffic that comes to that center through South Bay?

MR. OLIVER: I think there's -- here's the point. The objective -- I have seen situations, for example, on County Road 30A up in the Panhandle where, when you mix pedestrians and vehicular traffic, it can really become a serious mess. I think whether it's a C-3 development or it's the proposed One Naples development, an alternative solution with where you can make use of public right-of-way to improve public safety, yeah, I think it needs to be more thoroughly represented.

MR. YOVANOVICH: Who do you represent? Who hired you?

MR. OLIVER: The Vanderbilt Beach -- Save Vanderbilt Beach group.

MR. YOVANOVICH: Save Vanderbilt Beach is your client?

MR. OLIVER: Correct.

MR. YOVANOVICH: Do you know if Save Vanderbilt Beach actually talked to anybody at Barefoot Pelican about your proposed recommendation?

MR. OLIVER: They are aware of what I've recommended. I don't know if they have talked to people. I believe Barefoot Pelican has representation on this group.

MR. YOVANOVICH: Okay. Well, I'm looking forward to hearing from them saying they advocate all that traffic going in front of their condominiums.

MR. OLIVER: Again, we're getting sidetracked. The fundamental issue is, inadequate public parking creating congestion on Vanderbilt Beach Road. When the infrastructure's inadequate, why -- how can you justify increasing the intensity on the property?

CHAIRMAN HOMIAK: Okay. Karl? Mr. Fry, do you have a question?

COMMISSIONER FRY: I think what -- one takeaway from this, I believe what you're describing is something that would take definitely, I think Rich's point also, a lot more vetting than we're able to do here on the fly in a Planning Commission meeting.

But the one point that I think that -- I believe you raised what I think is a valid concern, is the complexity of that intersection under the current design opposite the parking garage where people are trying to leave One Naples going left primarily in front of potentially a row of cars waiting to get into the parking garage. And so I do think that point is worthy of investigating, and so I just bring that up.

MR. YOVANOVICH: I will. And, Mr. Fry, that will part of our rebuttal. And I encourage you to also talk to your staff, because I'm sure you're aware, before we get in front of you, we have many, many, many conversations with Transportation staff as to what are the proper access points for projects and how all of the traffic impact should be addressed.

COMMISSIONER FRY: Okay. Thank you.

CHAIRMAN HOMIAK: Okay.

COMMISSIONER KLUCIK: Can I ask a specific question about the applicant that's related to this now?

CHAIRMAN HOMIAK: Sure.

COMMISSIONER KLUCIK: Okay. Right now do you know how many parking spots are on that corner of the site, the public, like, use spots at the -- as it is right now?

MR. YOVANOVICH: In the street right-of-way?

COMMISSIONER KLUCIK: No. Like, for people to use, those businesses or -- well, what's that -- the restaurant that's there, and the --

MR. YOVANOVICH: DaRuMa.

COMMISSIONER KLUCIK: -- realtor?

MR. YOVANOVICH: DaRuMa is the restaurant there, and then --

COMMISSIONER KLUCIK: Well, roughly, how many spots are there for people to park?

MR. YOVANOVICH: Let me see if somebody on my team knows that.

COMMISSIONER KLUCIK: Then how many would be available in the new one that aren't for residents but are for other people using the --

MR. YOVANOVICH: Our project will not impact DaRuMa's parking. It has no impact on the existing restaurant.

COMMISSIONER KLUCIK: I guess my thought is that there's actually going to be more parking that would be available to people that aren't living there.

MR. YOVANOVICH: That aren't living here?

COMMISSIONER KLUCIK: That aren't going to be living in the project, that are going to be visiting the project. There's actually parking set aside for them?

MR. YOVANOVICH: No, we have -- we have -- all the existing on-street parking on Vanderbilt Beach Road will remain. It will be reconfigured, but we'll have the same number of spots. DaRuMa, the restaurant, it will have all of its existing parking. We will be totally self-parked, obviously, as we talked about this, in our own buildings. We will provide parking for our proposed retail and for our realtor's office. That will be public parking to satisfy those.

COMMISSIONER KLUCIK: Yeah. How many spots will that be?

MR. YOVANOVICH: I don't know the number off the top of my head, but we'll put that in our -- we'll make sure we cover that in our presentation for rebuttal, Mr. Klucik, if that's okay.

COMMISSIONER KLUCIK: Thank you.

CHAIRMAN HOMIAK: Okay. The -- who is the next speaker?

MR. YOVANOVICH: I do know the answer, if that's okay. May I come back up? It's a

total of 24 parking spaces for those two uses, the retail -- the uses that are open to the general public within our project.

COMMISSIONER KLUCIK: Thank you.

MR. FRANTZ: Your next speaker is Sarah Spector, and she has seven minutes.

MS. SPECTOR: Good morning.

CHAIRMAN HOMIAK: Hi.

MS. SPECTOR: Sarah Spector with Roetzel & Andress on behalf of the Regatta at Vanderbilt Beach Commons Association which represents 410 Collier County property owners.

The Regatta has also engaged Greg Stuart, who has previously submitted a planning analysis that's included in your packets, and William Oliver, who has also previously submitted a transportation analysis that is included in your packets. Both have now testified before you as experts in their field.

From a legal perspective, the first step in analyzing the request before you is to determine whether the Growth Management Plan amendment is appropriate. Here it is not.

Section 163.177 of the Florida Statutes outlines the basis for Comprehensive Plan amendments. It specifically provides that they must, in part, be based on relevant and appropriate data and analysis and surveys, studies, and data regarding the area.

As set forth on Pages 4 through 6 of the pre-application meeting notes, the applicant was advised of the importance of providing this information before the application was submitted. Specific emphasis was placed on data and analysis, particularly a market study to demonstrate the change is warranted and the additional inventory is needed. The applicant did not provide this.

When advised, after three rounds of staff comments, that the application still failed to include the proper data and analysis to justify and support the amendment, the applicant simply responded on Page 1 of its May 29th, 2020, response by providing an updated document titled "Justification and Supplemental Information."

In the section relative to the statutory requirements on Page 7 of the document, the applicant summarily states that we have provided sufficient data and analysis without providing anything further.

In its initial sufficiency letter dated June 19th, 2020, staff again reminded the applicant that the application materials failed to address the statutory requirements and, more importantly, failed to provide the data and analysis necessary to justify the request for additional density, which staff classified as a simple ask.

Then on Page 6 of the Comprehensive Planning staff report, staff notes that the only data and analysis provided was surrounding heights and densities which falls woefully short of what staff asked for and the statute requires.

Staff also notes on Page 7 that a typical residential needs analysis was not provided, assuming the justification document was submitted instead, though it actually provides no justification at all.

In the absence of proper data and analysis, the Planning Commission does not have the information needed to approve the GMPA. Accordingly, the GMPA request should be denied. Without the GMPA, even the applicant acknowledges that the rezoning request is not appropriate because the requested density is not permissible with the current Future Land Use designation. Accordingly, the Planning Commission's consideration of the One Naples request should stop there.

For argument's sake, even had the proper data and analysis been provided to support the GMPA, the rezoning request cannot be approved because the applicant has not met its burden as established by the Florida Supreme Court case in 1993 of *Snyder*. It is the applicant who has the initial burden to prove that the proposal is consistent with the Growth Management Plan and complies with all procedural requirements of the Land Development Code. Only then does the

burden shift to the county to demonstrate that maintaining the existing designation accomplishes a legitimate public purpose.

The applicant uses a "C-3 is worse than One Naples" approach presumably to ensure that staff cannot argue that maintaining the existing zoning classification accomplishes a legitimate public purpose.

However, the burden does not shift to the county with this request because the applicant has fundamentally failed to provide substantial competent evidence to support the conclusion that the zoning request is consistent with the GMP or the LDC.

Section 4.07.02 of the Land Development Code requires compatibility with established or planned uses of surrounding neighborhoods and property.

Policy 5.6 of the Growth Management Plan goes a step further and requires that new developments be both compatible with and complementary to surrounding land uses.

The applicant ignores the "complementary to" prong altogether and fails to provide any competent substantial evidence to support the conclusion that the project is compatible with established or planned uses of surrounding neighborhoods.

Instead, the applicant simply states that the proposed change will have a significantly positive influence in the neighborhood, will have the effect of raising property values, and will spur further redevelopment in this area without providing any supporting data, much like it did with the GMPA application.

Further to Policy 5.6, the zoning staff report specifically states that the PUD ordinance does not limit the number of buildings and units for each tract. There can be no meaningful analysis of the compatible and complementary nature of the project if it is not clear where the buildings will be situated or how many units will be in each.

While it does not address the "complementary to" requirement, staff both in the staff report and the presentation provided by the Zoning Division reaches the opposite conclusion as it relates to compatibility. The staff report finds almost all aspects of the project are not directly compatible with the surrounding properties.

James Sabo, in his presentation, went a step further and concluded that the proposed building heights and setbacks are simply not compatible, eliminating any question with regard to the staff's position.

Staff, in both its report and presentation, goes on to provide alternatives to the Planning Commission that they may wish to consider so the project can be found to be compatible. These alternatives would, for the most part, bring the development standards in line with the current C-3 zoning.

With its conclusion on incompatibility and offer of development standards similar to those applicable to the C-3 zoned property, staff has met its burden of demonstrating that maintaining the status quo accomplishes a legitimate public purpose.

In conclusion, the applicant has failed to provide necessary data and analysis to support the GMPA and, as such, it must be denied. Even had sufficient data and analysis been provided, no competent substantial evidence has been provided relative to whether the proposal is compatible with and complementary to surrounding properties.

Accordingly, the Regatta respectfully requests that you forward a recommendation of denial to the Board of County Commissioners.

And I do -- I did reference several documents in my presentation with page numbers. I have those here highlighted because I know Mr. Yovanovich has previously asked where these statements were found, so I brought those, should you want to review them.

COMMISSIONER SCHMITT: I'm pushing the button. Are you looking at the --

CHAIRMAN HOMIAK: Not really, because those have been on from before. I don't know how to work this thing.



COMMISSIONER FRY: Go ahead, Joe.

CHAIRMAN HOMIAK: Go ahead.

COMMISSIONER SCHMITT: Ms. Spector -- and I'm looking for an opinion now based -- what, in your opinion, do you think is compatible? Because this is residential in residential, and it's a multistory building in relation to multistory buildings. And I -- we can go through the details, but I'm not -- I'm not following your logic in regards to compatibility. Of course, you're stating what the staff has stated as well, yet, as I pointed out in previous meetings, the staff did not consider the Ritz, which the Ritz is, to me, right across the street, fundamentally, as well as the Regatta, which, when I stand on that property, there's -- certainly a very prominent structure in that area is the Regatta.

So I guess my question is, if this is not compatible, what would be compatible?

MS. SPECTOR: Well, to your question, that's not a legal question, and I do not have the background to provide that analysis. But, as I mentioned, Greg Stuart was our planning expert, and it's his -- he's already given the presentation regarding compatibility.

With regard to Pelican Bay, I believe all of you have received a letter from the Pelican Bay Foundation that even they don't believe that the Pelican Bay PUD property is compatible and should be considered with regard to this project.

And with regard to the Regatta, they have much more significant setbacks than are proposed here.

COMMISSIONER SCHMITT: Let me ask this, then: What are your clients looking for in that area? Because the area is going to be developed.

MS. SPECTOR: Sure. And we're not opposed to development. We're just opposed to this development, and we've given -- Mr. Stuart --

COMMISSIONER SCHMITT: Are you looking for the county maybe to buy it to put a water park in? That would be great place for a water park.

MS. SPECTOR: I don't believe that's my clients want. What we --

COMMISSIONER SCHMITT: What do they want?

MS. SPECTOR: Mr. Stuart did present those -- it was on Exhibit 9 of his presentation -- the alternative that we had suggested that staff has reviewed and is in your packets, and that's the alternative that we would propose be considered by the Planning Commission.

COMMISSIONER SCHMITT: But they do understand the restrictions that, because of the new criteria involved in height in the 21 feet they would have to -- the first habitual floor, something that is going to be built there is going to have some relative height to it. It's not going to be -- it's not going to be built at ground level like they see units there now or, I mean, structures there now. It's not --

MS. SPECTOR: I understand that it needs to be built up, but it does not need to be built up to 208 feet.

COMMISSIONER SCHMITT: Okay. Got it.

CHAIRMAN HOMIAK: Karl?

COMMISSIONER FRY: I think Joe pretty much covered my question, so thank you.

CHAIRMAN HOMIAK: Okay. Mr. Klucik.

COMMISSIONER KLUCIK: Thank you. All right. So you said that it doesn't meet the requirements, the legal requirements. What specific requirement is lacking, and what do you think would satisfy it?

MS. SPECTOR: The Growth Management Plan, Statute 163.177, specifically provides that data and analysis and surveys and additional information needs to be provided to justify the request, especially with regards to a needs analysis for that area, and none of that was provided.

COMMISSIONER KLUCIK: So the data that has been provided, are you saying that there's no data and analysis that's been provided?

MS. SPECTOR: The only data and analysis, and staff agrees, is with regard to the height and density surrounding the property. They've provided nothing that shows that there is a need for this project in that particular area. That's one of the main requirements of the Growth Management Plan.

COMMISSIONER KLUCIK: Can you cite the exact line in the statute -- the Growth Management Plan that you're talking about?

MS. SPECTOR: Yes. It's 163.177(1)(f), and I believe --

COMMISSIONER KLUCIK: 163.

MS. SPECTOR: .177.

COMMISSIONER KLUCIK: .177.

MS. SPECTOR: One.

COMMISSIONER KLUCIK: 1.

MS. SPECTOR: Subsection 1, sub subsection F.

COMMISSIONER KLUCIK: F like Frank?

MS. SPECTOR: Correct. And there's also in Subsection 4 additional requirements with regard to the surveys and studies.

COMMISSIONER KLUCIK: Okay. Can you just tell me what that F says, which --

MS. SPECTOR: I can grab my --

COMMISSIONER KLUCIK: Yeah. I want to know exactly what you think -- what line is not being -- has fallen short as far as the data that's been provided.

MS. SPECTOR: If can I grab my iPad that --

COMMISSIONER KLUCIK: Sure.

MS. SPECTOR: I apologize. In all of my excitement, I was citing the wrong -- I forgot a number in the statute. It's 163.3177. It's long, so do you want me to read all of it or --

COMMISSIONER KLUCIK: Well, I just -- give me an example of something that you think is lacking that is mandatory.

MS. SPECTOR: It specifically provides that all mandatory and optional elements of the Comprehensive Plan and plan amendments shall be based upon relevant and appropriate data and an analysis by the local government that may include but not be limited to surveys, studies, community goals and vision, and other data available at the time of the adoption of the Comprehensive Plan or plan amendment.

COMMISSIONER KLUCIK: Okay. So when I'm sitting here as a Planning Commissioner listening to staff, I think that that's what I've been presented with.

MS. SPECTOR: Right. I didn't get to the exact -- there's enumeration of what is meant.

COMMISSIONER KLUCIK: Okay.

MS. SPECTOR: I did want to just read the one additional prefatory provision there. To be based on data means to react to in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue.

It -- so then the subsection --

COMMISSIONER KLUCIK: So reacting in the appropriate way?

MS. SPECTOR: Yes.

COMMISSIONER KLUCIK: So it's a question of whether -- how we react and whether it's appropriate, so --

MS. SPECTOR: Well, you can't react to something that hasn't been provided.

COMMISSIONER KLUCIK: Okay.

MS. SPECTOR: So Subsection 1 provides that this information is to include surveys, studies, and data utilized in the preparation of the Comprehensive Plan. May not be -- oh, sorry, that's -- the Comprehensive Plan shall be based upon -- this is sub Subsection 3. The

Comprehensive Plan shall be based upon permanent and seasonal population estimates and projections which shall either be those published by the office of economic and demographic research or generated by the local government based upon a professionally acceptable methodology. They haven't provided anything of that sort, and that's where you get the residential needs analysis staff, in their staff report, specifically says no residential needs analysis was provided as is typical with an application --

COMMISSIONER KLUCIK: So we can't -- are you asserting that a landowner can't develop a project unless the county says there's a need for it?

MS. SPECTOR: Well, you at least have to -- that's what the statute says. You at least have to provide the information, and then it says based on the information, you know, must -- the decision must be clearly based on appropriate data. It doesn't say one way or the other, but you have to at least have the information.

COMMISSIONER KLUCIK: Right. And what is lacking? What should I have in front of me that I don't have in front of me?

MS. SPECTOR: A residential needs analysis at the very least.

COMMISSIONER KLUCIK: Residential needs analysis to see if we have population that would fill those homes?

MS. SPECTOR: In this -- and if it's needed in this particular area. That's what the statute specifically requires. And staff -- as I mentioned, in both the pre-application notes, in three sufficiency letters, and in there -- the sufficiency letter and the staff report have all -- have, each time, said you have not provided the data and analysis required by the statute.

COMMISSIONER KLUCIK: Well, what I would like to see as a commissioner is -- that I would like to see -- or hear from our staff to see whether or not -- you know, how we address that specific issue, if it is at issue, if it's still unclear as to whether, you know, that standard has been met. I just think that it -- you're saying that you would go with -- I mean, you, yourself, said, well, it's just too high. Well --

MS. SPECTOR: That's not all I said.

COMMISSIONER KLUCIK: Oh, I know. But the whole point of it is you were in insinuating that it wouldn't be a problem if it was -- you know, the scale of the project was a little bit, you know, less massive or tall, which indicates that the need thing seems to be -- you're throwing it out there to stop things up, not really because you think it's a real impediment.

Now, I'm certainly not questioning your character, but it seems like an argument that isn't very strong because what you're saying is there's no need for housing in that area. And that just -- you know, essentially, and I don't think that that's a plausible argument.

MS. SPECTOR: I'm not saying that at all, but this is a legislative change that needs to be supported by, as the statute says, data and analysis, and just to -- in case there was any confusion, I was only responding to Commissioner Schmitt's question regarding height. That's not the only issue that we have with this, as Mr. Stuart had addressed in his presentation. As -- in the conclusion of my presentation, I did specifically ask that you deny it because it is not in a position to be approved. Should the Commissioners -- I was asked again by Mr. Schmitt, and I believe Mr. Fry was going to ask as well, if the Commissioners do approve something, what would you approve of, and that's where I mentioned that we have presented an alternative. But I don't think we even get there, because they haven't met --

COMMISSIONER KLUCIK: Does your alternative show that there's a need for housing there?

MS. SPECTOR: We don't have to provide that analysis.

COMMISSIONER KLUCIK: I know, but you just mentioned an alternative, right?

MS. SPECTOR: Right.

COMMISSIONER KLUCIK: Okay. And what is that alternative proposal? What --

MS. SPECTOR: Well, we --

COMMISSIONER KLUCIK: No. Just answer my question.

MS. SPECTOR: I was --

COMMISSIONER KLUCIK: What is that alternative proposal? What does it consist of? Just one sentence.

MS. SPECTOR: Well, I will tell you that the -- my clients --

COMMISSIONER KLUCIK: Is it a residential building? It's the one where they had the stepped -- the stepped heights or --

MS. SPECTOR: My clients would actually prefer that it be C-3; it would stay the way that it is.

COMMISSIONER KLUCIK: But you mentioned the alternate proposal, and that was this alternate way of doing something similar to what's being proposed.

MS. SPECTOR: Yes. It has greater setbacks.

COMMISSIONER KLUCIK: Right.

MS. SPECTOR: And it is --

COMMISSIONER KLUCIK: So then you're getting into the details and the need issue -- (Interruption by the stenographer.)

COMMISSIONER KLUCIK: Sorry. Okay. So the need issue then goes away?

MS. SPECTOR: I don't say it goes way.

COMMISSIONER KLUCIK: Okay.

MS. SPECTOR: If the commissioners don't have -- don't find that it's an issue and are going to approve something and it's not going to stay C-3, that's why we've presented an alternative. I don't think you get to the alternative.

COMMISSIONER KLUCIK: And I'll conclude -- I appreciate that. I conclude that I would like to hear -- and I assume maybe my peers would as well. I would like to hear from the applicant regarding that specific issue regarding need and then from our staff.

CHAIRMAN HOMIAK: Okay.

COMMISSIONER SHEA: Can I ask? I think there's some confusion. Those sections that you're referring to apply to somebody that wants to change the Growth Management Plan, I assume, not to somebody who wants to develop their property in accordance with the way it's currently zoned, right?

MS. SPECTOR: Correct, but they're asking to change the Growth Management Plan.

COMMISSIONER SHEA: I understand that. But I -- I heard something in one of the questions that made it sound like it was -- it was a question that related to staying with the existing zoning. I just wanted to clarify it, and you answered another confirmation that I was looking for, is your client would prefer to stay with -- because we're going to vote on the Growth Management Plan first. So your client would prefer to have C-3 over what is proposed in the second petition that we have to look at?

MS. SPECTOR: Yes, that's why we're asking that you deny.

COMMISSIONER SHEA: Okay. Just wanted to make sure.

COMMISSIONER KLUCIK: And to follow up. So you'd rather have the C-3 than the modified proposal that your client is suggesting?

MS. SPECTOR: Yes.

CHAIRMAN HOMIAK: Joe.

COMMISSIONER SCHMITT: Well, I'll go on that point because, as I said, in the last meeting, be careful what you ask for; you might get it.

The C-3 would be far more traffic -- adverse traffic impact than residential. I mean, if we were to build something down there that would be an attractor of folks to go down there to multiple restaurants, a boathouse, and commercial facility for a dock facility and whatever, I think it

would -- far more significant traffic impact, and if it stayed C-3, of course, none of the requirements for improvements would be on the developer. It falls back on the county. But -- so I just want that on the record.

In this case -- and I'm confused, because staff is recommending approval of the GMP. And I think you sort of alluded to that they were recommending denial. But they're recommending approval of the GMP, which is the increase in density, and all the years involved in this business, I, frankly, do not recall ever seeing a market analysis for a GMP for -- in housing. It's always -- the market analysis is typically required for commercial. But the market analysis for residential development is typically the growth model for the county. It's the AUIR. It's the annual growth model. It's the other activity -- or other documents produced by the county that indicates growth and development. I'm puzzled. Maybe I'm wrong, but I don't ever remember seeing a needs analysis for any type of GMP requiring an increase in density.

MS. SPECTOR: The staff report says "as is typically provided." They did not provide residential data and analysis.

COMMISSIONER SCHMITT: Well, I guess I'll defer to the client's attorney and ask him to address that then.

MS. SPECTOR: And I will say there was a recommendation of approval. The letter that I quoted from was a letter that was posted to the application on CityView. It was then removed and replaced with a much more vanilla letter that says this will be a policy decision for the Board of County Commissioners to make and takes out all reference to the fact that the -- the application does not include the data and analysis. But it was a public record, and I was provided with a copy of it.

COMMISSIONER SCHMITT: But as it stands right now, it's a recommendation of approval from the staff. Even though you don't agree with it and you think it's vanilla, as you called it, but it still is a recommendation to the board for approval?

MS. SPECTOR: Yep. I cannot say otherwise, yes.

COMMISSIONER SCHMITT: Okay.

MR. YOvanovich: I do have a couple of questions. And I call your attention to Page 5 of the staff report related to the Growth Management Plan amendment. I don't know if you have that handy, Sarah.

MS. SPECTOR: I do.

COMMISSIONER SCHMITT: Page 5.

MR. YOvanovich: Yes.

COMMISSIONER SCHMITT: Well, unfortunately, ours is by either packet page --

MR. YOvanovich: You know, for whatever reason, when I printed this out, I didn't get --

MS. SPECTOR: I have copies for you-all if you'd like me to pass them out.

MR. YOvanovich: Mr. Schmitt, I think it's 1245.

COMMISSIONER SCHMITT: I see there's other page numbers on there. It's the various pages. I love it. But we'll get to it. Page 5. I have the Page 5.

MR. YOvanovich: You got it. Okay. 217? Heidi says it's 217 in your packet.

COMMISSIONER SCHMITT: 217, thank you.

MR. YOvanovich: Okay. So you quoted Section 163.3177(1)(f), correct?

MS. SPECTOR: Correct.

MR. YOvanovich: So you all have it in front of you. Let's look at the actual language. It says, the process for adoption of Comprehensive Plan amendments requires in part that plan amendments shall be based upon relevant and appropriate data and analysis by the local government, correct?

MS. SPECTOR: Oh, I'm sorry.

MR. YOVANOVICH: Relevant and appropriate data and analysis.

MS. SPECTOR: Now, you're reading from the statute, not from the staff report?

MR. YOVANOVICH: Well, that's -- I'm quoting the language. They quote the language from the statute in the staff report.

MS. SPECTOR: Yes, uh-huh.

MR. YOVANOVICH: Relevant and appropriate data and analysis, correct?

MS. SPECTOR: Yes, and in the pre-application --

MR. YOVANOVICH: Hold on.

MS. SPECTOR: -- they say that it's relevant.

MR. YOVANOVICH: But, ultimately, after we -- we had a pre-application meeting, several rounds of discussion and responses to county staff and, ultimately, as I guess the rest of the story, to quote Mr. Oliver, the staff recommended approval of the Growth Management Plan based upon the information we provided, correct?

MS. SPECTOR: Yes, but it's not clear why, because in the staff report that was after all of the meetings and all of the applications were provided. It still says that a residential needs analysis was not provided.

MR. YOVANOVICH: That -- and you're -- I'm telling you, a residential needs analysis was not provided. No dispute. Let's read the rest of the statute. Under F, it says all mandatory and optional elements of the Comprehensive Plan and plan amendments shall be based upon relevant and appropriate data and an analysis by local government that may -- the word "may" we know, as lawyers, is optional, not mandatory. It doesn't say "shall." It says, may include, but not be limited to, surveys, studies, community goals, and vision and other data available at the time of the adoption of the Comprehensive Plan or Comprehensive Plan amendment.

Where does it say you shall provide, in order for a Growth Management Plan amendment to be approved, a study as to needs, residential needs analysis, or whatever you think staff initially asked for, was not provided -- we provided other relevant data and analysis, and staff ultimately approved the Growth Management Plan amendment. Where does it say that we had to provide the analysis you're saying that we did not pass go to even be here today?

MS. SPECTOR: In Subsection 3 that I had read earlier, the Comprehensive Plan shall be based upon permanent and seasonal population estimates and projections, none of which was provided.

MR. YOVANOVICH: It's already in the Comprehensive Plan, and that information is available.

MS. SPECTOR: But there was no analysis, and it does provide that it's data and analysis.

MR. YOVANOVICH: So you're saying that staff didn't do their job when they reviewed the density analysis we provided to them, the height analysis that we provided to them, the transportation analysis that was provided to them, and all of other -- all the other analyses that we provided; that was not sufficient data and analysis to pass go and be here today?

MS. SPECTOR: All I can say is that in every single response to the application and before the application was submitted, even staff said that a residential needs analysis was required.

MR. YOVANOVICH: And we get to the end of the story. They did not say that. They said it was not provided, and they still recommended approval. Read the staff report. The staff report says we did not provide that information, but they recommended approval, correct?

MS. SPECTOR: Right, but in the sufficiency letter it specifically --

MR. YOVANOVICH: We're past the sufficiency letter. You know -- you've done these. You know, we get letters, we respond to those letters. We have meetings with staff, and what ultimately matters is what does the staff report say, correct?

MS. SPECTOR: You look at the application as a whole.

MR. YOVANOVICH: And -- okay. Okay. So I just want -- I want you -- you made a

statement that the Pelican Bay Foundation wrote a letter of -- in opposition. Can you provide --

MS. SPECTOR: No, it's not a letter of the opposition. It's a letter stating that they are not -- they do not want to be considered and should not be considered --

MR. YOYANOVICH: The Pelican Bay Foundation did?

MS. SPECTOR: Yes.

MR. YOYANOVICH: Can you give me that letter? I've not seen that.

COMMISSIONER FRY: I would clarify; it was an email that we received --

MS. SPECTOR: I'm sorry.

COMMISSIONER FRY: -- that we received. It's not a letter.

MR. YOYANOVICH: From the Foundation?

COMMISSIONER FRY: Yes.

MR. YOYANOVICH: Not the Pelican Bay Property Owners Association?

COMMISSIONER FRY: Pelican Bay Foundation.

MS. SPECTOR: Jim Hoppensteadt.

MR. YOYANOVICH: All right. They don't want to be considered. Okay.

COMMISSIONER FRY: Correct.

MS. SPECTOR: No. I just said that they aren't opposed -- they're not saying they're opposed or in favor, but yet -- yes, they do not want to be considered and do not think that they're part of a compatibility analysis.

MR. YOYANOVICH: What is the approved setback in the Regatta PUD?

MS. SPECTOR: I don't -- Greg had mentioned that in his presentation. I believe it's around -- they're at 50 feet.

MR. YOYANOVICH: No. What's the approved -- I asked --

MS. SPECTOR: I don't have the approved.

MR. YOYANOVICH: I won't use the line, "would you trust me if I told you" that it's 25 feet?

MS. SPECTOR: Sure.

MR. YOYANOVICH: Would you trust me?

MS. SPECTOR: Sure. On that point.

MR. KLATZKOW: That's a terrible idea.

MS. SPECTOR: On that limited point I will trust you.

MR. YOYANOVICH: I mean, if you want, I'll go ahead and show it to you. I'll put it on the visualizer if you need it.

I think that's all I have for Ms. Spector. The rest -- again, I think what she said -- and correct me if I'm wrong, Sarah, is you're relying upon the testimony of Greg Stuart for the compatibility and complementary analysis. You're not providing any testimony on that yourself, correct?

MS. SPECTOR: I'm not qualified to. So, yes, I'm relying on Greg's testimony.

MR. YOYANOVICH: Thank you.

CHAIRMAN HOMIAK: Joe.

COMMISSIONER SCHMITT: Yeah. I just want to add to the record. The statement you read, the Comprehensive Plan shall be based upon permanent and seasonal population estimates and projections, which shall be either -- what shall either be those published by the Office of Economic or Demographic Research or generated by the local government. We, in the past -- and I would trust now -- who's here from the GMP could probably state it, but we have always done an exhaustive analysis of growth models and growth projections in Collier County. And I believe -- and then it goes on to say that the research generated by the local government based upon professionally accepted methodology. It's the local government that did the population projections. It's part of our GMP, and it's part of the AUIR. That is the population projection.

Are you questioning the staff's analysis of population projection and your basically -- what I hear you saying is, those studies and that analysis and the AUIR, which is based off the population projection, is inadequate to project for a GMP amendment for additional residential growth; is the correct what I hear you say?

MS. SPECTOR: Not at all. They did not address it in their application at all even though they were asked to. So staff clearly had wanted the applicant to look at that on their own separate from the population and analysis that --

COMMISSIONER SCHMITT: It does not say that in the staff report. They approved the staff -- approved it. I know what you're saying because you're going back to the sufficiency letter. But we're now at the point where staff saying -- and they're nodding their head up and down -- and basically saying, okay, we agree we're not looking for this analysis because there is a population projection.

Do we -- are you asking for the applicant just to simply take the AUIR and submit it as -- as a -- as a population projection, or maybe a market analysis of potential sales? I would assume that the applicant, when he planned this, had done some kind of market analysis to do a projection of what sales would be. Would that be adequate?

MS. SPECTOR: As I read everything up to the staff report, it was requested from the applicant. So, yes, it should have been addressed in the -- and it's one of the requirements from the statute.

COMMISSIONER SCHMITT: Well, I guess the operative -- the operative word is "should."

MS. SPECTOR: Well, it was required.

COMMISSIONER SCHMITT: And then staff went ahead and approved it based on the information that was provided; is that not correct?

MS. SPECTOR: It's correct. I don't think that it -- there should have been a recommendation of approval.

COMMISSIONER SCHMITT: Oh, okay. That's what I was looking for. That's your --

MS. SPECTOR: Based on what the staff report says, not in my opinion that it shouldn't -- based on what the staff report says, it shouldn't have concluded with recommendation of approval.

COMMISSIONER SCHMITT: Your legal opinion --

MS. SPECTOR: My legal opinion, yes.

COMMISSIONER SCHMITT: -- based on the lack of data, this should not have been approved by staff?

MS. SPECTOR: It shouldn't have been recommended for approval, correct.

CHAIRMAN HOMIAK: Mr. Klucik.

COMMISSIONER KLUCIK: I was just going to say, all of the finer points or the citations to the legal standard are in the October 1 recommendation letter from the staff. So they clearly are -- the staff's clearly aware of the precise requirements that you're mentioning, and they are either, you know, failing to do their job or they considered them and, you know, have decided, you know, to make the recommendation that they made, which is to approve the GMP change.

So my question simply is, why should we -- I mean, are you really asking us to say that they didn't do their job or that they overlooked something? Or what is it that you think -- I'm a commissioner. I'm new, you know. And I'm looking at it, and I'm a lawyer, I want to -- you know, I'm a big guy -- you know, a big proponent of just, you know, you've got the legal standard. It's either met or not, you know, and that's it.

So I'm trying to figure out, am I supposed to now say that our staff is doing an inadequate job, or what am I supposed to conclude?

MS. SPECTOR: I'm just saying in my -- with -- my legal opinion is that they have not



met the statutory requirement, and even if it is concluded that --

COMMISSIONER KLUCIK: The applicant has not.

MS. SPECTOR: The applicant has not.

COMMISSIONER KLUCIK: And the staff overlooked that, or --

MS. SPECTOR: I don't know what the staff did.

COMMISSIONER KLUCIK: For some reason the staff reached a different conclusion, I think.

MR. YOVANOVICH: As I mentioned --

COMMISSIONER KLUCIK: And you're trying to turn that into a -- you're arguing that they need to reevaluate or reassess their decision?

MS. SPECTOR: As I mentioned, there was a June 2020 sufficiency letter that specifically outlined --

COMMISSIONER KLUCIK: Right, right. No, I'm talking about the October 1 recommendation.

MS. SPECTOR: I understand.

COMMISSIONER KLUCIK: And that's all. So they made a recommendation knowing full well what the legal standards that you're raising are. So you just are thinking that -- you see -- you see it differently, and you're asking us to see it differently?

MS. SPECTOR: They provided nothing between the June 2020 sufficiency letter and the staff --

COMMISSIONER KLUCIK: I'm asking the staff. You want us to doubt our staff's recommendation because you think the staff hasn't properly applied or held the applicant to the standard that's required?

MS. SPECTOR: I just think you need to look at the --

MR. KLATZKOW: Can I see if I can clarify this? And correct me if I'm wrong, Sarah. What you're saying is that, as a matter of law the petition is insufficient because it did not include the proper data and analysis?

MS. SPECTOR: Yes.

MR. KLATZKOW: Period.

MS. SPECTOR: Period.

MR. KLATZKOW: Okay. So it has -- forget the staff report, forget everything else. What she's saying is the application itself, as a matter of law, is insufficient to be considered.

Now, staff disagrees with that. I'm sure Mr. Yovanovich disagrees with that. That is -- that is the position of her client.

COMMISSIONER FRY: Thank you, Jeff.

MS. SPECTOR: And we've been focusing on the Growth Management Plan, but I did also make the point that even if you find that the Growth Management Plan is appropriate, they did not meet the burdens set by the Supreme Court for the Land Development Code amendment -- or the Land Development Code change to a PUD.

MR. YOVANOVICH: I'm waiting. I'll let you finish. I have a question for you.

MS. SPECTOR: That's fine.

MR. YOVANOVICH: Isn't what you're really arguing is that you want them to listen to your expert and not listen to my expert in this case? Because experts are, in fact, competent substantial evidence, are they not? Are you saying that Mr. Mulhere's testimony is not competent substantial evidence?

MS. SPECTOR: It is, but there was no analysis to back up the statements made as -- with regard to that it's going to improve property values, that it's going to have a positive impact on the surrounding properties. They were just statements.

MR. YOVANOVICH: Are you saying that Mr. Banks -- where'd Mr. Banks go? Are

you --

MS. SPECTOR: I'm not questioning the transportation.

MR. YOVANOVICH: So his -- he's competent substantial evidence, correct?

MS. SPECTOR: Yes.

MR. YOVANOVICH: Okay. Trinity Scott from the county, her testimony, is that competent substantial evidence?

MS. SPECTOR: I'm not speaking to the transportation at all.

MR. YOVANOVICH: How about the environmental analysis; is that competent substantial evidence that was provided by our experts as well as the county?

MS. SPECTOR: I'm just saying that there was -- they were just blanket statements and not supported by anything.

MR. YOVANOVICH: You're saying there's nothing in Mr. Mulhere's written analysis that supports anything he said orally?

MS. SPECTOR: A lot of it is just, like I said, statements that say this will be good for the neighborhood and it will increase property values but says nothing more than that.

MR. YOVANOVICH: And he talked about -- didn't he do an analysis of the heights in the area? Didn't he do an analysis of the densities in the area?

MS. SPECTOR: That's the only thing that was analyzed.

MR. YOVANOVICH: And is that not competent substantial planning evidence?

MS. SPECTOR: Of -- not to support the entire request.

MR. YOVANOVICH: So you're saying -- so you're quibbling with the fact that Bob gave an opinion that property values are going to increase?

MS. SPECTOR: Yes.

MR. YOVANOVICH: Are you quibbling with anything else that Mr. Mulhere said?

MS. SPECTOR: Well, any statement that was with regard to the positive impact that it's going to have, and that's a huge part of the compatibility and complementary analysis.

MR. YOVANOVICH: So you're -- didn't Mr. Stuart provide the exact opposite testimony with no real data and analysis? If you're going to apply the standard to Bob's analysis, Bob's at least -- he provided backup. We have a disagreement of experts, correct?

MS. SPECTOR: We didn't -- no.

MR. YOVANOVICH: We don't? Okay.

MS. SPECTOR: No. Yes, we have a disagreement of experts, but I'm not agreeing that Mr. Stuart didn't provide competent substantial evidence.

MR. YOVANOVICH: We'll let the Planning Commission make that decision.

But the legal burden is that we put in the record competent substantial evidence. Mr. Mulhere is a professional planner. He put his evidence in the record. You're not quibbling with his planning testimony, correct? His dollar valuation, you're not -- you're quibbling with, correct?

MS. SPECTOR: I don't recall seeing in the application a dollar analysis.

MR. YOVANOVICH: Well, you said the increase in property value. Let me rephrase. You're quibbling with that testimony from Mr. Mulhere?

MS. SPECTOR: Well, it's a huge component of the compatibility and complementary is what impact it's going to have on the surrounding properties, and I didn't see any data and analysis or anything more than just blanket statements.

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

CHAIRMAN HOMIAK: Okay. Any Planning Commissioners have any more questions for Sarah?

(No response.)

CHAIRMAN HOMIAK: Okay. Could we have our next speaker, please.

MR. FRANTZ: Your next speaker is Ralf Brookes.

COMMISSIONER VERNON: Before he starts, could I just make a comment? I hope this will be helpful because I am -- like the gentleman sitting next to me, I'm the new guy, and I've tried to listen a lot and -- but I'm -- I'm a little concerned that we're not focusing on -- and I'm certainly not speaking for any other commissioner.

But I want to get focused -- to the extent I haven't already concluded things, I want to get focused on what are my biggest concerns about the project. My biggest concern is about the height; my second biggest concern is about the parking, which we are talking about some; third biggest concern about the traffic flow; and then setbacks; and we haven't talked much about water impact.

I'm simply saying, as one commissioner, those are my five concerns in that order about this project, and I'm hoping, to the extent the objectors are listening to me, the petitioners listening to me, those are my concerns in that order. And I certainly understand if you need to make a record for what happens after this, go ahead, but I'm just saying that's what I'm kind of dialed into right now.

Thank you, Madam Chair.

MR. FRANTZ: Mr. Brookes, you have seven minutes.

MR. BROOKES: Thank you.

Good morning. My name is Ralf Brookes. I'm an attorney. I represent Save Vanderbilt Beach, Inc. I'm going to talk to you today about the legal standards. You have two applications in front of you, which is a little bit confusing to have them at the same time.

I'm board certified in city, county, local government law, and I was Deputy Assistant County Attorney for Sarasota County, and I was the land-use counsel for Monroe County, which is the Florida Keys; and I've been city attorney for Bradenton Beach, a barrier island city; St. Pete Beach in Pinellas County, and a little town called the Town of Yankeetown in Levy County where I still am a town attorney; and also Madeira Beach, I was city attorney there in Madeira Beach there for a while, another barrier island city.

I've been practicing since 1980, and I've been board certified since 2004, and I've dealt with a lot of Comp Plan amendments and a lot of rezonings.

Now, originally it was a bit easier, because the Comp Plan amendments would happen, and then you would have one year to adopt implementing rezonings that would match the Comp Plan. In 2011, the legislature allowed rezonings to be filed concurrent with plan amendments, which works great when it's a noncontroversial project. Everyone agrees, oh, we want to change this little corner here to a much-needed convenience store in a field of residential, and there was no objectors, and then that makes sense. But I think it wasn't well thought out because a rezoning must be consistent with the Comp Plan as it exists on the day that you approve the rezoning. So sometimes what they'll do is make the rezoning contingent upon approval of the Comp Plan.

It also mixes up two different things. It mixes up the Comp Plan as legislative. You are acting as the legislature, if you will, of Collier County, or at least an advisory board to the legislature of Board of Collier County.

And I don't think that Chairman Fryer should have been recused or objected or removed with regard to the plan amendment. That's a legislative matter. It's not quasi-judicial. So at least for that one, I think he should have stayed.

And, again, I don't think his collecting numbers on heights and collecting numbers on setbacks is any different than the questions that you-all are asking. You-all ask questions about specific projects, height, and density, and I don't think it's any different or worse than a chair -- Planning Commissioner Schmitt calling Mr. Yovanovich between these two meetings and asking him to include things in cross-examination. So there's no reason why he shouldn't be here, and I think it's a loss to not have him here, especially on the plan amendment.

Now, plan amendments are legislative. So you get to vote them up or vote them down for whatever legislative reason you want to. You are not compelled to act on competent substantial evidence. You're not compelled to approve a plan amendment. Even if all the data and studies are submitted and all the analysis is submitted, you could still deny a Comp Plan amendment for any reason and keep the existing land-use designation.

After this case leaves here, it goes to the Board of County Commissioners. And, again, that will be a legislative determination for them on the Comp Plan amendment. If the Comp Plan amendment is not to their legislative liking, then the rezoning can't go forward as-is. They would have to bring in a project, a mixed-use project that meets the current Comprehensive Plan land-use designation and meets the current C-3 zoning.

In terms of the rezoning application, there's a two-pronged standard or review. First you have to show it's consistent with the Comp Plan. So even staff and everyone has said, I guess it's not. That's why you need a plan amendment. But even if it is, then you can still deny it if there's a legitimate public purpose for denying it, and that might be asking for a reduction in height from what the applicant has asked for. If there's a legitimate public purpose to do that, that's something you can do, and it's well within your power. And it's for you to discuss with the expert planners from all sides, and your own planning staff; what do you think an appropriate height is with them?

But you can also look to competent substantial evidence that's offered by the neighborhood. And after you hear from us, there's going to be a number of public speakers, I believe, probably on Zoom; maybe some in person.

A citizen resident can give competent substantial evidence as long as it's fact based. If it's a fact-based observation, you're allowed to consider that. What does that mean? The cases have said -- the *Blumenthal* case, the *Sport Acre* case, the *Section 11 property* case, the *Walberg* case. There's a bunch of cases. They all say on finding, based on neighbors' testimony and a site map and aerials and photographs of what they experience. All those things can be competent substantial evidence that would uphold a County Commission denial. So you can listen to the people that come up after even if they don't have a planning degree, as long as it's fact based and observation based and they have some things to support it.

That's very important, because that's also how you take in community input and community vision. The legislative body, the County Commission, is elected by the residents. They appoint you, in turn, and then you are here in a representative form of democracy to act on behalf of the citizens. So it's important to take that citizen -- citizen input.

Now, you also hear a lot about the property private property rights of an applicant, the Bert Harris Act, takings cases, substantive due process cases. It basically comes down to, for Bert Harris, 1995 established the baseline. We're not downzoning a property, so there's no Bert Harris implications.

MR. FRANTZ: You have 30 seconds.

MR. BROOKES: And we're not taking the property, so there's no takings implication. There's still reasonable uses that are allowed under the existing Comp Plan and under the existing C-3 zoning. So we ask that you take that into account.

Again, you don't have to approve the Comp Plan amendment or, in your case, make a recommendation for approval, even though staff has done it. It's up to you as a legislative body to determine whether it's a good thing or a bad thing. Normally, Comp Plans are done by the county itself.

MR. FRANTZ: That's seven minutes.

MR. BROOKES: They have to review them every seven years, and then there's an EAR where you review them all.

Now, the problem happens when the Comp Plans get chipped away bit by bit, piece by piece, parcel by parcel because it's not the community planning staff bringing forward. An

applicant is asking to change the Comp Plan.

And, remember, it's a Comprehensive Plan for the area that's set by Collier County. They can request, but you should -- in all your plan amendments, does this still fit in with our overall scheme for the county? Is this something we want to do in this location?

So I ask that you consider that in your debates and discussions. Thank you.

CHAIRMAN HOMIAK: Okay. Your time is up. Thanks.

MR. BROOKES: Thank you.

CHAIRMAN HOMIAK: I've missed the breaktime, I think. Can you just -- could we save our questions till 15 minutes.

COMMISSIONER SCHMITT: Just one. Before he leaves, before we go to the next one, I think it would be best to just finish now. One question.

CHAIRMAN HOMIAK: Okay.

COMMISSIONER SCHMITT: Mr. Brookes, what is the -- what's the geographical area of the Save Vanderbilt Beach, Inc.? What area of Collier County are we talking about? Is it just along Vanderbilt Beach Drive, or is it Naples Park? What's the geographical area? And how many people are we talking about that you represent?

MR. BROOKES: Okay. I represent people -- some of our members are directly adjacent and some are two or three blocks away and some might be as far as a mile away. So we have people that are very close for legal standing, then we have people that are in the more general community that are concerned about what's happening in their area, that even a court might find that those particular individuals don't have legal standing. So it's a broad-range community support grass-roots organization. I don't know the exact number of members or exactly where they all are, but there's hundreds.

COMMISSIONER SCHMITT: Because that title indicates that they want to protect the beach, but it's the beach area.

MR. BROOKES: Oh, no. Yes, if that's your -- yes, not just the sand beach, although many of them use it. It's the Vanderbilt Beach community area, what they consider to be their area.

COMMISSIONER SCHMITT: And just for the record, because you brought up my discussion with Mr. Yovanovich, the reason I contacted him -- or actually he called me and we discussed -- was because at the conclusion of the last meeting, there was going to be an issue between -- to discuss between Mr. Oliver and Mr. Banks, and I wanted to make sure that both folks addressed the issue of the traffic circle. I mean, that was part -- when we departed, it was made clear that that was going to be where we would reconvene, but of course, I've not heard yet from Mr. Banks. I'm assuming we will eventually.

MR. BROOKES: Mr. Oliver did meet with Mr. Banks and talk to him, and he talked to the county transportation people as well. I think you heard a little bit about that already. You'll probably hear more from staff and from Mr. Banks later.

COMMISSIONER SCHMITT: But my question was never answered regarding the acquisition of the property for the traffic circle, but --

MR. BROOKES: I don't know the answer to that question. I know the county has a pretty big transportation budget. There's certain things the county could do even without this applicant that's possible.

CHAIRMAN HOMIAK: Okay. Paul?

COMMISSIONER SHEA: Just a confirmation. I think I heard you say this, but the organization you represent is fine with the existing zoning?

MR. BROOKES: Yes. We are fine with the existing land-use designation and fine with the exiting zoning. We'd ask that they both be, as requested, denied.

CHAIRMAN HOMIAK: Karl?

COMMISSIONER FRY: Adding on to Commissioner Shea's question, even though that might result in drastic -- dramatically increased traffic compared to what has been proposed?

MR. BROOKES: It's possible. We'll have to see what the future holds. You know, we always have the parade of horrors in all the cases I go to. If you don't approve this, you're going to get something worse. And sometimes, very rarely, it happens. Most of the time that doesn't happen.

COMMISSIONER FRY: Thank you.

COMMISSIONER VERNON: Madam Chair, just quickly. From your -- I think I know the answer to this. But from your perspective, it is perfectly acceptable, if we want to, to forward a conditional approval to the Board, meaning we approve it but only if the petitioner does "fill in the blank."

MR. BROOKES: Yes. Yes, approve or deny or approve with conditions is within your ambit. And certainly you've heard from staff, some of their proposals. You heard from our expert planner, Greg Stuart. I think it's Exhibit 9, Slide 34, if you want, that has some of our proposals for an appropriate height, appropriate setbacks, and that kind of thing. That would be for you to make as an advisory body to the legislative body and the quasi-judicial body. You're hearing it legislative and quasi-judicial at the same time because of this new act that allows things to kind of speed up, but sometimes speeding things up is streamlining, but sometimes it results in some decisions that are -- that are less than perfect procedurally.

COMMISSIONER VERNON: Thank you.

CHAIRMAN HOMIAK: Okay. Thank you.

We'll take a break now. Is 10 minutes enough for you, or is it --

THE COURT REPORTER: Yes, 10 is good.

CHAIRMAN HOMIAK: Okay. Till 10:55.

(A brief recess was had from 10:43 a.m. to 10:56 a.m.)

CHAIRMAN HOMIAK: Can you take your seats now.

COMMISSIONER SCHMITT: Do we have a live mic?

CHAIRMAN HOMIAK: So we were done with Mr. Brookes.

Is the next speaker here; Mr. Schumann?

MR. FRANTZ: The next speaker is on Zoom; Bill Schumann.

CHAIRMAN HOMIAK: Oh, okay.

MR. FRANTZ: And we just need one moment to get that set up.

CHAIRMAN HOMIAK: Okay.

COMMISSIONER KLUCIK: Madam Chairman, did you get on the -- I guess on the record that I showed up?

CHAIRMAN HOMIAK: Yeah, I'm sure.

THE COURT REPORTER: I did.

COMMISSIONER KLUCIK: Okay, great. It's my ghost is bi-locating and --

CHAIRMAN HOMIAK: You've been speaking, so yeah. I'm sure she put it down the minute when you walked in and the time.

COMMISSIONER KLUCIK: Well, I will -- I will -- just to clarify, that I did leave Ave Maria at 7:20 this morning.

CHAIRMAN HOMIAK: There was an accident.

COMMISSIONER KLUCIK: And there was an accident that doubled my travel time. I was actually trying to get here at 8:20 so that I could take care of something else, and that did not work.

CHAIRMAN HOMIAK: You need a flying car.

MR. FRANTZ: Next speaker is Bill Schumann.

MR. SCHUMANN: Yes. Can you hear me?

MR. FRANTZ: We can hear you. You have seven minutes.

MR. SCHUMANN: Thank you.

Members of the Commission, my name is William Schumann. I own a unit in the Trieste and a unit in Regatta. First, let me thank the commissioners. We've seen what a tough job you-all have, and we've seen how conscientious you are, so thank you.

I've been practicing law for 41 years, and I'm going to talk about one issue: Stock's proposed development constitutes unlawful spot zoning under Florida law.

My letters on the subject are in your agenda packets at Pages 797 and 877. Florida counsel for Ken Melkus, who has already spoken at these meetings, provided a letter to you covering this same ground, and it's in your packets at Pages 556 to 560. Save Vanderbilt Beach agrees with my views and asked me to speak on this issue.

So the significance of spot zoning, members of the Commission, spot zoning is the elephant in this room. Look at the key metrics requested by Stock: Double the permitted density; double to triple the permitted height; setbacks dramatically reduced from what is required; dramatic reduction in open space.

The staff report -- and I'll get to the detail -- agreed in 20 places -- 20 places, that Stock's proposal is not compatible. Stock is asking to build something that the law of Florida prohibits.

So what about the law of Florida? Florida Supreme Court in 1956 -- I'm quoting one sentence: Spot zoning is a practice which we and all other courts have universally condemned. The Florida legislature in Section 163.3194(3)(a) codified the prohibition on spot zoning requiring densities and intensities of a proposed development to be consistent and compatible with the Comprehensive Plan.

Policy 5.6 of the Future Land Use Element of the Growth Management Plan requires a new development, quote, shall be compatible with and complementary to the surrounding land uses.

The Florida Appellate Court has defined it this way, quote, one sentence: Spot zoning is the piecemeal rezoning of small parcels of land to a greater density leading to disharmony with the surrounding area and gives preferential treatment to one parcel at the expense of the zoning scheme as a whole. Commissioners, that is this case. And Stock cannot -- let me underline, cannot rely on buildings in the neighboring zones.

If you'll think about it, that would make Florida zoning laws meaningless. The zoning issue, this one that we're talking about, would regularly end up with prohibited mass and size and density and uses just because the -- just because the proposed development is near a neighboring zone where the use is permitted.

Pelican Bay is a particularly poor comparison, as it is a vastly different community with a vastly different regulatory scheme of controls and constraints. As you heard, Pelican Bay Foundation agreed that what I've described to you is correct, and that letter of theirs is dated -- that I've seen is dated October 30th.

The Florida Appellate Court prohibits comparison to other zones, a case called *Macchato* (phonetic). Quoting one sentence: A comprehensive land-use plan legislatively sets a zoning norm for each zone. And the reason, says Macchato, for that rule, quote, to avoid spot zoning, end quote.

And if spot zoning ends up in court, it's tested by what's known as a standard of strict scrutiny. No deference is given to a commission decision. It's a de novo review because it's a matter of law.

Now, the staff -- and you've heard and it's been discussed. I'm going to give a couple of -- a few examples. The staff agrees in 20 places in it's report, 20, that Stock's proposal is incompatible and inconsistent with the Growth Management Plan. The County Attorney's Office reviewed and approved the content and legal sufficiency of the report.

Just a few of the many examples, Page 5. Quote, due to the request for increased density,

the petition is not consistent with the GMP. Page 10, the height of the proposed tower buildings at 208 feet, not directly compatible. Also at Page 10, the proposed setbacks are not directly compatible. Page 11, Tower 1 and 2 scale and massing, not directly compatible.

Page 18, Stock's proposed change, I'm quoting here, is not necessary. The property could be developed under the C-3 zone district. That's important; could be developed. And then the next page, the applicant has not provided any evidence that the property cannot be used in accordance with C-3 zoning. Section 163 of the Florida Statutes requires Stock to make that zoning, and the G -- and the GMP amendment pre-application meeting standard comments document that's on your website confirm that that showing has to be required -- has to be made.

And the last point -- the last comment on this one, the zoning -- and this is a quote from Page 20. The Zoning Division staff finds that the proposed change exceeds the existing standards for maximum height, setbacks, scale, and massing.

So all of the elements of spot zoning are present here. Stock's proposal is massively incompatible and intrusive. It is a square peg, Miami Beach style development, in a round hole community whose zoning rules require Vanderbilt Beach tranquility.

If you permit Stock -- what Stock is asking for, you may have no principle basis to say no to the next request that's 30 percent bigger than Stock's, and on and on.

There's no benefit to the community here. It's an uncompensated preferential wealth transfer from thousands of residents who relied on the integrity of the zoning rules to a developer who will receive windfall profits. And what about those windfall profits, which is part of the standard on spot zoning, frankly? Stock's asking for 172 units. Only 87 -- only 87 are permitted under the current law. Stock has referenced in the *Naples Daily News* that the selling --

MR. FRANTZ: You have 30 seconds.

MR. SCHUMANN: -- (unintelligible) will be 1.5 to \$10 million, so they're going to make windfall profits. This is the poster child for unlawful spot zoning.

I'm happy to respond to questions.

CHAIRMAN HOMIAK: Anybody have any?

COMMISSIONER SCHMITT: I have a question before Mr.-- Mr. Schulman, is it, or Mr. Sherman?

MR. SCHUMANN: Schumann. There's no L.

COMMISSIONER SCHMITT: Schumann. I guess I have no other way to put this, but -- so you -- I understand what you're saying about spot zoning. I've looked at your documents. But for some reason, you're seeming -- seem to indicate that there's something wrong with making a profit in this country.

MR. SCHUMANN: No, not at all, not at all. Fair question, but there's an absolute answer to that. Nothing wrong with making a profit; I'm in favor of that.

The issue is this: In the many elements of spot zoning, one of the issues -- one of the issues is, is it -- is it an unfair and special, if you will, award compensation giving something to one entity, a developer, at the expense of the community. And in this instance, I -- you know, if I -- whether Stock develops the property this way, which I don't think is lawful, or whether they build one half the size, they will make a fair profit. And I'm fine with that. They should. I understand Stock's an excellent developer. But this is an element of spot zoning when one developer is going to make, for its benefit, a substantial amount to the detriment of the rest of the community. It's absolutely pertinent.

So there should be no mistake. I am not saying don't make money. In fact, I think everybody in the room would love a development that's appropriate, and no one's going to build one that doesn't make money.

COMMISSIONER SCHMITT: Well, based on that logic, would the Trieste be spot zoning or the Regatta be spot zoning?



MR. SCHUMANN: No, and that's a fair question, but a definite answer on that. The Trieste is not spot zoning, and let me explain, and I alluded to it in my comments.

The Trieste is in a different zone, and the law says that you cannot look at buildings, even if they're 1,000 feet, 500 feet, 1,000 feet. Zoning and lines matter. And if you think about it, that makes total sense because with every zone, with each zone's rules, there's always a zone next to it, and that next zone has different rules. And if you could ignore the boundaries of a zone and simply look at the proximity of a building that is kind of next door or nearby, you'd have no zoning rules at all, because you can always cite the next zone over.

The zoning law doesn't permit it. You have to stay within the zone, and you have to see, is it compatible not with the next zone over, but only with respect to what's in the zone. And the whole point of spot zoning is that that's why that's prohibited. And, indeed, the case I cited, I think the name is *Macchato*, effectively says that. It says you've got to look at the zone.

You'd have no laws. You'd have no zoning. You'd have no ability to do what you should do and what you want to do over time because somebody would always say, well, look at the next zone. It's got a garbage dump. Let me put it here. Can't be done. Can't be done under the law.

A court would throw it out. That's my humble judgment after 41 years of practicing law. But that's -- that's what the law says.

COMMISSIONER KLUCIK: Mr. Schumann, this is Robert Klucik, one of the commissioners. Hello.

MR. SCHUMANN: Yes, Mr. Klucik.

COMMISSIONER KLUCIK: And I really appreciate every citizen who comes to speak at things like this, so I appreciate your input very much.

I'm confused, though, as to understanding spot zoning the way you want me to because I just -- if you have a building that's -- well, I'm just using a figure -- that's 100 feet tall east on Vanderbilt and then a building that's 100 feet tall west on Vanderbilt, you're asking me to say that it's spot zoning to then say in between those two buildings that aren't really that far from each other, it would be spot zoning to then increase the allowed use in between that east and west 100-foot-tall building, and it would be wrong, then, to allow a 100-foot-tall building on that land in between the east and west portions. That's what I'm hearing you to say would be spot zoning that's illegal; is that correct?

MR. SCHUMANN: I don't think so. I don't think that's correct, although because the way you put it was a little complicated, allow me to tell you what I believe the law says, and that is this: That within a given zone you are permitted to look at buildings in that zone and determine this issue of compatibility.

COMMISSIONER KLUCIK: Sure, sure. I understand that. And I guess -- I think -- and, you know, maybe someone will demonstrate otherwise, but everyone buys land knowing that the zoning can change in -- you know, whether it's the house next to them the zoning could change or, you know, a ways away. But in any event, there's no certainty that the zoning won't change.

And so the rules -- in my understanding, the rules that we then are bound by or the decision-making process then -- that's why you're looking at compatibility. And so that's -- the spot zoning argument, I think, you know, in my mind isn't very persuasive. What would you think is a fair height?

MR. SCHUMANN: So let me respond to your comment because that's not --

COMMISSIONER KLUCIK: No, no, no. I want you to just tell me what you think a fair height would be.

MR. SCHUMANN: Okay. I will tell you this --

COMMISSIONER KLUCIK: I'm looking for a number, really. That's it. And if you can't give me a number, then we'll move on.

MR. SCHUMANN: A hundred feet.

COMMISSIONER KLUCIK: Thank you.

COMMISSIONER VERNON: Madam Chair? I would like to hear what Mr. Schumann has to say. If he wants to finish up in responding to Mr. Klucik, I'd like to -- this is Chris Vernon, one of the commissioners. Go ahead and give us your thought just simply in response to his previous question.

MR. SCHUMANN: Yes. So the issue is: You are, and the courts say this -- when you're deciding this issue of comparability and compatibility, you are allowed to look at what is in the zone. You also want to look at what's close by, because when you exercise your judgment -- which, believe me, I get. That's what everybody needs to do here -- you're allowed to take into account in determining what your judgment tells you, buildings in the zone and buildings nearby in the zone.

The law prohibits you from taking into account the Ritz. Yes, it's close, but it is not in the same zone. And the point I was trying to make before is that's a very logical place to land because, otherwise, you'd have no rules in your zone. You'd have -- all you would do is say, well, wait a minute, there's a big building or a different use, not allowed in your zone, but it's very close, so why not? That's compatible. That's the reason why zoning has lines and rules.

COMMISSIONER VERNON: Thank you.

CHAIRMAN HOMIAK: Paul was -- Paul first.

COMMISSIONER SHEA: Are we allowed to comment on Commissioners' comments?

CHAIRMAN HOMIAK: Sure.

COMMISSIONER KLUCIK: This is the only place we can talk to each other.

COMMISSIONER SHEA: You said something that really struck a bone with me. You said everyone buys a home with the idea that zoning will change.

COMMISSIONER KLUCIK: No, that it could change.

COMMISSIONER SHEA: Okay. But I think everybody buys a home with the hope that we, as a commission, will maintain the zoning because it's the organized plan the county has adopted. And so I didn't want -- I didn't want your philosophy to be mixed up with mine.

MR. SCHUMANN: And, Mr. Shea, that what -- when he was asking me that -- may I just add something on that? Because while I agree with what you said, what's really important here is this: When you're talking about the equities, to the extent anybody wants to talk about the equities on the fringes because judgment involves a lot of factors, there are no equities for Stock here. To the -- to Mr. Klucik's point, and the way I have seen it in my life, is that a developer can go in and they can buy property contingent on the fact that, you know, we only want it if we can get a zoning change, and you enter into contracts, and you get out of them if you can't get the change. That's a way to do it. You don't have to do it that way. You can do what Stock did which is to buy it with no contingencies. But Stock is the one that bought that property knowing that it could not build this project. They knew it couldn't. And they made a bet. And I'm not saying they should suffer for it. They'll make a lot of money on a project that does comply. I'm simply saying that when Mr. Klucik, with all respect, talks about how the thousands of us are vulnerable because we knew when we bought our places that zoning could change, I would say, respectfully, you have it backwards, and that is that Stock knew when it bought the property it might not be able to do this and probably, if you read the law, couldn't do it.

CHAIRMAN HOMIAK: Mr. Fry?

COMMISSIONER FRY: Hi, Mr. Schumann. It's Mr. Fry on the Commission.

I think we're in the midst of one of the most relevant and important topics of this whole discussion which is compatibility and where -- how you judge compatibility. Is it purely within the Vanderbilt Beach community, or does it extend into Pelican Bay and Bay Colony, the Ritz, et cetera?

Mr. Schumann, you mentioned you have to consider only the zone that a property is in. Is there a definition of what a, quote, zone is? Is there a definition that applies here? We know that Pelican Bay is a master planned community, and Vanderbilt Beach is, you know, much more informal community. But is there a formal definition that defines those two as different zones?

MR. SCHUMANN: I don't think I could quote to you a formal definition. What I have seen in the cases and the law, what I believe is what you've got is the Vanderbilt Beach community with rules for its area, and now you've got rules in Bay Colony or in Pelican Bay for its area. The law in Florida, but I will say the law everywhere, is that you have -- the analysis of the compatibility and -- has to be in that context of, given the rules, because they're asking you to change the rules.

So the logic, but I believe the law, is that wherever they ask you to change the rules, let's look at the area by which those rules are governed. That's what's important here. You can't look at Pelican Bay with totally different rules and say, well, they've got tall buildings. They do. They've got all kinds of rules that you would have to -- if there were some kind of a notion of comparability, how do you -- apples and tangerines. You'd have to import all the other rules that go with the decision to allow a building of that size overlooking the water. I mean, that's why this -- that's why spot zoning was developed. They had this project in mind, so to speak, because this is what sticks out like nothing else in the community.

COMMISSIONER FRY: And I'm unable to really evaluate the concept of spot zoning as a legal -- I'm an attorney -- in terms of a legal concept, but certainly we're looking at this from the standpoint of compatibility and complementary nature. So a very extreme example. And I notice Mr. Yovanovich just standing there, so I'm going to -- maybe this is a good time to get your thoughts on this.

New York City, Central Park, across the street is the Plaza Hotel and a whole line of high-rises that bound Central Park on all sides. Central Park has a zoo. It has performance venues. It has lakes, and you can take paddle boats and that kind of thing. But I guess my question is, could you apply and build a high-rise within Central Park because across the street are high-rises?

So I think it's a good opportunity to get your thoughts on why we should be considering Pelican Bay and Bay Colony, the Ritz, in the compatibility analysis.

MR. YOVANOVICH: I think --

MR. SCHUMANN: Mr. Fry, that's again -- let me just -- to the extent that that was put -- listen, I'm --

CHAIRMAN HOMIAK: Excuse me.

MR. SCHUMANN: -- distanced. So to the extent that that was --

CHAIRMAN HOMIAK: Mr. Schumann?

MR. SCHUMANN: Yes.

CHAIRMAN HOMIAK: He was speaking to Mr. Yovanovich.

MR. SCHUMANN: Oh, forgive me. I could not tell from my picture.

CHAIRMAN HOMIAK: That's okay.

COMMISSIONER FRY: If you'd like to -- if you have thoughts afterward, then I'm okay with that. But Mr. Yovanovich is ready to speak.

MR. SCHUMANN: Sure, sure.

MR. YOVANOVICH: Actually, I was ready to ask Mr. Schumann some questions, but I'm happy to speak to that question.

I think you have focused the question on what is the appropriate area to look at in considering compatibility and whether something is compatible and complementary. I think I fundamentally disagree with the conclusions of the current speaker as to spot zoning and what you can consider in spot zoning.

You can look at what's around. And you get -- the beauty of it is you, as the legislative body, will decide what you think is the appropriate area to take into consideration in changing the Comprehensive Plan and, ultimately, the zoning on the property.

That's what it's going to come down to. So you're hearing some of my closing argument. You get to make that decision. You are not limited to saying Central Park is a park and it can never be anything but a park if a property owner brings an application to rezone a corner of Central Park near the Plaza Hotel and say, I want to put a hotel on that corner just like the Plaza Hotel.

I don't know New York law. I don't know if they have a Comprehensive Plan. They may have to go through the same process we're going through now. But it is not spot zoning to say the park has to be the park forever, and you can't consider other development around it. That is it.

If I can, I do have some questions for Mr. Schumann regarding the concept of spot zoning and his testimony.

CHAIRMAN HOMIAK: Go ahead.

MR. YOYANOVICH: So, Mr. Schumann, I just want to understand a question -- or I have a question for you. What's the zoning for the Regatta?

MR. SCHUMANN: If you're going to ask me the details of the zoning, I don't -- I couldn't give that back to you.

MR. YOYANOVICH: Okay. So you don't actually know --

MR. SCHUMANN: Let me say this: My understanding is it's C-3, but I don't -- none of the -- that doesn't impact on my analysis. But I can't tell you the zoning of --

MR. YOYANOVICH: So your analysis is once you have zoning on your property, anything you want to develop on that property has to be consistent with the existing zoning standards on that piece of property?

MR. SCHUMANN: Well, under the law, it's got to be -- the language that's in the statute is consistent and compatible. So I would say to you that when you want to -- when you need a variance, it's got to remain consistent and compatible.

MR. KLATZKOW: Let me -- let me just -- this is not a variance.

MR. SCHUMANN: No, no, no. I understand.

MR. KLATZKOW: The applicant is asking -- the applicant is asking for a Comprehensive Plan amendment.

MR. SCHUMANN: Right.

MR. KLATZKOW: Okay. There are legal standards as to whether or not a Comprehensive Plan amendment can be granted.

It is my opinion that once those legal standards are met and a board has made a decision, there can be no spot zoning, okay, because at that point in time, you've gone through a public -- you've gone through a public process, you have met all the criteria, and at that point in time, whatever gets developed on that property will be consistent with the Comprehensive Plan. And so there are a lot of cases on spot zoning, and they tend to be in places that do not have Comprehensive Plans and that predate the Comprehensive Plan process in Florida. That is just my opinion on this one.

MR. YOYANOVICH: And I -- thank you. I agree 100 percent with his opinion. But I want to make sure, for the record -- I have a lawyer attacking my petition, so I just want to make sure I understand his question.

So if I have agricultural zoned property, am I required to come in and pick a zoning category that is consistent with the development standards of the agricultural zoning; otherwise, it would be, quote, spot zoning?

MR. SCHUMANN: I'm not sure I understand the question, but --

MR. YOYANOVICH: Well, let me rephrase it then. You said I have to pick something that's consistent with the development standards of C-3 zoning to not be spot zoning, correct?

MR. SCHUMANN: Yes.

MR. YOVANOVICH: Okay. So if I'm -- hang on. So my next question is, if I have a piece of property that's zoned ag and I want to rezone that property to something other than ag, am I required to meet the development standards in the agricultural zoning district; otherwise, in your legal interpretation, I would be spot zoning?

MR. SCHUMANN: I would not go that adamant, no.

MR. YOVANOVICH: Why not? You just told me I have to meet the C-3 zoning standards. Why wouldn't you also apply it to something that's already zoned ag?

MR. SCHUMANN: Because the law, it remains the same. It's got to be -- when you're -- the statute refers to densities and intensities. That's what we're talking about here. If you're going to switch topics and switch to an agricultural use, you have to -- you still have the same standards. There is -- there's always -- there's always discretion, and the commissioners have discretion to -- it doesn't have to be exact.

When you're talking about issues that are, say, building heights, say, setbacks. You've got issues where if it's -- if the building height is 75 feet, you can always ask for 80 and 85 feet. You show a good reason, you're going to get it. If you ask for something that's inconsistent and incompatible -- and there may be some judgment because people have to think about it and decide is the request consistent and compatible? Within reason, it's going to be allowed, and when it's not within reason, it's spot zoning.

And in this context, in this context, when you go triple -- double the density and double the -- triple the height, a court of law, I believe, under Florida law, would say it is spot zoning, notwithstanding any other example. Talking about what we have here, this is spot zoning.

MR. YOVANOVICH: Okay. So let me ask you this: What's the existing zoning for the Barefoot Pelican condominium that's in the same zone?

MR. SCHUMANN: Yeah, I can't tell you the answer.

MR. YOVANOVICH: Well, you know, if I were to tell you that it's 45.8 units per acre, do you have a reason to doubt me?

MR. SCHUMANN: I don't have reason to doubt you. I won't adapt it, but I don't have reason to doubt you.

MR. YOVANOVICH: Okay. So is 31.7 units per acre compatible with 45.8 units per acre?

MR. SCHUMANN: I would say to you that if the law were as -- if the law were 31 rather than the current 16, but if the law were the 31 and you came in and asked for 34, I think you're probably right. If you asked for 404, I'd say no. Where the line is is not always immediately known. And indeed, that's why folks like these commissioners use some judgment.

When you get to double and triple, there is no judgment here. Under the law, when you talk about density -- when you've got a law that says 16 and you go to 32, when you talk about 75 feet and you go to 208, my belief is that that's the analysis -- you have to -- you have to contrast that to consistent and compatible, and then don't forget there's the open spaces and all the other issues but -- in the density, but that's what you're comparing. When you're going to go slightly above and ask for permission, there's a lot of ways to get there. And so if somebody says the law is 75 and you asked for 85, you asked for 100, you know, in that area, judgment says fine, it's not spot. Zoning, when you ask for double and triple, it's spot zoning.

COMMISSIONER KLUCIK: Could I ask a question, Mr. Yovanovich?

MR. YOVANOVICH: Yes.

CHAIRMAN HOMIAK: Go ahead.

COMMISSIONER KLUCIK: Based on the point you just made, I guess I'm confused as to -- and it's really what I already brought up, but I'll be more specific because I found the numbers. So Regatta is right adjacent to this project, and it's 148 actual feet high. And I'm just

trying to figure out how it would be spot zoning to then have on the -- basically, the adjacent parcel to be something that was 148 high, or even based on what you just said, well, maybe, you know, 180 feet high. You know, not 400 feet high but, you know, even a little bit higher than the adjacent property would then be compatible.

I'm just trying to figure out how -- what is the logic you're asking us to apply? Because even -- or even the law. If we look at the project -- or the properties that are adjacent to this parcel both east, which is 148 feet and then west, which is the Beachmoor, which is 127 feet, I'm just trying to figure out how on earth we could justify or even, you know, under your definition how we could say, well, that would be spot zoning to allow 148 feet. Do you understand my -- the question I'm asking?

MR. SCHUMANN: I do. And to be clear, nothing that I said would justify the 180 as was implied in your question.

COMMISSIONER KLUCIK: Well, let's stick with 148 which is the actual height of Regatta at Vanderbilt Beach.

MR. SCHUMANN: Yes. And the answer, in my mind, is that what we're dealing with right now is rules that allow for 75 feet. We've got an analysis by the -- by the -- not only by Save Vanderbilt Beach's experts, but the planning staff that talks about you could go to 125. If you did the -- if you did the --

COMMISSIONER KLUCIK: No. I'm just going to your spot zoning argument which seems to be the -- you know, something that you emphasized. How is it spot zoning to say that that whole strip of land from the first project, you know, to the east of this -- this proposed project, and if you go along Vanderbilt Beach and then you go to the Beachmoor on the west, why would it be incompatible or even spot zoning? I guess, really, why would it be spot zoning to say in between those two pieces -- those two tall buildings, that you can't have a building that's the same height? What's your reason to say that that's spot zoning, that would be -- the law is trying to avoid when -- when the two adjacent uses are the same height?

MR. SCHUMANN: Because the analysis is you don't compare it to simply one building and then say, fine. You compare it to the community and the average --

COMMISSIONER KLUCIK: Right. And those two -- are you arguing that those two buildings aren't in the community?

MR. SCHUMANN: The -- which two? The Regatta --

COMMISSIONER KLUCIK: The Regatta and -- which is 148, and the Beachmoor, which is 127.

MR. SCHUMANN: Yeah. No, I think that in an analysis of the community, you take those along with the other buildings that demonstrated that the norm, if you will, is more like 100, give or take a little. You don't look at the high and the low. You look at the norm, and the norm isn't the highest. If you did that, you'd have no stopping it, because this one would go up at 130, and the next one would be 160, and the next one would be 180, always because it's incrementally a little bit bigger than the biggest one you can find.

The community is average of pertinent buildings. The studies that we have done demonstrate that it's more like 100. Many of the buildings are less. There's a few that you've mentioned that are more. And the notion that 208 feet fits in there is impossible is spot zoning under the law. That's my view.

COMMISSIONER KLUCIK: Thank you.

MR. SCHUMANN: I don't think there's any question about it.

CHAIRMAN HOMIAK: Okay. Mr. Yovanovich, are you --

MR. YOVANOVICH: I think -- I think I'm done.

CHAIRMAN HOMIAK: Okay.

COMMISSIONER VERNON: Yeah, Madam Chair, can I ask a question of

Mr. Schumann?

CHAIRMAN HOMIAK: Sure.

COMMISSIONER VERNON: All right. Did you hear -- and I'm not sure he identified himself -- but Attorney Klatzkow, County Attorney, explain, because we're amending this, and if I understand his argument, that technically this would really not be spot zoning, and if that's true, then the case law you're citing would not seem to be applicable? And I just wanted to give you a chance to respond to that if you'd like to, and at least as to my understanding of the ying and yang of what you talked about and what Mr. Klatzkow -- Attorney Klatzkow talked about. If you can respond.

MR. SCHUMANN: Yes, I can. And we -- you know, in fairness, we differ some here.

I don't believe it's two-part so that you get around spot zoning as a problem by adjusting the rule and then saying, okay, now it fits within the rule. Spot zoning says, look at the community and take a look at what you've got compared to what you want to build, and a device -- and I don't mean that in a pejorative way, but a device to get you there is an unlawful device to get you there. You look at the community. Somebody wants to put in a development. You've got to compare it to the community. If all you do is change the rule to allow you to do it and then say now it's consistent with the rule, with respect, I don't believe that's the law.

I believe a court would look at that, they'd look at the numbers here, and they'd say, you're putting -- you're going to put up a 208-foot building with 35-foot walls and no setbacks and then take away all of the open space, you're going to change all the rules for that one five acres of -- owned by one developer when the entire community is going crazy? No. I think they cannot do it under the law and, with respect, I don't think you can get around that law.

COMMISSIONER KLUCIK: And are you referencing -- just so I understand, are you referencing Florida law?

MR. SCHUMANN: Florida law. Florida law. It is the law everywhere, but I will tell you that the law everywhere can vary, and the case law can vary. I am confining my comments only to Florida law, the statutes and the cases.

COMMISSIONER VERNON: Thank you, Mr. Schumann. And just to follow up, if you want to, if any response from petitioner's counsel or Attorney Klatzkow, if I understood the question that I've framed, to get your thoughts.

MR. KLATZKOW: Okay. Just for clarity here, this is not a fact witness, all right. This is someone who is giving a legal opinion that this is spot zoning; it should be designed. But this is not a court, all right. That opinion -- if he's right, he'll have a chance to bring that on a challenge.

The role of the Planning Commission is to review this application, okay. It's a dual application. The public petition seeks an amendment to the Comp Plan, and then at the same time, the Comp Plan amendment, a PUD amendment. That's the criteria you're looking at.

It's my legal position that you cannot have spot zoning on a legal Comp Plan change. That's the end -- that's the end of discussion.

In essence, Florida allows legal spot zoning through this process. That's what we're doing here. So that -- I understand the argument. Don't agree with it, but that's fine. But the argument is misplaced in this particular venue. The appropriate place for that venue is in the Circuit Court on a challenge to this application, should a challenge come right down to it.

Similar to your earlier speaker, Sarah, they were legal positions, okay. We spent two-and-a-half hours talking about legal issues but, really, that's not what you're here to do. You're here to analyze the facts that are presented for you, whether it's traffic reports or people talking about the appropriate density or the building height in connection with the applicant's request to change the Comp Plan, whether it is appropriate.

And so we're sort of like getting off track here. We've been off track here really all morning. Instead of focusing on, well, quite frankly, the people who live there and say, how is

this going to impact you and hearing that, we're listening to attorneys arguing that the whole thing is unlawful. And, okay, but that's not what we're here for. That's not what the Board of County Commissioners will be doing. That would be for the province of a Circuit Court judge down the road. We're just following a process here, and at the end of the day, these speakers are outside that process.

COMMISSIONER VERNON: No, you answered my question. I appreciate that. I just don't want to send something up that's going to be reversed by a court of law, clearly. That's why I wanted to get your legal opinion.

MR. KLATZKOW: Look, this is obviously a contentious matter, and I have little doubt that it will be litigated, which is the primary reason I asked Mr. Fryer to step down. He doesn't need to get embroiled in this on, really -- well, sideshow issues.

COMMISSIONER VERNON: You answered it.

MR. KLATZKOW: Yes.

CHAIRMAN HOMIAK: Okay. We're done with Mr. Schumann, right?

COMMISSIONER FRY: Yes.

CHAIRMAN HOMIAK: You're asking something else.

Thank you, Mr. Schumann.

MR. SCHUMANN: Thank you.

CHAIRMAN HOMIAK: Karl, you have a question for --

COMMISSIONER FRY: I just wanted to say that, you know, six months ago I was the new guy on the Planning Commission. Now there are three people that are newer than I, although you're very experienced people in life, but I think we're -- I think we -- as Mr. Klatzkow said, we're maybe making the -- we're overcomplicating this. I wish you had said that about two hours ago. I thought those were very insightful comments.

MR. YOVANOVICH: Me, too.

COMMISSIONER FRY: You know, so the way I look at it is we have the Comprehensive Plan, and the applicants -- and this is a nonlegal opinion. Applicants come in, and they say, we want to change it, but we want to change it with such -- with Justifications A, B, and C: Less traffic than what would have been there, more better beneficial -- more beneficial to the county, more beneficial to the people that live in the area, and it's our job, simply, to weight those things, and it doesn't have to be legal to say, we think that makes sense. This is actually better off -- this is better for the county and the residents overall, big picture. The balance sheet weighs in their favor or it doesn't.

And so I think that we're -- Chris, I thought what you mentioned, your criteria, the things that you're looking to hear about, I share many of those things, maybe with a couple more. But I believe, yeah, I'd like to hear from the residents, how is this going to impact you? Why is it a bad decision? If that's your position, why is it a bad decision for Collier County? For Vanderbilt Beach? And the opposite -- the opposite from the applicant. And so we can, like I said -- but we have the latitude to say this makes sense to us or it doesn't, and to me it's that simple.

CHAIRMAN HOMIAK: Okay. Our next speaker is Mr. Bamberger.

MR. BAMBERGER: My name is John Bamberger, and you'll be happy to know I'm not an attorney, and I am a resident. I live full time in Collier County, and I reside at the Regatta.

The developer's stated goal was to complement the unique characteristic of Vanderbilt Beach area while enhancing and enriching the neighborhood. The proposed development changes that they're asking for does no such thing.

The reason I am here today would be based on their request for the setbacks and ratio to the actual building heights. Current C-3 zoning requires actual building height to frontage at a setback ratio of 50 percent with a minimum of 25-foot. So a 100-foot building would require a 50-foot setback; a 35-foot building would still require the 25-foot setback.



The streets front -- front-street setbacks and the building height do go hand in hand. And when they're done correctly, they provide open views, green space, sunlight and, most importantly, a sense of security.

This is why we have zoning codes. This is why they are written to complement any neighborhood, not just the Vanderbilt Beach neighborhood. But the Vanderbilt Beach neighborhood is a good example of how this has been done correctly.

In a previous presentation on the 15th, the average actual building height in Vanderbilt Beach neighborhood was 80.5 feet. The average setback was 49 feet, which is a 60 percent ratio, far exceeding the C-3 regulations.

If you'd like to use Regatta, where I live, the Regattas, it would be much higher. Regatta has 147 -- or excuse me, 148-foot building but it sits 150 feet back from Vanderbilt Beach Road. Also, when Salvay (phonetic) designed the Regatta, at the back corner of the -- it would be the western -- far western angle of the Regatta, Building 1, it was designed at an angle. We have Barefoot -- what is it, Pelican Barefoot or Barefoot Pelican right behind us. When they did this angle, it basically allowed their views of the bay to still exist. It also, very importantly, increased the back/front setback. So we're very -- I don't know the exact measurements as far as how far are we back from Barefoot Pelican, but we are back well over the C-3 zoning.

Under the current zoning plans, what they're requesting for their 208-foot towers would be -- would require 104 feet. They're asking for 35, which is only 12 percent. The 77-foot mid-rises would require 38.5 feet; they're asking for 15, which is 19 percent. And on the Bayfront, 87 front mid-rises would require 43.5 feet; they're asking for 10, which is only a 12 percent ratio.

In the previous meeting on October 15th, Stock did say that in the rebuttal they would provide you with actual setback footages using drones, which hopefully they will do that today. But I would also ask you to include the ratios of the setbacks to the proposed building, actual building heights.

The setbacks that are requested for the two towers are not compatible with anything in the existing neighborhood, not on Gulf Shore Drive, not on Vanderbilt Drive, or not on South Bay Drive. These towers would block the views of up to 42 units at the Regatta. That will reduce their value. People there invest, and they want their investment. When I purchased there 10 years ago, I did see the vacant lot. I did specifically ask our real estate agent how it was zoned. I was told. I know things can change. Not this drastically.

The 77-foot mid-rises along Vanderbilt Beach Road would create a wall hundreds of feet long and set back 15 feet from the road. If you can imagine all the tourists that come and walk down Vanderbilt Beach Road every day, hundreds of them, they'll be in a shadow, because that wall will be way up here. They'll be just doing that. It doesn't look good. And I don't care how much landscaping they do. There's no way you're going to hide a 77-foot building with only 15 feet of landscaping.

The Bayfront mid-rises, 87 feet tall with only a 10-foot setback. That would create, in my opinion, a fortress. If you're walking down -- I walk my dog down South Bay every day of the week. We walk down there, and I'm looking at 87-foot 10 foot away, which is about from here to here, 87-foot-tall, it will look like a fort.

Also, on the bay front, they're only asking for a zero to 12-foot setback from the water. You boat around Vanderbilt Lagoon. There's nothing on the water like that. Everything is set back. You have mangroves or boat docks, but not right on the water.

The mid-rise bay-front buildings would also dwarf the neighbors, of course, in Barefoot Pelican, the Palms, and also at the Regatta they would block the views, the bay views, of up to 24 more units as we look out, basically, to the northwest.

Bay-front buildings should be reduced and no than an actual height of 60 feet, and the setbacks should be increased to conform to the rest of the neighborhood.

The Vanderbilt Beach neighborhood does exceed, though not required, all the setback ratios of C-3 zoning. Permitting the zoning changes would not only be incompatible with the Vanderbilt Beach neighborhood, but it would be incompatible with anywhere in Collier County. I've asked. There is nothing with a 12 percent height-to-setback ratio.

So I would ask you right now to basically turn down the request. Something like this, as dense as this would be in just the building part, would make it look like Miami. You can go over there. You can see the high-rises or downtown Chicago or wherever. That's not what we want in our neighborhood.

There are some alternatives that have been put out there. James Sabo had a wonderful -- his first original, I should say, alternative proposal would be acceptable. I think the Vanderbilt Beach association or Save Vanderbilt, those will be acceptable --

MR. FRANTZ: You have 30 seconds.

MR. BAMBERGER: -- and I think, basically, the C-3 zoning that's currently there would be acceptable.

Thank you for your time. And, again, I'm a resident talking for myself and my family and very concerned with what's going to happen to our neighborhood. Thank you.

CHAIRMAN HOMIAK: Thank you.

Karl, do you --

COMMISSIONER SCHMITT: One comment.

COMMISSIONER FRY: Joe can go ahead. I'll go next.

COMMISSIONER SCHMITT: Yeah. John.

MR. BAMBERGER: Bamberger.

COMMISSIONER SCHMITT: Bamberger. But you do understand, you talked about the setback of the towers. The setback is actually from the tower, not from the garage.

MR. BAMBERGER: Correct.

COMMISSIONER SCHMITT: So you --

MR. BAMBERGER: That's what I said, 35 feet from the tower, not the garage. The garage is 25 feet.

COMMISSIONER SCHMITT: Twenty-five feet, okay. Because that -- you were somehow alluding -- I thought I heard you say because of the height of the tower, the setback should be half the height of the tower.

MR. BAMBERGER: Under current zoning, a 208-foot-high building would have to have a setback of 104 feet.

COMMISSIONER SCHMITT: Yes. Okay.

MR. BAMBERGER: Yeah. And like I said -- and then I mentioned the Regatta, even though it's 148 feet, we're 150 feet back from Vanderbilt Beach.

So I'm saying it's just of -- completely out of the character, the ratio, and that's what's very important. It's just not the height and the set -- it's the ratio. And I think that's just so much more like Miami and certainly not like Naples. It's not why we moved here.

And I thank you all for your time. I appreciate it.

COMMISSIONER FRY: Mr. Bamberger, I have a question for you.

MR. BAMBERGER: Sure.

COMMISSIONER FRY: First of all, you forgot to cite the specific Florida Statutes that you were --

MR. BAMBERGER: I know nothing about -- like I said, I'm a resident. I've been here for nine years and --

COMMISSIONER FRY: Thank you. I mean, I think we got back to what we're looking to hear from residents. I appreciate that.

COMMISSIONER SCHMITT: Is that a form of levity?

COMMISSIONER FRY: Poor attempt at levity.

MR. BAMBERGER: Thank you.

COMMISSIONER FRY: So let me ask you this: So what would you -- so if it was C-3 and it could be built up to 75 feet, if it was the alternative plans proposed by Mr. Sabo with, like, the 125-foot maximum height, the alternative proposed by Mr. Stuart, which I think a couple -- 12-story and a 9-story, I can't remember exactly, but we'll go through again, what would you -- wouldn't those still block the views of significant numbers of Regatta --

MR. BAMBERGER: Not really. Basically, at the Regatta, when you're on Floor 7 through 12, in Building 1 that is, you have a gulf view. On the bay front, if they want to go 87 feet, it's going to block the bay and gulf views for Floors 7, 8, 9 and possibly 10.

The winter, also when the sun sets, it's basically -- as it moves south in the winter -- and we've got another couple weeks, and it will be as far south as it goes -- we're looking down this way to see the sun hit the gulf. That's gone. I mean, with the size of that tower, it is gone. The width of the tower, it's gone.

We have two buildings right now. I know one of them is the -- is it Beachmoor? -- Beachmoor, and I can't remember what the name of the other one was that does block, and I know for sure I lose 38 days a year as it comes back and goes on of the actual gulf -- the sunset hitting the gulf. We know that. I understand that.

What it is, it's just so massive. And to me, it's more the ratio of the height to how -- squeezing every little inch in there, and that's the thing. I mean, I've been downtown Chicago. I've been to Miami. That's what it looks like. I don't want to be walking my dog every morning, which I do, walking down and looking at a, you know -- and I'll be in a shadow. In the afternoon you're talking a shadow on Vanderbilt Beach Road. There's no way of getting around that.

South Bay ride, we go around that way every day. Same thing. I mean, it's just -- it will be claustrophobic in my opinion.

COMMISSIONER FRY: So you'd be okay with a building height approximately equal to yourself and Beachmoor.

MR. BAMBERGER: Yeah.

COMMISSIONER FRY: But just not the mass.

MR. BAMBERGER: It's just -- it's the height and -- yeah, that, I think, would be very acceptable, as long as it had the proper setbacks to go along with it. You walk down Vanderbilt Beach now and you can -- I mean, we're -- the towers the way they have got the landscaping, we're 150 feet back is the first building. The second building is over 200 feet back.

COMMISSIONER FRY: I drove --

MR. BAMBERGER: You can barely see them.

COMMISSIONER FRY: I drove through the area the other day and, yeah, I'd say the Regatta, I've driven down there 100 times and never even noticed Regatta. It is a very tall building, but it is set back significantly.

MR. BAMBERGER: Well, we're set back 150 feet and almost 200 for Building 2. Even the mid-rises are set back with greenery all over them. You can't see them. And those, even the mid-rises, are well beyond the C-3 zoning regulations. We've done it. Everybody in the neighborhood has done these ratios. Why can't they? That's basically it. If they can keep to those regulations, that's fine.

COMMISSIONER FRY: What about the -- I mean, what about the -- I think it's -- I would call it a reality that a residential use will generate less traffic than a commercial use. So while we say a C-3 would be advisable, it would -- I think it's been shown it would generate multiple factor of traffic compared to a residential use of some kind.

MR. BAMBERGER: If it's using the current zoning, which is building height to setback,

you couldn't put a lot of square footage back there. If you've got a 60-foot building, it's got to sit 30 foot back from the road. I mean, you're not going to be able to put in a huge amount of property.

COMMISSIONER FRY: Okay. I think you've answered my question. You're not overall concerned if it turned out to be commercial even if it generated more traffic, which I think's been documented by experts.

MR. BAMBERGER: Yeah. Oh, I understand, basically some of the ratios. I think the traffic is -- everything has to be included, and that's why I think just the ratios that I want to present, I think, has to also be looked at. It's not just traffic. It's not just height. It's everything combined.

I'm saying how this is going to affect me, myself, and my family, and that's it. I mean, you're talking the neighborhood where we walk down. We go to the beach store. Dave gives 32 dogs a treat every day of the week. He knows every one of the dogs by name. That's our neighborhood. That's what it's about. We walk by. We say hi to everybody. That's our neighborhood.

COMMISSIONER FRY: Last question. There's a little bit of commercial in the current application. Let's just say how -- whatever is approved there, you know, it's going to change. You know that they own all that property. Something's going to be developed there.

What is the amount of commercial that you'd like -- if it turned out to be a residential or mixed-use type of a thing, they're obviously -- they have a little bit of commercial. What's the amount of commercial that you think would be appropriate and that you guys would like?

MR. BAMBERGER: I'm not an expert, by any means, but -- I don't know about square footage. But like I said, I go to the beach store every day. Dave is a great guy, knows everybody by name. Go in there, grab a pop, grab a coffee in the morning, something like that. I think that's nice to have.

I think taking advantage of the location being near the beach would be nice. Maybe something a little bit similar, maybe nicer than the Beach Box, something like that. Maybe even a restaurant. You know, DaRuMa's nice. That's a great little place to go to, you know.

But, again, the reason people are coming down there is to go to the beach. You know, they're not going to come down there to go shopping and do whatever. I mean, it would be a nice advantage. I mean, for me to walk down the street and find an Italian place or whatever or steakhouse, something like that. We don't need 10 of them, but having something, that would definitely be an advantage to the neighborhood, I think would be nice.

Again, like I said, I'm really concerned with the squeezing in of height and everything just crammed right next to the road. It just -- I can't envision walking my dog every day and doing that. I just really can't.

COMMISSIONER FRY: Thank you very much.

MR. BAMBERGER: All right. Thank you.

COMMISSIONER SHEA: One question. Sir?

MR. BAMBERGER: Sure.

COMMISSIONER SHEA: You might have already answered it, but are you okay with the changes proposed under the zoning in terms of the height limitations and setbacks that are on the second item? Are you okay with those conditions, or do you want --

MR. BAMBERGER: What do you mean the second item?

COMMISSIONER SHEA: There's two items. One for a Growth Management amendment and one for a zoning change. The zoning change, staff recommendation is a smaller elevation and different setbacks and other criteria.

MR. BAMBERGER: From what I've heard over the last, now almost four years, basically I think what James Sabo, his first recommendation, I don't remember the exact height, but he had

the setback ratio set up where that would definitely be acceptable.

What the Vanderbilt -- Save Vanderbilt Beach, what they've done is not just height. Again, it's height with a setback. That's acceptable. I mean, that's what I look at.

I just don't want to be walking along the road and being in a shade all the time. You know, once in a while you want to see a little sunshine. And so that all has -- those two that I've looked at -- I haven't looked at them and studied them, you know, as much as you-all have, but those two, to me, seem very acceptable. I think they would be acceptable to the neighborhood as well as C-3 zoning done properly, you know, and what can be done on that property the way it is zoned now.

But what I say is, the Vanderbilt neighborhood, including the Regatta, has basically met all the criteria of the ratio of the height to the setbacks. And that's all I'm asking, that that needs to be taken care of, and that has to be taken care of in the Comprehensive Plan Management Plan, first of all.

COMMISSIONER SHEA: So you don't -- you have -- you don't know if Mr. Sabo's plan, which is the second item we have to vote on, meets what you think is a reasonable criteria for setback to height? You haven't reviewed it? That's fine.

MR. BAMBERGER: I have not reviewed it.

COMMISSIONER SHEA: That's no problem.

MR. BAMBERGER: I was just here sitting outside the first two meetings, and I saw his presentation. I went, that makes sense, with the wedding cake design. But I do remember his height and setback, I believe, was at that 50 percent ratio which, to me, is very acceptable because we've all done it.

COMMISSIONER SHEA: Thank you.

MR. BAMBERGER: All right.

CHAIRMAN HOMIAK: Okay. Thank you.

The next speaker is Betty Pircio.

MR. FRANTZ: The next speaker is on Zoom.

MS. PIRCIO: Hello.

CHAIRMAN HOMIAK: Okay. Go ahead.

MS. PIRCIO: Oh. Hi. My name is Betty Pircio, and I own a condo at Barefoot Pelican, and I'm a direct abutter to One Naples property.

I believe that there's a pictorial of Barefoot Pelican on your screen right now? Yes?

COMMISSIONER SHEA: Not yet.

MR. STUART: I am searching for it.

MS. PIRCIO: Please don't keep my minutes going, then.

COMMISSIONER SCHMITT: Whoop. Your time's up.

COMMISSIONER FRY: Was that an attempt at levity, Joe? Much better than mine.

May I ask, can you see me?

CHAIRMAN HOMIAK: No.

MS. PIRCIO: No?

CHAIRMAN HOMIAK: Is that it?

MR. SABO: Yes, that's it.

CHAIRMAN HOMIAK: Okay.

MS. PIRCIO: May I start again?

CHAIRMAN HOMIAK: Yes, you may.

MS. PIRCIO: Thank you. My name is Betty Pircio, and I own a condo at Barefoot Pelican, a direct abutter to One Naples property. Barefoot Pelican is shown on your screen.

The One Naples Lagoon mid-rise is 87 feet tall, 88 feet wide, and 500 feet long, and will be 37 feet from Barefoot Pelican Building 1. Their rear setback of 12 to zero feet is not

complementary nor compatible with our homes and will impact our quality of life and will create a nuisance by the building's out-of-scale wall. The drawing in front of you shows that.

The front setback of 10 feet is not compatible with our homes either and will create another nuisance by significantly reducing our line of sight along with sun and shade impacts. Please do not approve this project as submitted.

I attended the NIM on March 3rd, 2020, listened to the video, and submitted my notes, which are in your packet. There were 4- to 500 people at this meeting. Twenty-seven spoke on the video; more spoke after the video was shut off. One speaker asked the people who were in favor to stand. He counted eight people in all.

Most of the speakers spoke passionately against this project, and I have summarized their comments.

One, where's the architectural model? Speakers asked where the 3D presentation was. Stock had been promising it for months. The photos are misleading. We still don't know what their buildings look like. Why?

Another asked, why don't the pictures show setbacks? And as an aside, when the residents finally hired their own architect to draw plans from Stock's public submissions so we could finally know what we were talking about, Stock sent out a cease and desist letter to prevent us from using our own renderings.

Stock has stated that they have had 47 NIMs over the past months. Okay. Then why have none of the neighborhood condo associations endorsed One Naples, and why has opposition risen to several thousand people?

Two, setbacks. Their setbacks don't belong in a fragile beach area. Their setbacks don't match the setbacks of the other buildings. Their setbacks would not fit into Lowdermilk, Clam Pass, Wiggins Pass, nor Vanderbilt Beach. The mid-rise on South Bay will be sticking out past our building by 15-plus feet and will be 87 feet high and 88 feet wide.

We will no longer have a line of sight up South Bay from our walkways. We will lose some of our line of sight from our lanai to the lagoon. This will hurt our quality of life and our property values.

Three, traffic. We call for ambulances and they can't get to us because of the traffic. Does someone need to die? Beach traffic rerouted because of too many cars.

Beachwalk, Barefoot Pelican, Vanderbilt Palms, and Regatta residents talked of being unable to take a left out of their condos towards Route 41 and having to turn right, go up Gulf Shore through Naples Park. Pelican Bay spoke of beach traffic being rerouted through their streets. Others talked of rising sea levels and the difficulty of evacuation during storm surges. Vanderbilt Beach Road is a two-lane road to the beach and is already congested with cars, bikes, walkers, and baby carriages.

So is there any common thread in all these complaints, or are these people just grouching for the sake of grouching?

I'm going to make a couple of analogies in plain terms to make my point. One, our cup runneth over, so says *Naples Daily News* on October 4th, 2020. Collier County is partnering with the feds for \$3 billion to address our storm surges with the Army Corps of Engineers. They liken Collier County to having their full cup of water and trying to pour more into it. Global warming is creating more hurricanes, and more hurricanes are creating more frequent and larger storm surges. The last thing we should be doing is doubling the intense -- excuse me -- doubling the density in our coastal areas.

Two, the definition of compatibility. That is, where conditions can coexist in relative proximity to each other in a stable fashion over time where no use unduly negatively impacts another. There's an old saying, you can't put lipstick on a pig. If something moves into the neighborhood and is deemed to be so massive and far reaching that everybody hates it, can it be

made more attractive by draping it with trees, vines, a waterfall, and a piece of art?

The developer's attorney would have you believe that, quote, enhanced landscaping will address the lack of setbacks. And that's how you improve the neighborhood, end of quote. Who besides the developer thinks that's true?

Your Planning Department talked about compatibility and downsizing those massive buildings. Staff's 76-foot building height recommendation is a good start, and I support it. All of us would like something built here but, for everybody's sake, make it compatible and complementary with the rest of the neighborhood.

So far Stock's 47 NIMs have been nothing but lip service. His starting point was so grandiose that it was impossible to mitigate. His proposal is unreasonable.

We have presented Stuart's Exhibit 9 and 10 reasonable compatibility standards as the first step in balancing the community's needs against the developer's profits. If you approve this project, then approve Exhibit 9, design standards. We are reasonable people, and we want a reasonable development.

That said, if Stock isn't willing to consider the community, then as representatives of the community, you must recommend denial.

Thank you.

CHAIRMAN HOMIAK: Okay. Thank you.

You have a question for her?

COMMISSIONER KLUCIK: Yeah.

CHAIRMAN HOMIAK: Mr. Klucik has a question for you.

COMMISSIONER KLUCIK: It's just to what you just spoke of, the Exhibit 9 standards.

MS. PIRCIO: Yeah, Commissioner.

COMMISSIONER KLUCIK: Yeah. I'm sorry. This is Rob Klucik. Again, thank you for -- for being active in our community and our county and the workings of it.

MS. PIRCIO: Thank you.

COMMISSIONER KLUCIK: Where is that standard? Because I just I want to -- I want to reference it. So if -- or if staff knows where we have that standard.

MS. PIRCIO: I'm confused. What standard are you talking about?

COMMISSIONER KLUCIK: You just referenced the standard 9 or -- Exhibit 9.

MS. PIRCIO: Oh, it's Greg Stuart's exhibit.

COMMISSIONER KLUCIK: Greg Stuart's.

MS. PIRCIO: It's in your packet.

COMMISSIONER KLUCIK: Okay.

MS. PIRCIO: And that was -- that was to decrease the masses of the buildings to have them -- I believe that the planning staff recommended a wedding -- a tier approach to decrease the mass, and Greg Stuart had recommended a transitional step-down approach to reduce the masses.

COMMISSIONER KLUCIK: No. And the reason it's important for me is you expressly asked us to adopt that, and so I want to make sure I understand what exactly that is. So I'm assuming someone here on our staff can make sure I know exactly what that is. Ray? Yeah, it's your exhibit, sir.

MR. STUART: Gentlemen, Exhibit -- Exhibit 9 in the binder that I handed out, I had a hard copy in the side pocket. So if you have that, it's the hard -- it's the hard copy in the side pocket. And I believe it is -- yes. And I believe it's Slide 37, if my memory serves me correct. So Slide 37. Yes, in Slide 37 there will be a table showing existing C-3, Stock, and then arch standards. But the comprehensive standards, sir.

COMMISSIONER VERNON: That?

MR. STUART: Yeah. But if you scroll it, it's not --

COMMISSIONER FRY: Was that emailed to us also?

MR. STUART: Yes. It was in the original packet that was submitted weeks ago, and -- look for the table.

COMMISSIONER VERNON: If you'd just take this and show us the page, assuming that's it.

MR. STUART: Yes, I'm sorry. It was Slide 36 has a table, and that way you could compare C-3, One Naples, and our recommended standards. So Slide 36.

Thank you.

COMMISSIONER SCHMITT: I have one -- another question. On the slide that is on the viewer and -- of course, now, where these buildings are shown, there's -- everything's been razed. There's nothing there. What was there prior? There were buildings there prior and blocked the view regardless?

MR. SABO: Residential units.

MS. PIRCIO: They were little duplexes.

COMMISSIONER SCHMITT: Little duplexes.

MS. PIRCIO: Yes.

COMMISSIONER SCHMITT: But you do understand that, of course, this is high-value bay front property. And even if they were to put a ship store or some other kind of element, restaurants, with the docks behind it, the height that they would have to be built at to allow for the -- to meet the current base flood elevation requirements, it is going to require a fairly significant height to begin with. It's a 21-foot elevation for the first habitual floor, and then I would guess, because of the high value of this land and the -- certainly the proximity to the water, if there were even one or two other levels above that, you're going to probably be at the same height if it were a commercial building. You do understand that?

MS. PIRCIO: Commissioner, he bought the building knowing what the zoning code was. We would just like him to take into consideration our -- our issues. He is taking away from us. He's taking away our you view. The people in this Barefoot Pelican Building 1 are going to be looking at a wall. They're going to be looking at a wall that's going to be sticking out 15 feet and going up 87 feet. That's going to be their view when they're sitting on their walkways. That's what they --

COMMISSIONER SCHMITT: Yes, ma'am, I understand, but under the current C-3 zoning to build there, which they could build there today if they were to build a row of commercial restaurants, a ship store, other type of activity, you're going to have the same impact, and they are allowed to do that today under the current zoning.

You're not going to have a free, open view like you have now because all of the buildings have been razed. They're going to be -- they have to come up at a minimum of 21 feet to meet the base flood elevation. Let's add another -- maybe another story above that, so it's two stories over base flood elevation. You're going to be -- you're going to have buildings that block your view regardless under the current zoning, which there is nothing that you could do to prevent that because that is what the requirement is today in order to build any type of commercial facility on that lot.

MS. PIRCIO: Commissioner, may I answer you?

COMMISSIONER SCHMITT: Yes.

MS. PIRCIO: I don't have a problem with the height as much as I have a problem with the lack of setbacks. It's the setbacks that are blocking the view, not the height. He's only allowing -- he's asking for a 10-foot setback. Let's discuss the front-yard setback. And believe me, I'm not a planner, so cut me a little bit of leeway here. I'm just an owner.

COMMISSIONER SCHMITT: Yeah.

MS. PIRCIO: He's doing a 10-foot setback from South Bay. Barefoot Pelican has a 32-foot setback from South Bay. So when we sit out on your walkways in Building 1, we're going



to be looking at a wall.

If he had to abide by the current setbacks, he could move that building back. Yes, it would not be as lucrative for him, but he could -- he should, could and should, move that building back so not to impede our line of sight down South Bay. And he should do the same thing -- have the correct setbacks that are allowed on the lagoon. So we don't have as much of a problem with the height of that building as we do with the lack of setbacks.

In fact, as Mr. Bamberger had said, every time you kept hearing the issues of this, it's because they're pushing the envelope on every single issue. They're pushing it on height, they're pushing it on the lack of setbacks, et cetera. They want to maximum this project as best that they can. But it is taking away from -- it is a takeaway from the people who are living there.

COMMISSIONER SCHMITT: Okay. That's all I have.

CHAIRMAN HOMIAK: Anybody else?

(No response.)

CHAIRMAN HOMIAK: No.

COMMISSIONER SCHMITT: Break for lunch.

CHAIRMAN HOMIAK: Okay, yeah. Went way past 12:00 a little bit -- well, not a little bit. So we're going to take a --

MR. YOVANOVICH: Can I ask a question?

CHAIRMAN HOMIAK: Yes.

MR. YOVANOVICH: I know there was an agreement that several of the first speakers were going to be able to go longer than the typical three minutes because they were representing the larger group. Do we have an idea how many other non people that you mentioned who get more time who are on to speak?

CHAIRMAN HOMIAK: People that have more time you mean?

MR. YOVANOVICH: Well, there were six or seven speakers that we agreed got more time because they were part of the overall presentation.

CHAIRMAN HOMIAK: There's four more --

MR. YOVANOVICH: The gentleman from Regatta, I'm assuming he was part of -- to represent the view of the Regatta, and the woman who just spoke for Barefoot Pelican.

CHAIRMAN HOMIAK: There's four more.

MR. YOVANOVICH: Right. But I mean, after that, I mean, just how many -- because they told us that was going to result in a reduction in the overall number of speakers. I'm just trying to figure out --

CHAIRMAN HOMIAK: Do you know how many speakers there are?

MR. SABO: I do. For the record, James Sabo.

Let's see. After Ms. Pircio; George Marks; Buzz Victor; Tony Pires, 15 minutes; and Mr. English, Pelican Bay, has 10 minutes. That's it.

CHAIRMAN HOMIAK: Are there others on Zoom?

MR. FRANTZ: Yes.

MR. YOVANOVICH: That's the question I'm asking is --

CHAIRMAN HOMIAK: Okay. How many --

MR. FRANTZ: We have 80 people registered on Zoom; however, actually attending the meeting are only 34 more speakers.

MR. YOVANOVICH: Are they going to -- I'm just trying to do the math. Are they going to be given the three minutes per speaker? So if I do that right, that's 112.

CHAIRMAN HOMIAK: Three minutes.

MR. YOVANOVICH: Or 102 minutes.

CHAIRMAN HOMIAK: Three minutes.

MR. YOVANOVICH: How many minutes are the other speakers? I'm just trying to

guess when I'm going to get up for rebuttal.

MR. SABO: Fourteen and 25.

COMMISSIONER SHEA: Two weeks.

COMMISSIONER FRY: Tonight around 8:00 p.m.

MR. YOVANOVICH: And I'm good.

MR. FRANTZ: And I want to add that we also have eight people registered here in person.

CHAIRMAN HOMIAK: Okay.

MR. YOVANOVICH: Okay.

CHAIRMAN HOMIAK: So a couple hours.

MR. YOVANOVICH: I'm good. I just wanted to guesstimate how much to eat at lunch.

CHAIRMAN HOMIAK: Yes. So we can take a lunch break now, and we'll come back at 10 past 1:00.

(A luncheon recess was had from 12:10 p.m. to 1:10 p.m.)

MR. FRANTZ: Chair, you have a live mic.

CHAIRMAN HOMIAK: Okay. Thank you. Where's our quorum? One, two, three, four. Do we have a quorum yet?

Okay. We're onto our next speaker. We have --

MR. FRANTZ: Your next speaker is George Marks on Zoom.

CHAIRMAN HOMIAK: Okay. Mr. Marks, are you there?

MR. MARKS: I am.

CHAIRMAN HOMIAK: Okay.

MR. FRANTZ: We can hear you. You have seven minutes.

MR. MARKS: Very good.

Good afternoon. I'm George Marks, and I reside at 319 Lagoon Avenue in Vanderbilt Beach, and I have an architectural and planning background.

I support the potential development of the subject property as a C-3 commercial mixed-use development in accordance with the existing C-3 zoning requirements. These include, but are not limit to, height, setbacks, density, open space, landscaping requirements, et cetera.

At the same time, I'd like to make clear that my support is not exclusive to strict adherence but definitely substantially within the C-3 zoning rules and guidelines. My support will also follow the alternatives put forward by the members of the Collier County planning staff showing an activated retail presence along Vanderbilt Beach Road and Gulf Shore Drive. That may not be totally feasible due to the coastal regulations, but the concept is appropriate.

It seems that the developers always want to threaten C-3 with additional traffic coming into the Vanderbilt Beach community, but no one has addressed that traffic flows both into and out of the Vanderbilt Beach community.

The C-3 zoning, as I believe originally envisioned in 2003 and 2004, was for the site to be what I would call convenience commercial to support the Vanderbilt Beach community. The intended use would still be entirely appropriate today, and I would fully support it.

A convenience commercial use, including beach store, deli, restaurants, dry cleaner, would all enhance the lives of the Vanderbilt Beach community.

In reality, no one east of Route 41 is coming to this location for a dry cleaner or deli or convenience shopping with all the other options available to them in other locations. We should not be intimidated by such rhetoric.

I wanted to offer an objective approach to this discussion. One measure of the quality of a neighborhood or community is its walkability score, which is easily found at the website [www.walkscore.com](http://www.walkscore.com). This score rates addresses in neighborhoods for their ability to meet the community's needs without the requirement for a car, hence the ability to walk to goods and

services, which Collier County promote through its healthy community marketing. It also promotes higher market values and enhances a neighborhood.

The scale is from zero to 100, meaning 100 means that all the communities needs can be met within walking distance. By example, the intersection at Vanderbilt Beach Road and Gulf Shore Drive has a walkability score of 28, meaning that most errands require a car. Go two blocks north to 9400 Gulf Shore Drive, and the score drops to 23. My address at 319 Lagoon Avenue has a walkability score of just 3, meaning it's totally car dependent.

Compare these to an address in Olde Naples, say the 600 block of First Avenue, with its score of 69 deemed somewhat mostly walkable, meaning many errands can be accomplished on foot. Walkability is a good thing for any community.

If the One Naples site was currently developed as C-3 zone and a mixed use, this would overall reduce the traffic loads by not requiring Vanderbilt Beach residents to drive to 41 and other areas. This would not only reduce traffic in the Vanderbilt Beach neighborhood but the Route 41 commercial corridor as well.

The One Naples project as currently designed actually removes current walkable commercial uses in the Vanderbilt community and, therefore, would reduce the overall already poor walkability score.

The current C-3 zoning as designated by the county's development and zoning codes has always been intended to enhance a neighborhood's walkability as a convenience commercial use. The C-3 zoning requires that the main focus of this site be a commercial use with limited residential. The Stock plan grossly violates the intended Growth Management Plan and current C-3 zoning.

As proposed, One Naples provides benefits only to the 170-plus residential unit owners and the developer himself. Properly designed C-3 development would benefit the entire community in Collier County.

The One Naples development as proposed with its massive 45-foot-high first level walls and only a 15- to 25-foot -- 20-foot setback is the antithesis of the intention of the C-3 zoning. It says "keep out" to the rest of the Vanderbilt Beach community, not come in for shopping and great dining. How much traffic could be reduced if a residential neighbor or a guest at the Ritz/La Playa could walk to convenience dining?

Mr. Stock is a respected and accomplished developer who purchased the properties for some 20 or \$25 million. In doing so, he, not the Vanderbilt Beach community or Collier County, may have made it infeasible to develop the site in accordance with the current C-3 mixed-use zone, but that was a decision he made and not one that should be the responsibility of the Vanderbilt Beach community and/or Collier County to resolve.

I understand that the responsibility of the Collier County Planning Commission is to protect and enhance the community by recommending approval for projects that are complementary and compatible with the neighborhood and by recommending denial of those that do not meet those standards.

The developer himself has stated that if we were to develop this site commercially while in full accordance with the zoning in place, there would be no need for this meeting at all. I invite him to do so. As a neighbor, I would fully endorse such proposal and be Supporter No. 1.

In summary, I support the redevelopment of the site in accordance with the current C-3 mixed-use zoning and hereby request that you recommend denial of the currently proposed One Naples development to the Board of County Commissioners.

Thank you for your time today.

COMMISSIONER SCHMITT: Chairman, I do have one question.

CHAIRMAN HOMIAK: Do you have a question?

COMMISSIONER SCHMITT: I just want to, for the record, note this is not a C-3

mixed-use zoning. It's C-3. It is not mixed use. If it was mixed use, they'd have to -- if they wanted mixed use, they'd have to come back in for a Comp Plan amendment. It is C-3, period. No mixed use.

So I know you -- Mr. Marks, you talked about C-3 mixed use. Totally incorrect. It's C-3. Current zoning is C-3. Has nothing to do with mixed use.

MR. MARKS: It's my understanding, Mr. Schmitt, that the residential is allowed to be 50 percent of the commercial use on the site. So I believe, by definition, that would be the case.

COMMISSIONER SCHMITT: That's not correct.

MR. MARKS: Can somebody -- can a planner opine on that, please.

MR. MR. YOVANOVICH: I'm sorry. Just for the record, Rich Yovanovich. In order to do that, it would require a conditional-use approval. It's not as a matter of right.

COMMISSIONER SCHMITT: It's not a matter of right.

MR. YOVANOVICH: And I just wanted to correct for the record, the zoning has been C-3 since prior to the 1989 Comprehensive Plan amendment. It wasn't recently zoned C-3 in 2003 or '4 that I think the speaker just said in his statement.

COMMISSIONER SCHMITT: And that's a -- that's an important point that I'm going to ask staff to hold and clarify at the end, because I want to talk about the zoning reevaluation and make it clear to all that the C-3 was pre -- prior zoning prior to the Comp Plan and that it actually is a residential area. But the C-3 was by right. But I'm going to ask staff to be prepared to address that issue so you can educate the other commissioners on the zoning reevaluation that took place in 1989. I think it was '89.

Thank you.

CHAIRMAN HOMIAK: Any questions from the Planning Commission?

(No response.)

CHAIRMAN HOMIAK: Okay. We'll go on to our next speaker, which is Buzz Victor.

MR. FRANTZ: Buzz Victor is also on Zoom. Give us just a moment as we unmute.

MR. VICTOR: Hi. Can you guys hear me?

MR. FRANTZ: We can hear you. You have seven minutes.

MR. VICTOR: I do know that we'd like to put a graphic up. Can you tell me whether it's up yet? Yep. That would be it. Okay. You still hear me, I assume.

CHAIRMAN HOMIAK: Yes.

MR. VICTOR: Good afternoon. My name is Buzz Victor, and reside at 312 Lagoon Avenue, roughly a third of a mile from the site. I also represent the interests of the community-based nonprofit Save Vanderbilt Beach, Inc., of which I am its president. Its 1,100 members and the 700 people who have signed our online petition in opposition I also represent.

We oppose the One Naples project as it is proposed. We're not interested in preventing Stock from pursuing the development of the land that he owns. Our sole interest is in assuring that whatever is developed is complementary and compatible with our neighborhood and doesn't mark the beginning of turning Collier County into the west coast version of Miami Beach.

When these hearings began, the developer gave you an ultimatum. He said you only have two choices: Either recommend approval of his submitted plan, or he would build a 100,000-square-foot commercial development on the site, as he maintained was his right under the current C-3 zoning. His implication was that because, in his opinion, such a development would be highly detrimental to the neighborhood, there was really only one choice: His proposed plan.

By the end of that day, it was clear that there were many other possibilities. As Chairman Fryer said, this is not a binary choice.

There are several good choices on the table and only one bad one; that would be recommending the approval of the project as it's been proposed.

The developer's plan is not responsive to the concerns of the neighborhood and creates just

the canyon effect that the county and neighbors abhor.

The developer has tried to make a case for compatibility by comparing his buildings to those south of the site in Pelican Bay. We and your staff have maintained that such a comparison is inappropriate. In this, we've been joined by the Pelican Bay Foundation. You've all received an email from the Foundation's president stating, and I quote, to compare only height in Pelican Bay to other areas without also considering the overall planning and multiple other constraints that apply to Pelican Bay seems like selective cherry-picking. It's not an apt comparison, end quote.

Stock Development has not been responsive in any meaningful way to the voices of the neighborhood. Had he been so, we and the many other groups who join us, the Pelican Bay Property Owners Association, the residents of the Trieste and the Regatta, the Vanderbilt Beach Residence Association, the Naples Park Association and others would not have had a need to be here today.

So what would be acceptable? What -- as the law requires? What is complementary and compatible? Let me recap the options that have been presented. Option 1, the current zoning of the land is C-3. The Land Development Code and Growth Management Plan that relate to this zoning are clear. Residential density is permitted with a maximum of 16 units per acre, half of those of that the developer requests. Similarly, building heights and setbacks are specifically defined and are also half of what the developer requests.

Consider the developer purchased the land unconditionally, that is without a contingency for his receipt of regulatory approvals. It follows that he was comfortable with the C-3 regulations. While he may have desired less restrictive conditions, surely he knew that there was no certainty of receiving them. If the developer creates a C-3 zoned commercial project, we strongly encourage him to do so.

Option 2, your staff has found that as proposed, the project is neither complementary nor compatible with the neighborhood. Staff has provided conditions for the developer to follow in order to become so. Building height for all tracts is limited to 76 feet zoned, but it may be increased to 125 feet if the towers and their supporting structure are redesigned into what's called a wedding cake design. We support the staff's recommendation regarding this design, although we feel that it's lacking and not specifically controlling the height of the parking structure.

An additional staff proposed condition permits a 15-foot setback in lieu of the required 25 feet if the developer provides accessible commercial space for beachgoers and others. Unfortunately, this design creates just the Miami Beach canyon effect that we all hope to avoid.

Please, deny the optional 15-foot setback, insist on a mandatory 30-foot setback, and require a limit on the height of the parking garage to 25 feet.

The third option is documented in the Save Vanderbilt Beach Exhibit 9 design standards. They say complementary and consistent with the neighborhood. They would require that the parking structure have a maximum height of 25 feet; that the towers be at different heights. One not exceeding 135 feet and the other not exceeding 102 feet, each including the height of the parking structure; that a density be no greater than 19 units per acre, which is three more than is that allowed under the current zoning; that the maximum 30-foot setbacks -- sorry, that minimum 30-foot setbacks be observed to the parking structure with that increased to 70 feet to the towers and 25 feet from the lagoon; and that there be 25 feet -- percent of open space, not including rooftop recreation areas.

These standards are a reasonable and viable compromise, delivering both neighborhood compatibility and appropriate regulatory relief for the developer.

With that said, if the developer creates his commercial project that follows C-3's rules and regulations, we encourage him to do so.

You have all been inundated with emails and other communication regarding One Naples, clear evidence that, from the public's perspective, something is wrong here. Now you have the

chance to correct it.

On behalf of the literally thousands of concerned citizens, I ask that you recommend to the County Commissioners denial of the plan as proposed. I'm sure that you recognize, just as we do, that your actions today will have long-term consequences affecting our neighbors and Collier County far into the future.

I want to thank you for your public service, your objectivity, and your thoughtfulness in formulating your recommendations.

CHAIRMAN HOMIAK: Any questions from anybody?

COMMISSIONER FRY: Just one. Mr. Victor, the heights shown in your exhibit and your compatibility standards, are those actual or zoned heights?

MR. VICTOR: I think they're -- given what's going on, I think they ultimately end up as zoned heights. I mean, we certainly are not happy about 208 feet, and if that was the actual height, then we'd like these to be actual heights -- if the 208 feet is augmented by 21 or whatever is necessary to get it up to 230 feet, then what we're suggesting would be zoned heights. Does that make sense?

COMMISSIONER FRY: It does, thank you.

Is the 208-foot -- that's an actual height, correct, or is that zoned in the request?

CHAIRMAN HOMIAK: Actual.

MR. YOVANOVICH: I'm assuming you want it on the record.

COMMISSIONER FRY: Yes, please.

MR. YOVANOVICH: Again, for the record, Rich Yovanovich. That's the actual tippy-top height.

COMMISSIONER FRY: What's the zoned height?

MR. YOVANOVICH: 182, right? It's 182 zoned; 208 actual.

COMMISSIONER FRY: So 26 feet above the zoned for all the stuff that has to go on the roof?

MR. YOVANOVICH: Remember, you start at 21, the garage, and then the roof. That's what adds the extra height.

COMMISSIONER FRY: Okay. Got it. Thank you.

CHAIRMAN HOMIAK: Okay. On to our next speaker, which is Tony Pires.

MR. FRANTZ: Mr. Pires has 15 minutes.

MR. PIRES: Madam Chair, members of the Planning Commission, thank you very much.

My name is Tony Pires with the law firm of Woodward, Pires & Lombardo, and I represent the Save Vanderbilt Beach Residents Association, and I appreciate the opportunity to articulate some of their concerns and also the additional time that you have provided, and I may actually take less time. I know it's hard hearing that from an attorney, but I may actually be able to do that.

CHAIRMAN HOMIAK: We'll see how you do.

MR. PIRES: I know. Fourteen minutes and 28 seconds.

We appreciate the additional time. And while the developer has revised the project in various aspects over the last three years, and my clients and representatives have met with Mr. Stock and they appreciate the opportunity to meet with him in the past to review this project and express their concerns, the Vanderbilt Beach Residents Association still has continuing significant concerns relating to the One Naples project such that they -- and we request that the Planning Commission recommend to the Board of County Commissioners to deny both applications.

Vanderbilt Beach Residents Association is not opposed to development, but they want development that is compatible with and complementary to the neighborhood and the surrounding uses.

The Vanderbilt Beach Residents Association, as I outlined in my letter, it's a not-for-profit corporation established in 1997, and it's been very active for several years in zoning and land-use matters in the Vanderbilt Beach area. And they have approximately 950 members at the present time. The boundaries are the Gulf of Mexico on the west, Vanderbilt Beach Drive on the east, Vanderbilt Beach Road on the south, and the Caloosahatchee River/Wiggins Pass on the north.

And the purpose -- one of the primary purposes of Vanderbilt Beach Residents Association is to encourage and promote the proper development and maintenance of Vanderbilt Beach and surrounding areas as a choice residential and recreational community.

As I previously outlined, there are a number of objections we have raised. I will try not to be repetitive. I know we've had a number of expert people testify and attorneys present their arguments and/or positions, and if I do overlap a bit, I apologize in advance, but I will try not to be repetitive.

I echo the concerns, and we adopt and ask the Planning Commission to strongly consider the expert testimony of Mr. Greg Stuart and Mr. Bill Oliver and also the arguments put forth by Sarah Spector and Ralf Brookes, the attorneys for Save Vanderbilt Beach and other organizations.

And based upon our arguments and the expert testimony in the record from Bill Oliver and Greg Stuart, we believe -- we request the recommendation of denial of both actions.

You've heard over and over again the language in Policy 5.6 of the Future Land Use Element, and I'm not going to repeat that. But what's -- one issue that's not been addressed in the compatibility context is what is really planned on being built. We have had discussions and discussions and discussions on some graphics of two towers. I would point out to you in the staff report, and it's at -- you can find it at Agenda Packet Page 501, Page 3 of the staff report, the very -- it's first -- two lines. It says, please note that the applicant's proposal is conceptual and the PUD ordinance does not limit the number of buildings and units for each tract.

Now, I did not see in my review of the ordinance as proposed to be adopted an exhibit that shows the site plan that's up on your screens. I saw a -- I'll call it a bubble site plan that has tracts with boundaries. And so I would argue and assert to you that the massive continuous one building that Mr. Stock and the developer indicated they initially contemplated but have since abandoned could, in fact, be built. It's not -- I did not see any language -- maybe I missed it -- in the draft ordinance that would preclude that from occurring. That has not been addressed. That would be highly incompatible. We argue and agree that what's proposed is incompatible per se.

But having a massive structure -- which the argument presented by the applicant in his presentation was, we don't have one big massive structure. We have two towers. But the site plan you see is not attached as an exhibit to the PUD. And in my opinion, they will not be bound by that, especially with this language that's provided in the staff report. It says, please note the applicant's proposal is conceptual. The PUD ordinance does not limit the number of buildings and units for each tract, and nor does it require there be two buildings of towers. I would submit to you it allows one massive tower.

With regards to -- and so what could occur, as I calculate the length along, for example, Vanderbilt Beach Road -- excuse me -- Gulf Shore Boulevard, I mean, it's approximately 274 feet in length. So there could be a structure with the minimum -- minimal setbacks requested of 25 feet along Gulf Shore Boulevard, along Vanderbilt Beach Road and along South Bay, the 25 feet setback, and that building would otherwise be approximately 225 feet long, and they're asking for it to be 16 stories tall. That, I would submit to you, is incompatible and not complementary to the community and to the neighborhood.

It appears all the compatibility analysis has been based upon the two tall tower site plan and that site plan alone. I submit that no analysis or testimony has presented that a massive one-building structure is compatible as required by the Future Land Use Element.

In addition, you've heard the testimony that the proposed development has to be

complementary to the surrounding land uses. We've had, again, expert testimony that Mr. Stuart provided that it's not complementary to surrounding land uses. And I listened carefully, and sometimes I miss words and sometimes I don't catch all words in documents. There's only about 20,000 pages that we've had so far in these three iterations, but I did not see any testimony by anyone saying this project, as proposed, this development, is complementary to the surrounding land uses. There was lots of talk about landscaping and traffic and -- but no one, to my recollection, testified that this project is complementary to the surrounding land uses. You heard just the opposite from Mr. Stuart, an expert.

This is almost like a flashback to 17 years ago, and Joe Schmitt had just come on board, the Community Development director, when the folks in Vanderbilt Beach -- there were -- three groups formed a collaborative effort. There was a prior Save Vanderbilt Beach group, there was Vanderbilt Beach to buy, and the Vanderbilt Beach Residents Association, my client, all got together because they saw the canyonization of Gulf Shore Boulevard was taking place. And the County Commission, in their wisdom, implemented a one-year moratorium for a study of that area. And a study was created to adopt what's now the Vanderbilt Beach Residential Tourist Overlay which has as its focus the avoidance of canyonization, preserving view corridors, light and air, because those were the concerns articulated by the community. The C-3 parcel you have here was deliberately left out of that area.

I would submit to you that if there's to be -- my clients are fine with C-3, let me put it that way right now. The alternative proposed in Exhibit 9 by Mr. Stuart is acceptable and a -- or a variation on what is proposed that would track the design elements, I'll call it, of the Vanderbilt Beach Residential Tourist Overlay. Open views; site views; not having these massive structures to, again, view, air, and quality of life.

The concerns then addressed by the Vanderbilt Beach Resident Tourist -- RT Overlay were height, reduce canyonization, eliminate the wedding cake, preservation of light, view, air corridors, and the other concern was greater density in the coastal areas.

I think those all sound familiar. Those are the exact same concerns 17 to 18 years later, because the Board of County Commissioners in January 2004, after Planning Commission meetings in 2003, adopted the Vanderbilt Beach Overlay.

I would submit to you the C-3 zoning was consciously left in place at the project location. After the detailed study and analysis of the Vanderbilt Beach area, it resulted in the adoption of the overlay. Vanderbilt Beach Residents Association are very well aware that this property can be developed as commercial under the C-3 zoning, which also provides the ability for residential uses over commercial as a conditional use. I'm glad Rich corrected that today, because in the prior hearing, he said there can be no residential use. But as a conditional use, it can be over commercial, so you have some residential uses that can occur.

We submit that approving the proposed Growth Management Plan amendment and the PUD amendment, PUD for this project, would be antagonistic and antithetical to the land development framework and scheme implemented in 2004 by the overlay after much public input and staff work that addressed the exact same concerns.

Again, we support the testimony and evidence by Greg Stuart and James Sabo that the project is not compatible and the density is not compatible with the surrounding land uses. The people before me have made cogent arguments with regards to suggesting and requesting that the Planning Commission recommend denial.

We believe the applicant has been forewarned, and Sarah Spector touched on it, about the compatibility issues. The initial draft -- Corby Schmidt, one of the county planners, had an initial draft June 19th, 2020, addressing the Future Land Use Element consistency. It's a memorandum, and you have one in your file. That memorandum had language, I think, that was significant that was in the pre-application meeting but that was left out of this memo, deleted by Anita Jenkins on



June 26th, with no explanation as to why it was deleted.

The language that was deleted was, we remind zoning service reviewers, however, that this area is sensitive -- the area of this project. This area is sensitive to the scale, compatibility and sense of place that exists in the Vanderbilt Beach area and that it was previously recommended to the petitioner to consider redesigning the project to reduce the mass, scale, and placement of buildings to protect view corridors and light and air movement. These are the protections provided by the Vanderbilt Beach Residential Tourist Overlay to ensure compatibility near by. The petitioners have chosen not to follow these recommendations and adopt these protections.

And, again, that gets back to the whole issue about compatibility. They could have made it compatible and have chosen not to.

So going back to address the concerns 17 years ago and today, the clear and ignored guidance, we suggest, should have been followed.

Again, we recommend and request that the C-3 zoning remain, the application be denied and, as an alternative, again, Greg Stuart, his Exhibit No. 9.

One other issue that's come up, we've had -- I think someone said there was testimony that was presented as to the increase in property values by Bob Mulhere. Again, maybe I missed it. I didn't see any such testimony by Mr. Mulhere. I did see two quotes by Mr. Yovanovich on October 1st where he said, I think the answer is -- this was a question by Mr. Schmitt with regards to studies.

And Mr. Yovanovich: I think the answer is there's no question that converting a high-end residential community is going to increase their property values around this area versus a commercial development. Look at the Property Appraiser's records.

Richard's not a witness. He was making argument. That's not substantial competent evidence, I would submit, to the Planning Commission on this matter.

A couple other cleanup items. I would suggest that in the PUD document right now and, in fact, in the Growth Management Plan amendment, it lists as the subdistrict it's -- if you look, I think it's Agenda Packet Page 224 of the draft ordinance for the Growth Management Plan amendment, Vanderbilt Beach Road mixed-use subdistrict, the sixth line down, it says, it's to provide flexibility in order to promote redevelopment of the site with a resort tourism-centered project. We've been told it's residential -- which shall include a mixture of residential and/or hotel. Hotel has not yet been deleted from the Growth Management Plan amendment. We suggest that needs to be cleaned up in this particular document.

And what we also would suggest, and based upon all the expert testimony that we've heard, is disregard the Darth Vader approach. I call it the death star approach. Be careful; if you deny this, we're going to build C-3.

On the C-3 component, I guess -- I've been asking for a long time -- that we've heard this discussion 100,000 square feet of commercial can be built. Staff has said 167,000. However, I think all those calculations -- I'm not sure, because I've seen no detailed breakdown -- were predicated upon the full 5.42 acres. Recall, there's .79 acres that cannot be built on today until and unless the right-of-way is vacated.

I would submit a plan showing what can be built applying to C-3 setbacks, the C-3 height standards to the lots as they exist today on the plat, using those lot lines, not using the right-of-way, is what needs to be provided to the Planning Commission and to the County Commission to verify or discredit the assertions as to the square footage of commercial that can be built. I have asked for that since August to -- is there a detailed study or analysis of what can be built including the right-of-way, under current conditions. Of course, we're told they can build it today, but they always have the 5.42 acres, which cannot be built upon today.

MR. FRANTZ: You have 30 seconds.

MR. PIRES: Again, we respectfully request this the Planning Commission make a

recommendation of denial to the County Commission.

CHAIRMAN HOMIAK: Joe.

COMMISSIONER SCHMITT: Tony, I'll take the last point first. You do recall the first meeting the county did opine that this petition could proceed under the assumption of the vacation of the easements would take place rather than going through the vacation and then going through the petition. So I understand your point of view, but are you disputing the position of the County Attorney in regards to this proceeding without the vacation taking place?

MR. PIRES: That wasn't my argument today. I had that in my correspondence, and I heard Jeff's advice, and I've not referenced that today.

My argument is, everyone is saying, the applicant and staff is saying, this is what you can build today under C-3 on 5.42 acres, but I would submit you have to look at -- take the site as it exists today. Those individual platted tracts with those individual lot lines and the right-of-way line cannot be used as developable property today.

So if you're comparing what can be built today, my opinion is you need to exclude the .79 acres as to what can be built today. What is proposed to be built in the future is predicated upon the .79 acres being vacated. But if I was to go in there for a Site Development Plan today, I'd be confined to those platted tracts. I could not build any structures on the county's right-of-way.

COMMISSIONER SCHMITT: Unless they got the vacation.

MR. PIRES: Right. But I'm just saying -- but I'm just saying the analysis is, here's what we can build today, but that's -- the facts on the ground are it's not vacated.

COMMISSIONER SCHMITT: But they would go through the vacation first.

MR. YOVANOVICH: No, no. If I may.

COMMISSIONER SCHMITT: But the -- and hold off from -- Mr. Yovanovich.

MR. YOVANOVICH: I will.

COMMISSIONER SCHMITT: But you stated you wanted to remove "hotel," and I thought that the petitioner already made it clear on the record that there would be no hotel.

MR. PIRES: I agree, but it's still in the document that's in the agenda packet.

CHAIRMAN HOMIAK: It's not in mine.

MR. PIRES: It was in the agenda packet for the growth management.

CHAIRMAN HOMIAK: It's not in this one.

MR. YOVANOVICH: Tony. Tony, you know, we've known each other close to 100 years now.

MR. PIRES: 125, I think. Both of us are Methuselahs.

MR. YOVANOVICH: We said we would take the word "hotel" out of the final product. We will.

MR. PIRES: I'm just saying it's still in there. That's all.

MR. YOVANOVICH: I find that a little disingenuous to say that you can't trust my word.

MR. PIRES: Oh, no. I'm just saying it might be a typographical error. That's all.

COMMISSIONER SCHMITT: The only other issue I want to bring up is -- and you brought up the whole history of the VBRTO.

MR. PIRES: Yes, sir.

COMMISSIONER SCHMITT: And -- but the underlying zoning in that whole VBRTO, Vanderbilt Beach Residential Tourist Overlay is what; RT, correct?

MR. PIRES: Yes.

COMMISSIONER SCHMITT: Residential tourist.

MR. PIRES: Well, and -- yes, that's why it's called VBRTO.

COMMISSIONER SCHMITT: Which means it could be -- anywhere along Vanderbilt Beach, so they're residential tourists, they could be rental, they could be short-term rentals. It's not strictly a residential community. It was designed and still zoned as RT zoning. You don't dispute

that?

MR. PIRES: For certain portions along Gulf Shore Boulevard. Not all of Vanderbilt Beach.

COMMISSIONER SCHMITT: Along Gulf Shore, yes.

MR. PIRES: There are -- yeah, there are areas that are excluded on the west side and on the east the side. It's not all of the property on Gulf Shore.

COMMISSIONER SCHMITT: And I think it's important then -- because I already brought it up. But I just want to make sure that -- and you clearly understand the whole evolution from 1989, the zoning reevaluation that was already -- when this -- when the county had to comply with the then directed state laws, they did a zoning reevaluation. Much of this area was rezoned; however, the C-3 zoning stayed by right because there was C-3 activity on the site. Had there not been -- and I'm just probably stating this as a matter of my experience with this area. And, of course, you already cited my time with the staff. But this most likely and probably would not have retained C-3 zoning were they able to eliminate the commercial on that site. But they could not take away commercial. So it stayed C-3 by right. It never really was intended during the zoning reevaluation to be a C-3 property. They had to make it C-3 property because, again, the facilities that were there, they could not take that zoning away. Do you argue the point that --

MR. PIRES: No, I --

COMMISSIONER SCHMITT: Because C-3 zoning was not compatible with that part of the county.

MR. PIRES: What I tried to do -- I have some of those old zoning reevaluation maps going back to 1990 in my office.

COMMISSIONER SCHMITT: Yeah.

MR. PIRES: The old 11-by-17s, and it's hard to find those guys nowadays. And I found some of the memos and some of the letter exemptions. There was a whole complicated process. David Weeks was intimately involved for a couple of years.

COMMISSIONER SCHMITT: I recommend we bring David Weeks back on active duty here so we can --

MR. PIRES: Yeah. And I can't recall, and I looked for my map on that area. I could not find that particular property on it, so I don't know if it was an exemption by right after they looked at the property. Because, as you know, the staff process was the staff went out and checked all those properties that may have been deemed inconsistent with the Comprehensive Plan. Then they looked at it, and certain people had a certain time frame to apply for an exemption and/or county rezoned their properties to residential or left them alone. I don't know what happened exactly on this property.

COMMISSIONER SCHMITT: But that's because there was existing commercial there. They could not take the zoning -- they could not rezone it to RT because of the existing commercial, which has mostly disappeared except for the Beach Box and the restaurant. Most of the other commercial zoning has disappeared, but it still has the C-3 zoning.

But I guess it's -- I believe that at that time, had the county been able to, they would have taken away the C-3 zoning because that is totally incompatible in that area of the county to have commercial zoning. But they could not rezone it, and it retains C-3 zoning by right. And I don't know maybe if Amanda has the history or somebody else since we've brought that up. But, in fact, if you really looked at it from a standpoint -- and I would even ask your staff planners that -- I believe, if one were to look at this from truly compatibility, C-3 zoning is not compatible in that area.

MR. PIRES: My clients beg to differ, obviously, and others do, too, that we have no difficulty with it remaining C-3.

COMMISSIONER SCHMITT: All right. Well, I respect your opinion. Thank you.

CHAIRMAN HOMIAK: Go ahead.

MR. YOVANOVICH: Maybe you weren't in the room when we went through and discussed during our initial presentation the commercial option. We did the commercial option assuming we did not vacate the roads. So our analysis was not on the 5.42 acres. It was on the zoning assuming that all the roads stay the same; do you recall that?

MR. PIRES: No, sir, not at all.

MR. YOVANOVICH: Okay. I'll show you the exhibit. Maybe it will help you.

MR. PIRES: Yeah. I saw a graphic that was up. Thank you.

COMMISSIONER SCHMITT: That was part of the record.

MR. YOVANOVICH: Maybe you weren't in the room. I understand. I just want to make sure, because -- I just want to know, is it your client's position that they're perfectly comfortable with 100,000 square feet of C-3 zoning that would include multiple restaurants similar to the Beach Box and those types of uses to be constructed on that piece of property?

MR. PIRES: First of all, I can't see all the roads on here, Rich, because --

MR. YOVANOVICH: I'm representing to you, Tony, all the roads are --  
(Simultaneous crosstalk.)

MR. YOVANOVICH: When we did that plan, that all of the roads remained in place.

So my question is -- because you said the burden's on me, and you're going to get to see it in our rebuttal presentation. I just want to hear from your -- you're the representative -- that you're comfortable with 100,000 square feet of C-3 attractor uses on the property instead of a different use on that property.

MR. PIRES: My clients are comfortable with C-3 zoning.

MR. YOVANOVICH: At 100,000 square feet of development on the property? I'm just asking a simple question. Just assume I'm right.

MR. PIRES: I'm not going to -- I don't like to make any assumptions, Rich, even though I've known you for a long time.

MR. YOVANOVICH: I'm not asking you to trust me.

MR. PIRES: Thank you for not asking that. No, I'm just kidding.

My clients, again, just very simple and clear, are comfortable with the zoning remaining as C-3.

MR. YOVANOVICH: Okay. At the 100,000 square feet?

MR. PIRES: I'm not saying at 100,000 square feet. Remaining at C-3. You're making the representation. I'm just saying C-3 is acceptable.

MR. YOVANOVICH: Okay. I'm just asking you. If I'm right, are your clients comfortable with me being right that there's 100,000 square feet of C-3 development on the property?

MR. PIRES: First of all, assuming you're right -- I'm not sure I'm going to ask my clients if they're comfortable with you being right.

MR. YOVANOVICH: You don't have to, because I had architects and an engineer actually lay it out. But that's okay. You don't have to trust me. But are you comfortable with it or not?

MR. PIRES: Again, my answer is my clients are comfortable with the C-3 zoning.

MR. YOVANOVICH: Okay.

COMMISSIONER KLUCIK: Can I --

COMMISSIONER VERNON: Yeah, I want to jump in.

CHAIRMAN HOMIAK: Mr. Vernon.

COMMISSIONER VERNON: I really want to get at the same thing Rich is getting at but maybe in a more conversational way.

I think Mr. Stuart was talking about 30,000 square feet. They're talking about 100,000

square feet. I've heard some of the previous speakers talking about a dry cleaners, and Mr. Stuart, I think, talked about a Publix. Rich is saying maybe a Beach Box.

And so from sitting here, I'm thinking -- and I'm not a developer, but I'm envisioning more of, let's just say, 50,000 square feet. I'm envisioning a number of bars and restaurants that will attract young adults, and I guess, to get technical about it, go back to Commissioner Schmitt's point. That doesn't sound to me, personally, in listening to all the evidence, that it's really what we want there. And I'm not saying we want what's being presented.

I'm just saying that's kind of what I envision that -- you know, my kids are college age. They would probably love to be near the beach. And I just see a bunch of traffic coming in for happy hour. I see a bunch of traffic coming in late at night. I see live bands. I'm not saying they can do that, but I don't really see -- if we force them into the position that they make the economic decision they're going C-3, I don't see a dry cleaner and a nail salon and a Publix there. That's, you know -- and that -- I don't know what's in his head.

But I see a mini -- I think the term's been used so far. I see almost a mini Mercato, and I'm not really excited about a mini Mercato.

I understand the death star argument and the parade of horrors that that's just a threat and they're really not going to do because they can make a lot more money probably modifying what they're doing. But I just am really surprised that I keep seeing -- hearing people, person after person saying we're fine with C-3 based on even being pretty conservative and buying into Mr. Stuart's arguments in terms of square footage and disagreeing with Rich on 100,000 square feet.

So this is kind of a long speech, but can you kind of comment on that?

MR. PIRES: Once again, there are a number of uses in the C-3, and my clients have recognized that C-3 zoning status for years. As Joe mentioned, 2003/2004 it was there.

And the parade of horrors has not occurred to date. Someone will argue, well, now we have an aggregation, so their horrors can occur. But, again, that's a hypothetical that I believe if the market conditions were there today for that, that would be in the planning stage.

And my clients, again, they request denial of the application. C-3 is acceptable. An alternative planning concept would be Mr. Stuart's Exhibit 9. If you're going to have any residential development on that site, lowering in height, greater setbacks, compatible with Beachmoor across the street, other buildings further up, and utilizing the light/air/view corridor concepts of the overlay district.

MR. YOVANOVICH: I do have one more question, if it's acceptable.

CHAIRMAN HOMIAK: Go ahead.

MR. YOVANOVICH: And could it be because, having known each other as long as we have, it wasn't too long ago that I believe you represented the clients you have today opposing the Beach Box; am I correct?

MR. PIRES: It wasn't the Beach Box, per se. It was the nuisance activities on the part of Beach Box in the form of parking on my client's property.

MR. YOVANOVICH: Okay.

MR. PIRES: Okay. That's the primary issue.

MR. YOVANOVICH: That was the issue?

MR. PIRES: Yeah, parking.

MR. YOVANOVICH: It wasn't the noise that was associated with the Beach Box?

MR. PIRES: Some noise, but the main issue was -- and I think the issue on appeal that ended up coming before the Board of County Commissioners, Rich, was parking. The administrative parking variance approval granted by the staff that was inappropriate. And there is -- there are some residential development there now, and that is by a conditional use, I think, at that corner by the Beach Box.

CHAIRMAN HOMIAK: Karl?

COMMISSIONER FRY: Mr. Pires, is that Exhibit 9 on the screen right now?

MR. PIRES: No, it's not.

COMMISSIONER FRY: That's a variation of it, right, with the commercial moved?

MR. PIRES: Exhibit 9 I have, it's a two-part. It's called Compatibility Development Standards Table.

COMMISSIONER FRY: Yes, we've got that.

MR. PIRES: That's Exhibit 9.

COMMISSIONER FRY: So just to clarify, regardless of what is proposed there, if it did go C-3, even that application would require a traffic review, correct? Traffic is the giant -- is one of the giant concerns of the residents. So would not the traffic have to go through a TIS and be approved by staff and the roads be able to handle the traffic? I guess I'd just like to clarify that.

MR. PIRES: Well, it's already C-3.

MR. YOVANOVICH: What I said -- yeah, and I believe I said this earlier, and I think I know it's been a month since we had the presentation.

COMMISSIONER FRY: You probably did.

MR. YOVANOVICH: We would have to go to staff with a Traffic Impact Statement, and I think Ms. Scott testified that that's all I would have to do and that there's plenty of road capacity on the roads for, as everybody wants to say, our tale of horrors of 100,000 square feet of retail.

COMMISSIONER FRY: Okay. Thank you. That's it.

CHAIRMAN HOMIAK: Mr. Klucik, did you have a question?

COMMISSIONER KLUCIK: No, I think I'm fine.

CHAIRMAN HOMIAK: Anybody else?

MR. YOVANOVICH: Thank you.

MR. PIRES: Thank you, Madam Chair.

CHAIRMAN HOMIAK: Thank you.

And the next speaker is Mr. English.

MR. FRANTZ: Mr. English has 10 minutes.

MR. ENGLISH: Nobody's ever done that for me before. Thank you very much. I feel very secure.

Good afternoon. My name is Mark English. I'm here on behalf of the property bay -- property bay -- Pelican Bay Property Owners Association.

We're here to talk about something that Mr. Fry brought up which is what the folks that will be living in the area and doing with all the things that are brought about due to whatever gets built there.

The first thing is that I want to present to you, which you already have, retroactively, are petitions, 2,769 names, each unique. This is a carefully scrubbed list for duplications. There are none on it. You're more than welcome to verify that.

We compiled that from the middle of July to the first week of August, over three -- over a three-week period at a time when COVID-19 was at its peak. There were no groups to go before because there were no groups. The winter folks had already returned home, and we've still got 2,769 signers on the petition. Since then some more have come in.

And then on top of that you have 20,000 letters, collectively, that you've received from concerned citizens. All of these people, of course, are opposing One Naples as proposed.

Last week we ran a survey, and the survey had two questions. It said, do you think your property values are going to be affected by this? If so, are they going to go up? Are they going to go down? Are they going to be changed? And where do you live? And any comments that you shared with us.

There were about 230 responses. This is in less than seven days. One hundred fifty of

those people lived in Pelican Bay; the balance lived outside.

Five people said the property values would go up, ten people said they would be unchanged, and the balance of them said their property values would go down.

The comments focused on traffic. That seems to be the big concern. Now, that leads me into the second thing. There are only three things that I'm going to talk about. But back on October 1st when the first meeting was held regarding One Naples, the gentleman from the county, the traffic engineer from the county talked about a traffic survey that was held on a busy day in February, and they used their assimilation to project that on a busy day with One Naples in existence their assimilation indicated that the road would have a 79 percent use.

And then they used the assimilation with the C-3 zoning or commercial, and they said it would have a 90 percent use.

Here's the thing: Decisions that are being made today are being made for people that aren't born for 30, 40, and 50 more years. If this One Naples gets approved and built as proposed, this is going to have a 100-year life, and this is going to go on and on and on. In that time frame, you're proposing 300,000 houses or new residences out east of I-75, and those people have got two roads to get to the beach. They've got Vanderbilt Beach Road, and they've got Immokalee.

At U.S. 41 and Vanderbilt Beach Road, you have three lanes currently feed into one westbound 100-foot-wide road that would be difficult if not impossible and very expensive to widen. As you go down there, we encounter all these problems with the parking garage and beyond. If you make the turn and you go up Gulf Shore Drive, that's even more narrow. That's the bike path down from Bonita, we've got vehicles on that road competing against bicycles, people walking their dogs, jogging, skating, and all these kinds of things creating all kinds of safety hazards.

In addition to that, there are three public service operations, the sheriff, EMS, and fire, that feed into Vanderbilt Beach Road, and all -- as all this traffic increases, that's going to have a bearing on their response times.

Now, let me go to the -- I don't know how much time I have. But the other subject is regarding commercial. When I came down here 40 years ago, the mall had a -- Coastland Mall had a movie theater. The big deal was Sears, Walmart was a teenager, and there was no Amazon. The theater didn't make it, so they closed that and made it retail. And now these years later what's happening? They're pushing over Sears, Amazon is running over everybody, Walmart's doing okay, and they're putting up a movie theater.

And the point of this is that commercial is market driven, and as we're talking about whether it's going to be a cleaners or a -- I mean, I picture this bicycle shop because of all this bicycle traffic. But whatever it is, the barber, the sports bar for your young adults, sure, they'll go down there, it's the beach, and all these things. But over 40 years or 80 years or 100 years, lots of things are going to change.

The Mercato opened up in '09, February 9th of '09. Merrill Lynch where I worked went into the Mercato as one of if not the first tenants. There's been all kinds of changes in the Mercato in that 11-year period.

We all know about the Waterside Shops. They pushed over Jacobson's and made all those changes in the waterscape, and now they're going through all kinds of problems with COVID and the struggles that the retailers are having in that situation.

So C-3 -- and Mr. Schmitt, mixed use, not mixed use, I'm not a zoning person, so I don't know really what all that really means, but we far favor that because over time it's going to be adaptable. And people don't want to walk down a sidewalk 50 yards from a beautiful, beautiful beach and have a 14-story wall 15 feet away. I mean, they just don't. It's a quality-of-life issue. It's not Naples, Florida.

And so we respectfully and humbly ask you, on behalf of all these people that we represent

and have had responses from through the Pelican Bay Property Owners Association, please deny this. It's the wrong project in the wrong place at the wrong time. It's not who's right. It's what's right. And what's right is to -- is to put something in there that benefits everybody and not just 176 people that like to live over -- up there at the expense of everybody else, including those people that are already here, blocking views.

I'll conclude with that. Thank you all very much for bearing with me.

CHAIRMAN HOMIAK: Thank you.

MR. ENGLISH: You don't get to say anything to me?

MR. YOVANOVICH: I can if you want me to.

MR. ENGLISH: I'm embarrassed. I feel slighted.

COMMISSIONER FRY: I will, sir.

CHAIRMAN HOMIAK: Mr. Fry.

COMMISSIONER FRY: Mr. English, I will say something to you.

MR. ENGLISH: Okay.

COMMISSIONER FRY: If you'll accept me instead of Mr. Yovanovich.

So you're in -- you're a tenant in Merrill Lynch in Mercato and we -- you know, Commissioner Schmitt clarified this is C-3. This is commercial. It's not mixed-use currently zoned. Are you, the Pelican Bay Property Owners Association, in favor of Exhibit 9 as presented by Mr. Stuart or just pure commercial? Because that's been presented as an alternative by Save Vanderbilt Beach.

MR. ENGLISH: I don't know what Exhibit 9 is.

COMMISSIONER FRY: Well, it's a -- it's mostly residential with towers 12 stories, nine stories, and then low-rises.

MR. ENGLISH: I'm unfamiliar with it. I'm not in any position to comment on it at all.

COMMISSIONER FRY: Okay.

MR. ENGLISH: But I did have some point of great levity I was going to share; now it's gone.

Basically, it's just a -- oh, I know what it was. One of the things you asked us to do is tell you where we lived relative to the project. And I have two properties. One's about a mile and one's about a mile and a half.

It's on everybody's mind. We worry about the traffic. We've already got a problem out there on Vanderbilt Beach Road. That stoplight's a monster. People are diving down into the neighborhoods to avoid the light, and they're using Oakmont, and they're using Myrtle Drive, and they're using Naples Park for a racetrack, practically. I think it's 91st Street. It's just creating a lot of problems. And that light is a lot of problems in itself. It's going to have to be dealt with as time goes on. But to pile more traffic on there is really -- it's creating a lot of problems, and it's creating serious safety problems for a lot of people.

COMMISSIONER FRY: We're back to -- and I think -- I've been on this commission for two years, and routinely we have residents -- we have an application come in that is proposing less traffic than what would be there under the current zoning, and we have residents come up and say, we're against traffic, and yet what they're proposing is less traffic. And I'm not expressing support or anything on the -- I'm just saying, you are seriously okay with the fact that what you're asking for, C-3, would generate more traffic, potentially, than what they're proposing? You're okay with that? You just think commercial is a better use of the property?

MR. ENGLISH: Two responses. The expert traffic person for Save Vanderbilt Beach talked about that, and he said -- this was at the October 1st meeting. He said, in his opinion, it would generate less traffic because people would -- in the community, in the Vanderbilt Beach community, Pelican Bay community, they would walk over there to go to lunch, to go to the fun spots, to --



COMMISSIONER FRY: But that's factored in.

MR. ENGLISH: Well, that may be factored in, but it's not factored in for 2050. And when you factor in 2040, 2050, thousands of people that aren't even born yet that are going to have to deal with this -- commercial property will adapt. It's driven by market forces. If that residential gets in there as residential, it's not going anywhere. They can play around inside of it, but they can't do anything with the outside, or very little.

And they're not going to do anything with that 14-foot wall -- or that 14-story wall 20 feet, 15 feet from the sidewalk. But that's probably the best answer that I could give you.

But the gentleman from -- the expert, I thought he was very good, as was the county. He was very good, too, talking about one day in February 2020. But he thought that it would reduce it. People would ride their bike over, they'd walk over. They'd -- they would actually reduce the traffic.

COMMISSIONER FRY: Okay. I would just say -- I would just leave it at this: I think the professional, the traffic -- what's it called? The national T? What's the --

MR. YOVANOVICH: ITE.

COMMISSIONER FRY: -- ITE would, I think -- based on how many meetings I've been in, which is not as many as a lot of people on this board, but it would beg to differ with that analysis. I just think it's one of the factors in this, and it's realistic. I think it's our responsibility that the people that visit, people that speak, people that are interested in this walk away with an understanding of reality instead of just perception. And the stats, the national framework for predicting traffic, says that this project would create less traffic than a commercial application. So I just think everybody's eyes need to be open to that, whether you want commercial or not. So I'll leave it at that.

MR. ENGLISH: I'm not an expert on this so I --

COMMISSIONER FRY: Nor am I.

MR. ENGLISH: So I won't challenge that in any way whatsoever.

COMMISSIONER FRY: Thank you.

MR. ENGLISH: You fine, folks, thank you so much.

CHAIRMAN HOMIAK: Thank you.

COMMISSIONER SHEA: Thank you.

CHAIRMAN HOMIAK: Okay.

MR. FRANTZ: Our next public speaker is Vincent Velasquez. Vincent will be followed by Ralph Cowie. Give them just a moment. They may be in the hallway.

MR. YOVANOVICH: Are we down to regular time for people?

MR. FRANTZ: Vincent, you have three minutes.

CHAIRMAN HOMIAK: Three minutes.

MR. VELASQUEZ: Hello. Thank you for your time. My name is Vincent Velasquez. I apologize for my dress wear. I live in Naples Park at 722 103 Avenue North, and I think -- I came in here just to say that I'd like to just keep it at the height that the staff has recommended. I don't want it to go any higher than that.

I've been there for two years -- I mean, a year living there. I don't think a building's going to be a problem. I don't want to see any more -- and no disrespect to the Beach Box, because I'm sure we all enjoyed them back in our days, but I don't want to see it become commercial where we have parties all night long.

I don't have an issue with the project at the height the staff has recommended, and that's all I was here for today.

CHAIRMAN HOMIAK: Okay. Thank you.

MR. VELASQUEZ: Thank you.

MR. FRANTZ: Your next speaker is Ralph Cowie. Ralph will be followed by Amber

Robinson.

COMMISSIONER FRY: Are we using both podiums?

CHAIRMAN HOMIAK: Are the speakers mostly out of this room? Maybe they could come in and --

MR. YOVANOVICH: I don't think they know they can alternate.

MR. COWIE: Thank you. My name is Ralph Cowie. Sitting all morning maybe stopped me up a little bit.

I've been following the meetings on Zoom. Again, my name is Ralph Cowie. I own at Barefoot Pelican. I bought in 1983. As I came down Vanderbilt Beach Road, Palmetto bushes were on the side of the road. Things have really changed then. We've got a library, fire department, police department. Some major changes have been made.

But I'd like to express my opinion that I'm opposed to the Stock Development known as One Naples.

The actual -- thank you. The actual development will not improve my lifestyle or those at Barefoot Pelican and the beautiful Vanderbilt Beach area.

I'm a Florida resident. I purchased my condo, as I mentioned, in 1983, and there's been a lot of new things that I think are good. I happen to live on the fourth floor at Barefoot Pelican, which is between 30 and 40 feet from ground level.

I brought with me today some pictures. And I'm sorry -- I will take that one since it's up there first of all. The development as proposed by Stock Development will have a wall sticking out in front of me because there's 10 feet of right-of-way -- I'm sorry, setback. Barefoot Pelican is 25 feet from the road and from the lagoon. The proposed development will have a wall like you're looking at. I sent you an email, and I think you also have a couple of pictures that I gave you today. That wall will be 20 feet in front of Barefoot Pelican.

I'm a reader. I sit on the walkway and read. That wall is, to me, very pathetic. I think that it's outrageous that I do not have a line of sight that I'm having today. If you excuse me one moment.

MR. SABO: I got it.

MR. COWIE: The second picture I have is what I look at today. This is what I've been looking at for 37 years. It's a line of sight. There's no building next door. The wall that I showed you sticking out 20 feet is also 87 feet tall. Barefoot Pelican roof is 50 feet. We also have a parapet which hides our air conditioners.

MR. FRANTZ: You have 30 seconds.

MR. COWIE: Those are approximately nine feet.

So we have 59 feet. Next to me is an 87-foot-tall building. Stock has a comparable building along another street. That building is 70 feet, which I think has been mentioned earlier today, you have a 20 feet plus 50 feet of ravine. So that's 70. I'd asked, why is the one next to me 87 feet?

MR. FRANTZ: That's three minutes.

MR. COWIE: In 2017 -- I'll try to finish. In 2017, I met with Brian Stock, and he went through his plans. He said that he was going to continue it no matter what. We met him again, and he said he's going to continue it to make those improvements.

If my time is up, I will abscond [sic] to any questions, but I can just tell you that all I'm looking for is setback, okay. It affects me. It affects Barefoot Pelican. I'm not asking for a reduction of units.

The building as currently planned is twice the size of Barefoot Pelican. If you took 20 feet off of the building it would still be more than 50 percent the size of Barefoot Pelican.

I'll take any questions you might have.

CHAIRMAN HOMIAK: Okay. Thank you.

MR. FRANTZ: Your next speaker is Amber Robinson. Amber will be followed by Justin Finch.

Amber, you have three minutes.

MS. ROBINSON: Good afternoon. My name is Amber Robinson, and I have lived in Naples Park for over 20 years. I regularly attend Vanderbilt Beach. I originally had concerns about traffic increases that would reduce my ability to access the beach; however, from what I have seen over the past year, it's my opinion that we can comfortably welcome new neighbors to the area and still enjoy the beach.

The times when congestion will be an issue is a small period when any scenic area in Southwest Florida will be experiencing the same. I feel the aesthetic improvements created by this project are a welcome change. As I have seen my property values increase over the years due to being in close proximity to developments such as Pelican Marsh and Mercato, I expect to see the same from Naples One. Thank you.

CHAIRMAN HOMIAK: Thank you.

MR. FINCH: My name is Captain Justin Finch. I have lived in -- on Vanderbilt Beach Lagoon or close vicinity for 33 years. I have made my livelihood on the waters of Vanderbilt Beach for the past 29 years.

I do approve of this program, this project. I feel it will greatly gain -- the aesthetic of the area is much needed. Unless the water park is an option, I vote water park.

From the perspective of a small business owner, I feel it's important that I share my experience with Stock Development. For the past 17 years, I have owned South Bay Marina located on the property of the proposed project. Upon purchase of the land, Stock had the option to bid out the services offered by my business, and they -- not only my business but several others. Rather than seek out the highest bidder and maximize the commercial income, Stock opted to show loyalty to myself and those vendors who had a long-standing relationship with the area residents.

A few months later Hurricane Irma devastated my business location, leaving my building beyond repair and my fleet of boats in tatters. Without provocation, Stock Development approached me offering assistance that would allow my business to move forward.

A year later, all of Southwest Florida was inundated with the worst red tide outbreak on record, lasting seven months. This was another devastating blow to any marine-related business and, once again, the Stock team reached out to offer any assistance they could.

Now, 2020 rolls, and COVID-19 hits during the two most important months of my business year. After experiencing the failures of government business assistance, the one source of consideration of, yet again, the team at Stock. After all I've been through the past three years, I can say beyond a doubt that without the kindness and compassion shown to me by Stock Development, my home and 17 years of blood, sweat, and tears would have been erased.

Without a need to publicize their generosity, I have repeatedly observed decisions made by them on the betterment of the area for the current residents. When I hear comments that describe an organization that is focused on profits above all else, I strongly and gratefully disagree.

Thank you.

CHAIRMAN HOMIAK: Thank you.

MR. FRANTZ: Next speaker is Miguel Lopez. Miguel will be followed by David Galloway. If those speakers are no longer here, we can move on to Zoom.

COMMISSIONER SHEA: David's here. He's right there.

CHAIRMAN HOMIAK: Oh, okay.

MR. GALLOWAY: Thank you. I could have done Zoom because I've been here three different days about eight hours a day.

I'm -- good afternoon, Commissioners. I'm David Galloway. I'm speaking on behalf of the Vanderbilt Beach Residents Association. I'm president of this almost 25-year homeowners

association. The geographic boundaries encompass, on the west side, the Gulf of Mexico, on the south side, Vanderbilt Beach Road, on the west [sic] side, Vanderbilt Drive, and on the north side Wiggins Pass. It's a good-size area with approximately 6,000 doors or resident condos and houses that the association represents.

We have always been proactive in addressing the various projects in this area, such as beach renourishment, assisting with not having a 1,100-foot-long fishing pier, as you remember a few years ago, and large restaurant -- or large restroom and concession facilities that was proposed a few years ago to be located directly at the county park beach access turnaround area at the end of the Vanderbilt Beach Road.

The Vanderbilt Beach Residents Association was involved in assisting and establishing a new MSTU two years ago in order to properly fund the dredging of Wiggins Pass in the future as needed, which is available for use by all residents of Collier County.

For over three-and-a-half years since the One Naples project was announced, the Vanderbilt Beach Residents Association has been in a very cordial relationship with Stock Development, having met numerous times in person, and most recently by a telephone and Zoom, Brian Stock and Keith Gelder. Our members have attended the various informational meetings regarding this project.

The Vanderbilt Beach Residents Association board of directors and membership thoroughly understand that the parcels of land in question will be developed at some time. We want it to be done in a responsible manner that can be supported by the area's thousands of residents. I personally feel that the Stock Development group is an excellent building company; however, I understand this project will be their first high-rise endeavor.

We believe the project, as it is presented, is too tall and doesn't have adequate setbacks proposed and needed to accommodate these buildings, amongst other items that have already been presented by our legal counsel today.

With all of this being said, I happen to live for almost 20 years at the Beachmoor condominiums directly across from this project on Gulf Shore Drive. The Beachmoor condominium has been referenced many times in these commission meetings. The Beachmoor condo's height that has been stated as being 125 feet tall. The proposed project --

MR. FRANTZ: You have 30 seconds.

MR. GALLOWAY: -- is at least 208 feet tall. The additional traffic generated by the proposed project density will be absolutely terrible, creating safety and health issues at this intersection of Gulf Shore Drive and Vanderbilt Beach Road.

My opinion only, why don't we have the county consider buying the property from Stock Development, make it a beautiful focal point park to Vanderbilt Beach for all the residents and visitors that enjoy Collier County for many years in the future.

MR. FRANTZ: That's three minutes.

MR. GALLOWAY: Vanderbilt Beach Residents Association is recommending denial of this project, the zoning change, and leave it as C-3 zoning.

CHAIRMAN HOMIAK: Your three minutes is up, sir.

MR. GALLOWAY: Thank you. But Planning Commissioners and elected County Commissioners, please listen to your constituents on this issue. Thanks for your time.

CHAIRMAN HOMIAK: Thank you.

MR. FRANTZ: The previous speaker, Miguel Lopez, transferred to Zoom. We're going to unmute Miguel now.

MR. LOPEZ: Can you hear me?

MR. FRANTZ: We can hear you. You have three minutes.

MR. LOPEZ: Okay. Hello. My name is Miguel Lopez. I'm a resident of Naples Park. Vanderbilt Beach has been a local, you know, mom and pop fixtures, you know, the Box

Beach, the beach store, the Lighthouse, DaRuMa, and the open area. The whole area is open. It's real nice the way it looks right now. We don't want to give up, you know, this for multiple 14-story condos. It's just going to create a concrete jungle.

This area was planned to be a light commercial zone and mini Mercato, which has been mentioned before, not for oversized condos. Since we have plans for a rezone, and the plan does not include condos.

Vanderbilt Beach is packed with visitors. During high tide and high season is worse. We don't fit. We -- with more condos, it would be worse. The county must decide that this zone is not suited for condos.

I bike to the beach every day, and the traffic is dangerous, even now with less buildings. Starting at Vanderbilt Drive, a traffic study should be initiated before we consider any new construction. It's really bad right now. And before we have a fatality.

We have strollers, bicycles, older citizens, and families that walk to the beach daily. Speed limits must be reduced. Either way, whether we do commercial or whether we do condominiums, we have to reduce the speed limit there. It's really dangerous, and it's going to create a real nasty problem.

You mentioned a water park. Yes, this is a great idea. This area is the last option -- this area is the last option left for the public to have access to the inland canals. We don't have any access to the canals right now.

Please give us a park. Thank you very much.

CHAIRMAN HOMIAK: Thank you.

MR. FRANTZ: Your next speaker is Marsha Oenick. Marsha, can you hear us?

MS. OENICK: I am here. Can you hear me?

MR. FRANTZ: We can hear you. You have three minutes.

MS. OENICK: Thank you for taking my comments. My name is Marsha Oenick.

These are my personal comments. I'm not representing any organization with these remarks. I have been a resident of Naples Park neighborhood for five years.

Some current testimony from staff indicates that the county should consider the rezone first and make the GMP amendment compatible with this. I agree with one of the commissioner's questions that this is backwards.

Here's the thing: An amendment to the Growth Management Plan requires justification for the request. I have followed the extensive documentation for both of these requests so I know what the previous lawyer for Regatta said; multiple requests were made for justification for the Growth Management Plan amendment. Eventually a document was provided called the Justification and Supplemental Information document dated May 29th. But it does not provide justification for the need to double the residency density from 16 to 31.7 acres per -- units per acre. The staff report from Mr. Schmidt clearly states on Page 7 that no analysis was completed despite acts -- asks to justify the request.

There is a blanket statement that it will improve property values in the area. You've heard from several speakers that this is not the case for their development. The petition also restricts the amount of commercial space. The petition is only an ask without justification.

The double density with the size of units desired then creates a need to the outside currency [sic] 3 limits for building heights and setbacks. Many people have talked about this. Again, these asks are without justification. No justification has been provided for these asks. We have to consider if the request for density increase and limitation of commercial space is justified.

The stated benefits are landscaping and a traffic light. Whether the current five-year plan includes a traffic light is irrelevant. The new information provided can alter county plans. The landscaping will utilize tremendous amounts of drinking water to start and maintain. I personally don't find this aspect acceptable considering the water issues the county faces, its irrigation

restrictions, and its promotion of no-water landscaping. Losses to the residents of the county and the tourists of the county seeks to attract are loss of some --

MR. FRANTZ: You have 30 seconds.

MS. OENICK: -- current and any future commercial amenities in this area.

You have two choices. Address the density question and its implications first or consider the rezone and work backwards. I hope you address the density question first. If you take this approach, you need to recognize that the needs of the developer for 170 units are to achieve his specific financial goals. These financial goals are those of the developer --

MR. FRANTZ: That's three minutes.

MS. OENICK: -- and not those of the county and the residents and tourists it serves. In fact, you have heard residents indicating it will lower your -- lower their financial situations.

If you do the other route, please make sure that you require the developer to accept all the stipulations in Mr. Sabo's reports. If these requests are refused by the developer, I strongly urge you to deny approval of the Growth Management amendment, which is required for that rezone application to be considered.

Thank you for your time.

CHAIRMAN HOMIAK: Thank you.

MR. FRANTZ: Your next speaker is Kathleen Robbins. Kathleen, are you there?

MS. ROBBINS: Yes, I am. Thank you.

Thank you, Planning Commission.

My name is --

MR. FRANTZ: You have three minutes.

MS. ROBBINS: Pardon me? My name is Kathleen Robbins, and I am the treasurer of the Vanderbilt Beach Residents Association. All of our members live within the geographic area encompassing the development being proposed by Stock.

As Mr. Galloway mentioned, he and I met with the developer multiple times over the past three years, and we were hopeful originally because Mr. Stock and his team did reduce the size of the project along the way; however, these plans before you are still out of scale with the rest of the Vanderbilt Beach neighborhood. Not only in height and density, but in the lack of adequate setbacks. This project is neither compatible with nor complementary to the existing neighborhood and would set an irreversible precedent.

We ask that you recommend that the Board of County Commissioners deny both of the developer's applications. Thank you for the opportunity to speak.

CHAIRMAN HOMIAK: Thank you.

MR. FRANTZ: Your next speaker is Dailey McPeak. Dailey, are you there?

(No response.)

MR. FRANTZ: Dailey, can you hear us?

(No response.)

CHAIRMAN FRYER: We'll move on to our next speaker and come back to Dailey if we're able to.

The next speaker is Ann Steffen.

MS. STEFFEN: This is Ann Steffen. I am opposed to the project. Thank you.

MR. FRANTZ: We'll try Dailey McPeak. One more time. Dailey, are you there?

MR. McPEAK: Yes, can you hear me? This is Dailey McPeak. I live on Gulf Shore Drive. Are you hearing me okay?

MR. FRANTZ: We can hear you. You have three minutes.

MR. McPEAK: Yes. I live on Gulf Shore Drive about a block from the proposed project, and I'm really concerned that the density, the traffic is just -- it's already a problem, and it's only going to be more and more of a problem. I strongly encourage the Planning Commission to

say no to this proposed project.

Thank you very much.

CHAIRMAN HOMIAK: Thank you.

MR. FRANTZ: Your next speaker is Karen Tarapata. Karen, are you there?

MS. TARAPATA: Yes, I am. Can you hear me?

MR. FRANTZ: We can hear you. You have three minutes.

MS. TARAPATA: Thank you. My name is Karen Tarapata, and I'm the president of the Vanderbilt Yacht and Racquet Club located at 11030 Gulf Shore Drive up by Bluebill Avenue. We are one of the long-standing condo communities that will be heavily affected by the One Naples proposal.

Our objections to this project are not generalized community opposition to development. In the 35 years since VYRC was built, we've seen many fine developments and redevelopments on our street; however, One Naples is greater in size and impact than anything we've seen before. The applicant's request for double the allowed density, double the height limit, reduced setbacks, and of greatly reduced minimum open-space requirement is not compatible with the neighborhood.

As proposed, it's too close to the road, too tall, and too dense. Looming over the intersection and the bay, One Naples will degrade our quality of life in this area forever. The residents of Vanderbilt Yacht and Racquet Club support the height recommendations and setbacks recommended by the county planner.

There's little we can do to really improve the traffic situation, as there really are only two ways in and out of the neighborhood; Bluebill and Vanderbilt Beach. Bluebill. We have Delnor Wiggins, we have the Collins Park parking. We have the Catholic church. We have the elementary school. That road is already very heavily used, and sometimes we have to use Vanderbilt Beach Road in order to get back into the neighborhood. I am concerned -- we are all concerned that the increase in traffic is going to make this even more difficult, access to our homes.

I understand that the commercial development would greatly increase traffic, but even the number of units proposed by the applicant currently would increase traffic at peak times by 50 percent from about 96 trips per hour to, what was it, 148. We believe that there's -- it's too much, too dense, too big, and certainly the setbacks should be the minimums recommended by the county planner.

Thank you.

MR. FRANTZ: Your next speaker is Jim Jacob. Sorry. Looks like Jim is no longer on Zoom.

The next speaker is Julie Cowie. Julie, are you there?

MS. COWIE: Thank you. I live in Barefoot Pelican.

On the Collier County Growth Management Plan page of your website is a document from April 2001 called Toward Better Places. The introduction of this document states that, quote, the Community Character Plan attempts to discern and respect the very character of Collier County. Character is the combination of many things. It is exemplified by style, image, locale, mood, liveability, connectedness, and sense of place, unquote.

In deliberations today, I've heard Vanderbilt Beach referred to as an informal community. That's true. It has a relaxed vibe. It is walkable, bicycle, a place with bocce ball on the beach, getting beers from the Beach Box in bathing suits, happy hours on condo decks at sunset, and dog walking on sunny sidewalks and parks. Despite the tremendous wealth present in real estate, it is not a pretentious place, or not as pretentious as some. Condos and homes alike are still available for purchase under \$500,000.

In the process that preceded your April 2001 report, again, I cite its intro, quote, Collier residents clearly communicated that they don't want to stop the development that makes the county prosperous, but they want new development to enhance the community in other ways as well.

This plan looks at growth not simply as an engine of prosperity but also how it interacts with mobility, green spaces, and livable results, unquote.

These values are threatened by the size and scope of the proposed project of One Naples. There must have been some decisions made 20 years ago that triggered the responses of your residents at that time. Please learn from history and do not make the same overreaching development decisions again.

I urge you to follow your own documents and values and deny this project that vastly exceeds the scope of residences in this area and the spirit of the existing community of Vanderbilt Beach.

On Page 2.15 of your document -- and this is my last quote -- the plan states, the culture of community-making and spirit of responsibility demonstrated by Collier County pioneers and town founders can be re-established.

MR. FRANTZ: You have 30 seconds.

MS. COWIE: Community character should be placed at the forefront of planning decisions, not contemplated as an afterthought, unquote.

Please retain the remarkable, delightful, informal, and unpretentious vibe of Vanderbilt Beach. The density, height, concrete, traffic, and arguable exclusivity of multimillion-dollar condominiums located on this small --

MR. FRANTZ: Three minutes.

MS. COWIE: -- site across from public beach access must not be allowed. Thank you.

CHAIRMAN HOMIAK: Okay. Thank you.

Terri, you ready for a break?

THE COURT REPORTER: Sure.

CHAIRMAN HOMIAK: Yeah. Okay. Let's take 10 minutes.

(A brief recess was had from 2:40 p.m. to 2:52 p.m.)

CHAIRMAN HOMIAK: Okay, everybody. It's time. Can you please -- everybody please sit down. I don't think they hear me. Okay, everybody. Could you please take your seats.

MR. FRANTZ: Chair, you do have a live mic.

CHAIRMAN HOMIAK: Could everybody please -- I'm going to use the gavel in a minute.

COMMISSIONER FRY: Use the gavel.

COMMISSIONER SCHMITT: Throw it. Throw it. Okay.

CHAIRMAN HOMIAK: We still have speakers on Zoom? If we could have the next speaker, please.

MR. FRANTZ: Our next speaker is Cheryl Roe. Cheryl, are you there?

(No response.)

MR. FRANTZ: After Cheryl is Michael Roe. Give us just a moment as we try and get them on Zoom.

Michael Roe, are you there?

(No response.)

MR. FRANTZ: Okay. After Michael is Paul Giannetti. Paul, are you there?

(No response.)

CHAIRMAN HOMIAK: Sounds like people are giving up.

MR. FRANTZ: Okay. It looks like Paul does not have a microphone hooked up, so we'll try to come back to him later if we can.

The next speaker is registered as Marianna and Richard Dubois.

MR. DUBOIS: Good afternoon. Richard Dubois here.

MR. FRANTZ: Hello. We can hear you. You have three minutes.

MR. DUBOIS: Thank you. I'm a resident of Vanderbilt Beach for 40-odd years, and I'm



at 9811 Gulf Shore Drive. And I've seen many developments on Vanderbilt Beach. And many times when people have a project presented to them, they have pictures, renderings, and they really don't see or feel what that gigantic size of what it's going to be.

And I apply to the commissioners that are listening right now. I would ask Stock Development to build on the three areas most important, like the one on Vanderbilt Beach at the corner, on the one on Vanderbilt Drive, and the one on the water, to build a wall of the height that they are requesting and the setback they're requesting for about 20 feet so the Commissioner would have not pictures only but the true value or look of what it would be.

And it is important, too -- I don't know, with all due respect, which commissioner mentioned earlier and when somebody else was talking that what is -- what was built in that -- in there before? And the person that answered said duplexes. I'm almost surprised how come the commissioner would ask. Has he ever -- have you all ever visited or has anybody been setting foot in that area to really, really see what they're going to refuse or accept? And I understand very well your position; it's very difficult, but without seeing, feeling --

MR. FRANTZ: You have 30 seconds.

MR. DUBOIS: -- sizes and height, you're making a mistake of not doing that and not asking the developer to do that.

And thank you very much for listening to me. But I am against that project as it is presented or else that opens the door for me as a developer then to do the same thing on another piece of property and ask the same thing that could not be --

MR. FRANTZ: That's three minutes.

MR. DUBOIS: -- refused. It could be setting a precedent. Thank you very much. My name is Richard Dubois. Anytime you want to get in touch with me, please do. I'd be glad to.

CHAIRMAN HOMIAK: Thank you.

COMMISSIONER FRY: Karen, may I?

CHAIRMAN HOMIAK: Yes.

COMMISSIONER FRY: Mr. Dubois, this is Commissioner Fry. Just -- I got an email from a resident, I don't know, before the last meeting, asking -- making the same request -- I'm not sure if any commissioners did, too -- that we would visit the site, so I did. I even videoed driving down the street.

And so I did think it was a valuable exercise to get perspective of the area. You can see the Ritz behind the parking garage. As you drive down Vanderbilt Beach, your eyes are drawn initially to Trieste on the left, which is a very tall high-rise just off the road to the left. So it's a valid point.

MR. DUBOIS: That's Bay Colony.

(Simultaneous crosstalk.)

COMMISSIONER FRY: Correct. No, that's correct. I just wanted to let you know that I think probably a significant number of us have been there, and -- but it is good to go to the site to get the perspective. We don't always have time to do that.

MR. DUBOIS: Altogether to exchange as you professionals are trying to do your best decision in the matter, that would be a good idea to my knowledge, because pictures can be arranged, and we've seen that many times right there.

Thank you very much again for calling what you had to say, but I suggest you visit and get those examples built and try to walk next to them at five-foot setback. Thank you very much.

MR. FRANTZ: And we're going to go back to Paul Giannetti. Paul, are you there?

(No response.)

MR. FRANTZ: Okay. I thought we had Paul.

MR. GIANETTI: Can you hear me?

MR. FRANTZ: We can hear you. You have three minutes.

MR. GIANETTI: Okay. I don't need three minutes. I would just want to tell you I've been down in Naples since 1969. I'm really not that old. I didn't think so. Our family's been there since the -- 40 years. I actually bought property five years ago. I'm a member -- or a resident of Pelican Marsh.

I am -- love great development and the rest of it; however, I think that the county planner -- the density, the height, the setbacks, we've set that stone. We've set that standard. I don't have a problem with the development if it meets the standards that we have for Collier County. I think changing the standards changes the whole dynamic of Vanderbilt Beach -- Vanderbilt Beach Road/Gulf Shore. And as many others have said in the past and Ann and the rest of them, I'm opposed to it from that perspective.

Thank you.

MR. FRANTZ: We're going to try one more time, Cheryl Roe.

(No response.)

MR. FRANTZ: Cheryl, are you there?

(No response.)

MR. FRANTZ: Cheryl, if you're there, please unmute yourself on your end.

(No response.)

MR. FRANTZ: Okay. We're going to move along. The next speaker is Paul Pashibin. Paul, are you there?

MR. PASHIBIN: Hello. I'm on unmute.

Thank you to the Planning Commission. My name is Paul Pashibin. I'm a nearby resident; Meadow Lane Drive. Actually about a mile from the beach.

We have owned property here for about nine years, and we specifically purchased due to the charm and accessibility of Vanderbilt Beach.

I think it goes without saying but I want to mention that as a resident I'm new to this process here, but I've been really pleased with how this has been handled. I've been impressed by how most of the commissioners have been pretty transparent, and you've given more than ample time for both parties to present your content and their content.

I'm going to yield most of my time simply due to the fact that my comments are duplicates of others, but our family owns four homes within a mile of the proposed project. We are against the plan as proposed, and I'll sum it up with a simple statement: The neighborhood really -- we know that growth is inevitable. We simply expect managed growth.

Don't take Plan A because Plan B is worse. I've been in marketing for many years. We know what's coming next from Stock. They're going to show us today, or sometime, whenever we get to that, how they think a commercial development is going to look, and it's going to be scary. And they're going to scare us into Plan A. Let's just work together to make Stock's plan fit better in the community.

Thank you very much for listening.

MR. FRANTZ: Your next speaker is Kenneth Melkus. Kenneth, if you can unmute.

MR. MELKUS: Hello?

MR. FRANTZ: Hello. We can hear you. You have three minutes.

MR. MELKUS: Yeah. I really don't have anything to say. I had registered to observe. I had previously made comments back on behalf of Save Vanderbilt Beach, so I won't be duplicative of your time. Thank you.

MR. FRANTZ: Your next speaker is Bonnie Michaels. Bonnie, are you there? If you could unmute yourself, please.

MR. SEEF: In lieu of Bonnie, who is my wife, and she's not able to speak at the moment, my name is Michael Seef. I don't know if -- I did register separately, so you should have my name. I just received the Zoom connection.

So if -- with your permission, I'd like to tell you about our community, which is Beachwalk, which is halfway between Highway 41 and Gulf Shore Drive.

We currently, during the season, which I'll define as being between February or January through approximately May, have enormous traffic. We're on Vanderbilt Beach Road on the north side. As I said, about right in -- right in the middle. And we have a terrible time and feel very unsafe getting out of our community during the season at almost anytime. In the non-season, it's just based on beach traffic which, as you probably realize, goes west in the morning and goes back east in the afternoon.

Just for reference, we have 356 dwellings. That's approximately 600 cars. And our wait times can be really considerable. But the main issue is fear of collisions. People drive 35 to 40 miles an hour down Vanderbilt, and in back there's a lot of commercial traffic as well. So there's -- it's dangerous, and we're concerned about it. I've tried to make this clear to staff, and I never received a response about the safety issue.

They did their TIS in January, and in May -- I believe it was middle or late May, I'm not sure -- which are not the average seasonality time period. They need to add 20 percent to their TIS to really account for the traffic that's currently -- that's currently there.

The other -- my other concern is that -- and a couple of people just brought this up earlier, we're not just talking about year 2020 when we have COVID-19, et cetera. We're talking about 50 years hence. And population growth in Collier generally, especially in the eastern areas, from 2020 to 2030 is going to grow about 20 percent --

MR. FRANTZ: You have 30 seconds.

MR. SEEF: -- to the year 2040 it's going to grow by 36 percent, and that's not going to be accounted for in the ITE. It's not been accounted for in the TIS, and it needs to be done, because that population growth is per the AUIR and is used by the county to assess traffic and transportation planning. So please do not --

MR. FRANTZ: That's three minutes.

MR. SEEF: -- approve this until we have a decent TIS and, for the C-3 zoning, an ITE that is appropriate and not just paperwork.

Thank you. Again, Michael Seef of Beachwalk, and I hope you consider all of these.

MR. FRANTZ: Mr. Seef, could you please spell your name for the record. We do not have your registration on file.

MR. SEEF: Yes, sir. I'm sorry. First name is Michael, M-i-c-h-a-e-l. Last name is Seef, S like Sam, double E like Edward, F like Frank.

Any questions, I'm happy to answer.

(No response.)

CHAIRMAN FRYER: Thank you.

MR. FRANTZ: Your next speaker is Michael McCully. Michael, if you're there, could you unmute yourself.

(No response.)

MR. FRANTZ: Our next speaker is Brian Maher. Brian, could you unmute yourself.

MR. MAHER: Yeah. Can you hear me?

MR. FRANTZ: We can hear you. You have three minutes.

MR. MAHER: Great. Thank you.

I'm Brian Maher. I'm president of the Trieste. I'll try to be brief and not repeat what you've heard from others.

We support the Pelican Bay Foundation letter you have all received. Trieste is not -- is part of Pelican Bay. It's specifically in Bay Colony, a gated development within Pelican Bay. Trieste is not part of the neighborhood north of Vanderbilt Beach Road where the proposed project would be.

Apart from all that, from a comparability standpoint, using Trieste height alone is total cherry-picking. Trieste has 105 units on 4.7 acres of land, a density of 22 units per acre. Looking at all of Bay Colony, there are about 880 units on 200 acres, a density of less than five.

The Trieste garage is set back about 85 feet from Vanderbilt Beach Road, and the tower itself is much farther back than that.

Finally, the proposed towers of the project would partially block northwest gulf views of about two-thirds of our units. None of us believe that those towers would improve property values.

We would support the downsized projects proposed by Save Vanderbilt Beach or the county planning staff. C-3 commercial would also be acceptable to us.

Thank you for listening to my comments.

MR. FRANTZ: Your next speaker is Raymond Dearchs. I apologize if I'm mispronouncing that last name. If you could unmute yourself, Raymond.

MR. DEARCHS: It's close enough. I appreciate it very much.

I guess, to summarize, I just want to say that my family, who owns there, believes, A, way too tall; B, the setback is way too small, and the lady who spoke earlier about it just not being -- it's out of character for the neighborhood had it right on target.

I just want to address the fact that I came to the Vanderbilt Beach area back in 1990, and I retired there to live permanently as a resident in 2016. And through that period of time, which obviously is a number of years, I bought three different condo units on Vanderbilt Beach -- on Vanderbilt Beach.

And, frankly, when I first got there, the Ritz-Carlton was there -- and I know these are some comparable properties that people have said should be included in the discussion. I think the Ritz-Carlton has never been a problem for me since 1990 when I stayed there for my first convention as a CPA convention. It just -- it never seemed like it -- it seemed separate from the Vanderbilt Beach community, and it also didn't take away from anything. We came back, you know, to visit many times. The Regatta popped up. It was -- it seemed a little bit high at the time, but let's be honest, the large setback there and the fact that it's way far away from Gulf Shore Drive made it seem a little bit high but really not that bad.

And the Trieste, which was just discussed, when that went up, I've got to admit that my friends and I who came down to visit with us at one of our properties, we all thought, whoa, that was a little bit big. But then, again, it is in a gated community and it's pretty far away. It's up to the next street, and it's on the other side of the street, and it just doesn't seem like it's part of our community.

But in all honesty, if this One Naples is allowed to proceed as originally proposed, it's going to bring that size, that density, and all these problems right in the middle of the neighborhood, and not only is it going to have all the problems that have been discussed by thousands of residents who have testified either through their representatives or individually or emails, it's going to bring all those things instantly to our neighborhood. But the real problem is, it's going to set up the precedence for Miami-like development up and down Gulf Shore Drive going forward, and this committee would be basically enabling, you know, Buzz's Lighthouse to buy a couple properties and put up a large condo, you know, the situation across the street --

MR. FRANTZ: You have 30 seconds.

MR. DEARCHS: -- and put it right up the street. It's just bad.

And the latest comment I'd want to make is nobody has addressed the traffic at the north end of Gulf Shore Drive by the park. That will be affected, and nobody -- none of the studies really address that, and I think that should be addressed because, clearly, it's going to be affected. I want to thank you very much, and please listen to the thousands of people and not the one developer.

Thank you.

MR. FRANTZ: Your next speaker is Diane Reed. Diane, are you there? Can you unmute yourself.

(No response.)

MR. FRANTZ: Diane, are you there?

(No response.)

MR. FRANTZ: Okay. Our next speaker is Rose Marie Pyott. Rose Marie, if you could unmute yourself.

MS. PYOTT: I just did. Thank you.

MR. FRANTZ: You have three minutes.

MS. PYOTT: I live on Bayside Avenue. Very much against this project. It's just way too big for this spot there. We've been here quite a few years now, and it's a great place to live. This is not going to help anybody around here. The only people that are going to benefit from this is the developer.

So really, I hope you really look at this hard, because once they ruin that spot, it's done forever. Thank you.

MR. FRANTZ: Okay. We got one of our previous speakers that was unable to connect back online, so we're going to go back to Michael Roe. Michael, are you there?

(No response.)

MR. FRANTZ: Michael, are you able to unmute now?

(No response.)

MR. FRANTZ: Okay. Apologize for that. We will move on again.

Next speaker is Mark Efrusy. Mark?

MR. EFRUSY: Yes, I'm here. I'm here.

MR. FRANTZ: You have three minutes.

MR. EFRUSY: Yes. I'm Mark Efrusy. I'm a resident of the Beachmoor for the last six years and a resident of Florida. I'm a retired physician, gastroenterologist, and a professor of medicine at Midwestern University now emeritus.

And my main concern, aside from all the architectural issues that have been brought up, but then the health issues, mainly what's going on -- last year at this time I think I would have looked at it a little differently, but we all now -- our whole lives have been turned upside down with this COVID thing. And if we look throughout the world, what are the risks for COVID? What are the major concerns? And, of course, we have age, we have comorbidities, we have ethnicity, race, income, et cetera, but the one thing that stands out throughout the world is density. And if we look at our own problems in Florida, where have the hotspots been? They've been in Dade County, Miami where density is a major issue.

So what we have here is a situation where we're taking C-3 where we have 16 units per acre and literally doubling it. And, listen, I've noticed over the last six years here, almost an exponential growth in population and traffic, and this density on the beach during the season, it's wall-to-wall people. Well, that's not a bad thing. But when you're going to add -- now that we have this health situation, I think we have to re-think the way we build and the way we live.

And to go now and develop this kind of density in that small area is a risk. We're really, basically, going to make it another Miami or another Dade. I think you've got to re-think this. It's a whole new era for all of us. And I've noticed in the past we've been compared to Venetian Village and to Pelican Bay. We're different. Vanderbilt is a different area, and the density has been relatively low comparatively speaking.

I really want the Commission to look at this from a health standpoint. I think we cannot afford to double the density in a small area like that without putting ourselves at some risk.

I thank you for your time.

MR. FRANTZ: Your next speaker is Maureen Straight. Maureen, are you there?

MS. STRAIGHT: I am.

MR. FRANTZ: You have three minutes.

MS. STRAIGHT: Thank you. My name is Maureen Straight, and I reside at 562 100th Avenue North in Naples Park.

You have all heard the architectural and the setbacks and multiple reasons, legal and other. And from my perspective, I want to know, other than a bike lane, which is on the street that I already bike on, what is the benefit that this is going to bring to the community?

I was -- you know, I know that the idea of a water park was introduced and maybe a chuckle, but there is no big green space down there. So developing requires that you give back something to the county.

The only other issue that I have is it appears that the cart is being wagged by the horse. This amendment is written by the developer. It was not written by the county land management people, and I think that you have to take that into consideration when you consider the benefit.

So I would like to see the developer list out, draw out the green space and the benefit to the people along this corridor.

Thank you.

MR. FRANTZ: Your next speaker is Kevin Dugan. Kevin, are you there?

MR. DUGAN: Yes, I am here. Can you hear me?

MR. FRANTZ: We can hear you, and you have three minutes.

MR. DUGAN: Thank you.

Good afternoon, Planning Commissioners. My name is Kevin Dugan. My family and I have owned and operated the Lighthouse Inn and Buzz's Lighthouse Restaurant for over 40 years. My family and I are in support of the One Naples development. I fully understand all of the controversy surrounding the One Naples development.

I am born and raised in Naples and the Vanderbilt Beach area and currently help out at my family businesses here.

I, myself, remember growing up here and how great Vanderbilt Beach was in the '80s. Great times. Great memories. If we could have only stopped the development then; however, I do feel the planning and development of the Vanderbilt Beach Road has been great for the area with mainly residential high-rise condos with limited commercial development.

I believe that limited commercial development and mainly residential condos brought the majority of new residents to this area. I also credit that to be the main reason here at Vanderbilt Beach has not turned into a Miami South Beach or Fort Lauderdale Las Olas strip.

I tell you this because I believe the One Naples residential development is in line with Vanderbilt Beach and not all the commercial development of the Miami South Beach and Fort Lauderdale Las Olas.

The One Naples land area is currently zoned commercial, and the development uncertainty that could bring to this neighborhood may be a disaster. I am not against commercial development, as I believe that could help my family businesses, as more people to the area equal more potential customers. I, myself, like Vanderbilt Beach now currently but know that it cannot stay that way.

Many people here who oppose the One Naples project want Collier County to turn down this development thinking no one will build commercial near Vanderbilt Beach. That is extremely risky and a total gamble for Collier County Commissioners to take. A commercial development would create a lot more noise, traffic, and, most importantly, change the fabric of Vanderbilt Beach. No matter what is built here, it will be very controversial. I feel the One Naples project with Stock Development is the most responsible and is the best fit for our area. I feel One Naples --

MR. FRANTZ: You have 30 seconds.

MR. DUBOIS: -- would raise property values, decrease traffic from the current commercial C-3 zoning, and blend into Vanderbilt Beach. For all these reasons, I am in support of Stock Development's One Naples. Thank you for your time.

MR. FRANTZ: Your next speaker is Craig Chandler. Craig, are you there?

MR. CHANDLER: There we go. How are we doing?

MR. FRANTZ: Craig, you have three minutes.

MR. CHANDLER: Excellent. Hey, thank you. My name is Craig, for the record. Also, for the record, I love Naples.

So I'm going to talk about -- and you can see where I'm at. I'm here. I'm at the scene.

So if this goes C-3, what's going to happen? Well, it's going to be a -- what the market bears. And right there is the Ritz-Carlton. That's the star of the show. And those people are paying 600, 1,500, 5,000, soon to be 10,000, 15,000 a night, luxury suites.

And those people, plus the 4- to 5,000 people coming off Vanderbilt Beach every night will come off to the C-3 zoning, and the amenities will be here. That's why it's zoned for it. You've got a public parking lot. You've got a public beach, and this is public space.

In my opinion, this is kind of a no-brainer. I mean, it's like, okay, is this land going to be for Collier County residents and their guests, or should this be private?

Well, if it's going to be private, you know, get rid of the public beach and get rid of the public, you know, garage. That would make everything -- actually, that would make sense, but don't do that.

All right. So I'm for C-3. We fear no restaurants here. What do you think's going to go in? I keep hearing you guys saying Beach Box, and then I find out that most of you haven't even been down here.

Well, what's going to go in here are, like, \$75 surf and turf, \$75 a plate, \$150 a plate. These are people with a lot of money to spend. They're going to come down here, they're going to spend it, and we're all going to have a good time.

So, anyways, good luck, everyone. No matter what, this is still going to be an awesome place, but I am not for the rezoning. C-3 is going to be amazing. I wish I was over there so I could show you how beautiful the bay is, the lagoon. Good luck and thank you.

COMMISSIONER SCHMITT: Thank you.

COMMISSIONER FRY: What just happened?

MR. FRANTZ: Just to clarify for everyone else on Zoom, when you are speaking, we cannot see your video.

So our next speaker is Rich Gallagher.

MR. GALLAGHER: Afternoon.

MR. FRANTZ: Hello, Rich. You have three minutes.

MR. GALLAGHER: Thank you.

By all the rhetoric and semantics, many of the arguments made by the petitioner and the opposition, as well as inquiries from you, the commissioners, focus on a single concept: Compatibility. Hence, I'll condense my comments into a single question with which I'll employ data cited by Stock Development in their own testimony at the public hearing on October 1st in which I'll pose to the Board and/or petitioner.

Where else in all of Southwest Florida is there a building with a height of 208 feet rising up from a 50-foot setback for two lengths of 195 feet each immediately adjacent to a public sidewalk along which 400 pedestrians per hour walk to the beach in peak season? I implore the planning commissioners, if you can't answer that question, you shouldn't approve the petition.

Thank you.

MR. FRANTZ: Your next speaker is Maureen Gambocurta. Maureen, are you there?

MS. GAMBOCURTA: Hi. Can you hear me?

MR. FRANTZ: We can hear you. You have three minutes.

MS. GAMBOCURTA: Okay. I'm a resident of Beachwalk Gardens. Michael Seef had spoke earlier. We're halfway between Route 41 and Gulf Shore Drive. It's a gated condominium development.

The traffic has been mentioned as one of the biggest concerns. They mentioned that redirecting traffic onto South Bay Drive would alleviate some of the traffic problem, and it would not. You still have the same number of cars going in and out of that development no matter where they put their entrance or not. It's the same volume. You're just redirecting it.

Vanderbilt Drive has had drastic issues for years. Beachwalk Gardens has issues for years trying to make a left. We've requested a traffic light, and I've heard that we've been told that there's too many traffic lights already on Vanderbilt Beach Road, and we were denied it. If there's going to be any issues, we should have been addressed years ago with a traffic light there. This is just going to add more cars, more issues, and more problems just for the current residents there.

Already, if we have to make a left, a lot of times can make a right and go down, and we come back up 91st Street. You're going to have more of that happening. The residents there are going to -- that's a residential neighborhood. You can't redirect traffic through residential neighborhoods. It just can't handle the volume.

Saying that residential is better than C-3 for the traffic, you're still going to have increased volume dramatically either way. One more so than the other maybe, but there's an undeniable surge in traffic, period, on a congested road already that can't handle the current traffic.

You keep mentioning that staff -- and they approved these changes or they're in support of it or whatever. My question to them is, where do they live? Do they have real-life -- do they live near this? Can they see this firsthand? Do they have to deal with the traffic, the potential deaths from traffic accidents with pedestrians or bikers or carriages, or do they have to deal with the density? Unless they're the ones living there, then they're not dealing with it. It's easy to approve something when you're not dealing with it.

I keep hearing all these people that are in opposition to this, and I only heard one restaurant owner in support of it. You have to listen to the numbers of people that are against this. I don't know why we're changing the plan for one individual developer. And then I just heard very recently that the developer's writing the amendment that they want approved. That's effectively the spot zoning in a hidden way. They're saying the spot zoning can't come up until we go to the Circuit Court challenge. Well, if we challenge it --

MR. FRANTZ: You have 20 seconds.

MS. GAMBOCURTA: -- they're going to say, oh, well, we've got this amendment that they're adhering to. Well, the amendment was changed so they adhered to it, and then they get their spot zoning through that means prematurely.

They submitted a grandiose plan knowing full well it would have to be modified knowing that they'd have to make some concessions. So for appearance purposes, oh, yeah, we cut back our scaled plan.

MR. FRANTZ: That's three minutes.

MS. GAMBOCURTA: It's still in major excess. It's more than 100 percent over on the density, the setbacks, the heights. They have to adhere to the current regulations.

I don't know why we're making any special consideration for one developer. We have rules for a reason. I'm questioning why would we have these zoning rules and other -- the development rules if they're not being adhered to? A small percentage increase maybe if they have a justification.

CHAIRMAN HOMIAK: You're past your three minutes, ma'am.

MS. GAMBOCURTA: All right. Obviously, I'm opposed to this for all the reasons.



CHAIRMAN HOMIAK: Thank you.

MR. FRANTZ: Your next speaker is Robert Burgess. Robert, are you there?

(No response.)

MR. FRANTZ: Robert, if you can unmute yourself.

(No response.)

MR. FRANTZ: We'll move on to the next speaker.

Gail Morgan. Gail, if you could unmute yourself.

MS. MORGAN: Can you hear me?

MR. FRANTZ: We can hear you. You have -- you may be muting yourself again.

MS. MORGAN: Yes. Yeah, I'm sorry.

MR. FRANTZ: Okay. You have three minutes.

MS. MORGAN: Gail Morgan. I live at 10951 Gulf Shore Drive. I'm opposed to this for all the reasons that everybody else has stated. I just think it will be awful. Thank you.

MR. FRANTZ: Your next speaker is Linda Torni-Dabelstein.

Linda, if you could unmute yourself.

MS. TORNI-DABELSTEIN: Yes. Got it unmuted.

MR. FRANTZ: You have three minutes.

MS. TORNI-DABELSTEIN: I'm 271 South Bay, Barefoot Pelican.

And I keep hearing everybody saying that Barefoot Pelican's 41 units per acre and at the Palms is so many per acre. Barefoot Pelican is under a thousand square feet per unit. The Palms is under 750 square feet per unit. Our footprint is nowhere near the size of the footprint that they're talking about for One Naples.

I'm also very worried about the hospital capabilities with this new COVID, more people moving into town, permanently into town. It's -- it's absolutely obscene the size that they want to build this complex.

My husband was in Naples NCH before COVID last year. We were in the emergency room for 18 hours before he got a room. That's -- and that was before COVID and was before season.

That's all I have to say. You-all have to take us into account. We need our light. We need our air. We need our sunsets.

Thank you.

MR. FRANTZ: Your next speaker is Paul Smith. Paul, are you there?

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

MR. FRANTZ: You have three minutes.

MR. SMITH: Thanks. I won't need anywhere near that.

I want to thank the Commission, first of all, for all your hard work and efforts. I realize you have a difficult decision to make. I hope you make it in favor of the residents who are voicing their opposition to the project.

I can't add much to some of the more eloquent and informed and organized speakers, particularly at the beginning of this afternoon's hearings. But just a couple of points I think are important to reemphasize; that Stock knew the zoning regulations when they bought up the property, and I just think they should build within that, whether it's the commercial or scaled-back residential.

You know, the zoning regulations are put in for a reason, and I don't think that just because you buy up a bunch of property and you're a big developer you should assume that you're going to get a variance for the zoning. I think the -- the excessive height and the minimal setbacks are particularly egregious in the plans that they're proposing.

Another main problem I see is the traffic, which has been spoken about earlier also, and whether it's commercial, residential, whatever it is, the volume is already very heavy there. You

have one lane in each direction on Vanderbilt Beach Road, on Gulf Shore, and on Immokalee. And it's -- it's stretching the road infrastructure already as it is. And I think this would only make it worse.

And just to -- in conclusion, just -- I spent a little time in the lower level of city government in my career, and there was sort of a tongue-and-cheek sort of motto when it came to making requests and requisitions for equipment and funding, and we would always kind of say ask for twice what you want, and you'll get two-thirds of what you ask for. And I think that's kind of Stock's motto also. If you do that and you get two-thirds what you ask for, you still end up way ahead, and I hope the Commission will not allow that to happen.

Again, thanks for your time, and I reiterate my opposition to the project.

MR. FRANTZ: Your next speaker is Julie Wyman. Julie, are you there?

(No response.)

MR. FRANTZ: Okay. We're going to move on to the next person. The next speaker is Patrick Murray.

Patrick, could you unmute yourself?

(No response.)

MR. FRANTZ: Okay. We're going to move again.

Our next speaker is Nancy Chism. Nancy, could you unmute yourself?

(No response.)

MR. FRANTZ: We appear to be losing some of our registered speakers. We're going to continue to move on.

MS. CHISM: I'm here now. Can you hear me?

MR. FRANTZ: We can hear you. You have three minutes.

MS. CHISM: Thank you. There was no mute button until I spoke.

I live in the Naples Park area, and my husband and I walk up to sunset several times per week, so we use that sidewalk on most nights.

I'm not an expert on the technical issues here, but I do want to elaborate on the previous comments about the character of the neighborhood. I believe that this was stimulated for me by the discussions about the height of Trieste, Bay Colony, and the Ritz. And I wondered, why aren't we talking about the setbacks of those places, which in some cases are the high-water mark. When -- we're talking about height, but the character of the entrances and the grounds around those is really important.

I also am motivated by a comment that was made by the Stock folks about the blight at the corner of the neighborhood, and I do take some offense about that and the sort of sarcastic question about, do the people in the Trieste go to the Beach Box.

I think that if you look at the character of the north and south sides of Vanderbilt Beach Road, you see a very different socioeconomic level. And as a previous person at this hearing had said much more beautifully than I could, we're much more informal. We're lower socioeconomic status. We are not pretentious. To me, the Beach Box is people having fun. I know I'm not unanimous in that opinion from others in the Naples Park neighborhood. But these are modest-income houses. The people who walk up and down the street are pulling coolers, pushing strollers, walking dogs. I have been hit by a bicyclist on that because the sidewalk is already very narrow.

So I want you to consider the character of the neighborhoods and to see this as a socioeconomic issue as well. For us to -- all that's been said about the height and the density and the setbacks I think are really important issues.

MR. FRANTZ: You have 30 seconds.

MS. CHISM: But I also think that one of the big issues is the character. And this is one of a few accesses to Vanderbilt Beach, to any beach, for the North -- North Naples community.

There are a few pass-throughs between condos along Gulf Shore, but this and Bluebill are the only public access.

It's a party place. It's a fun place. It's an informal place.

MR. FRANTZ: That's three minutes.

MS. CHISM: And to put very formal buildings on this site with upscale amenities and higher-income folks, I think, is out of character for the neighborhood.

Thank you.

MR. FRANTZ: Your next public speaker is Kathleen Groff. Kathleen, are you there?

MS. GROFF: I'm here. Thank you so much for the opportunity to speak. My name is Kathleen Groff, and I'm a resident of Pine Ridge Estates with a young family, and we use Vanderbilt Beach quite frequently, and I am very opposed to One Naples as it's proposed.

I think as many speakers have said before, that Vanderbilt (audio malfunction) character all of its own. I believe that this project is not in keeping with the character. I believe that the -- Vanderbilt Beach, I believe the setback is not in line with the character. I believe the height is too tall.

I think that -- what are the other notes? Very quickly, I think Vanderbilt Beach has a charm, and I think Naples has a charm, and I would echo what other people have said, that I think if we develop too much, it will look very much like cities on the East Coast which are wonderful, but we have a different character in this town.

And I think there's too much reduction -- there will be too much of a reduction of green space. And it appears, from what I've heard at this meeting and what I've heard other present residents say is that the goal of the present residents, the people who live here for years, we do not have the same goals in mind as the developer does. I think there are plenty of other places in Naples for this type of development. I do not believe that is on Vanderbilt Beach.

And I think it will cut down on the privacy for residents that are there currently. My mother has a condo on Vanderbilt Beach which she stays two weeks out of the year, out of season. She rents it there. And it's October and November, and already, as people have said, the traffic -- the pedestrian traffic, which is wonderful, people out, like someone has said, pushing strollers, biking, rollerblading, and I think it would add to this to a dangerous level.

And I appreciate your time. Thank you.

MR. FRANTZ: Your next speaker is Michael Wrotniak. Michael, are you there?

MR. WROTNIAK: I am here.

MR. FRANTZ: You have three minutes.

MR. WROTNIAK: Thank you very much.

Firstly, thank you to the Commission. I appreciate your time and effort. I appreciate that this is a difficult situation.

I own two condominiums on Gulf Shore Drive; one just south of La Playa and one on the north side, on the bay side.

I'm not against development of the land and buildings in the area in question. I think, however, the density and the height issues are just too -- too much for the -- the space that's there.

I'd also like to point out that in one of the buildings in which I own a condo, we have an extra condo that's a common area that the building has often talked about converting to a condominium which the association could then sell. And the feedback that we have gotten over the years was that because we would need two extra parking spaces and we do have an entire lot across the street from it, there's no way to get approval for that for a unit that already exists in the space. Two extra spaces can't get done, and we're considering something that's well beyond that obvious -- that -- the laws that are in place now regarding height and regarding density. So if the little guy can't do it, I don't think the big guys should be able to do it either.

I'm not against the development, but it should be within the constraints that are already set

up and that were known. Thank you very much.

MR. FRANTZ: Your next speaker is Julie Wyman. We're going to try Julie one more time. She has raised her hand.

MS. WYMAN: Yes. Can you hear me?

MR. FRANTZ: We can hear you, and you have three minutes.

MS. WYMAN: Thank you. My name is Julie Wyman, and I'm a year-round resident of Pelican Bay. I'm not a lawyer. I'm just speaking as a reasonable and concerned citizen.

I truly -- I don't understand why Collier County would give Stock .79 acres of public land needed to build his private One Naples. How would that be in the interest of the general public welfare?

At 16 stories, One Naples, two skyscrapers are way too tall and dense and are not compatible with the Vanderbilt Beach neighborhood where it is located, and you cannot -- and it's not comparable with the Ritz and other Pelican Bay buildings across the street because they have open air spaces and are surrounded by acres and acres of conserved spaces, lakes, mangroves, and they have their own private beach access. High-density One Naples does not.

Owners and friends will crowd already crowded Naples public beach right across the street. This could be a serious potential beach problem, and it must be avoided.

Regarding C-3, I defer to you, Collier County Planning Commissioners, to protect us residents and taxpayers. We are not the experts to answer a question about 100,000 feet of commercial space. Do you think it would be fair?

In conclusion, we should maybe be calling ourselves Save Naples. Perhaps Collier County should purchase this Stock property for the people. Collier County can afford it, and we can make it affordable.

Thank you for listening.

MR. FRANTZ: Your next speaker is Susan Burkhard. Susan, are you there?

(No response.)

MR. FRANTZ: We're having a little trouble connecting to Susan right now. Just give us one moment. Okay. We're going to come back to Susan. There may be an issue on our end.

The next speaker is Muriel Longlade. Looks like that person has dropped off. I apologize.

The next speaker is Raymond Parker.

(No response.)

MR. FRANTZ: Raymond, are you there?

MR. PARKER: There we go; yes. This is Raymond Parker. I'm here. I appreciate you taking the time to let me speak. I'm a citizen in Naples Park. I've tried to listen in to almost 100 percent of the hearings that have gone on so far, and I really appreciate the work that everyone's doing to try and get this right.

I'm very much against this development as it currently stands. It has nothing to do with the company that's doing it. It has everything to do with current zoning and how large a request and change it would make in that zoning area.

So it's -- the setback is, of course, a concern. I'm a bicyclist, and there's just not enough room there for all the pedestrians, all the cars, all the bicyclists, strollers, and everything else. It's too large a footprint on too small a piece of property.

And I urge that you make a recommendation to the Collier County Commissioners that this project not go forward in its current design; that the design be -- design changes be made to conform with current zoning, and that's it from me.

I wish you all well, and have a good day.

MR. FRANTZ: Your next speaker is Cathy O'Brien. Cathy, are you there?

(No response.)

MR. FRANTZ: Cathy, can you unmute yourself?

(No response.)

MR. FRANTZ: Okay. We're going to move on to the next person.

Nick Fiorentino. Nick, are you there?

MR. FIORENTINO: Yes, I am.

MR. FRANTZ: Okay. You have three minutes.

MR. FIORENTINO: Thank you. Thank you.

I was a little disappointed that you couldn't see where I was at, because I was standing on the beach in Vanderbilt. I have a condo in Gulf Breeze. Been here five years. Love it.

What I don't hear enough being said is the effect it's going to have on the beach; the people, the traffic. In season here it's almost impossible to get out of our driveways in Gulf Breeze.

From what I'm understanding, correct me if I'm wrong, is that Stock is going to have buses running his people to our beach and busing them there. Almost impossible. I don't know if any of you commissioners have been on our beach in season, out of season, any season. It's jampacked. You can't get in. You can't get out.

In New Jersey where I live, I'm a contractor up there. We have an open space fund. What we do is we purchase land that we don't want developed, and the municipality, the county, buys it. Let's get that going here. A lady a couple before me said it perfectly: Make it open space.

It's a beautiful piece of property. Stock's a great developer. It's just not what we need here. The traffic, the safety, the beach. Our number one asset in Florida, Naples, is our beach. We must protect it. With all due respect, we must protect it.

I'm not sure how you guys work in, you know, your committee -- I don't even know if you're elected, appointed, but just remember, the people that you're working for, the people that every day are disagreeing with you on this project, about this project, are the ones that are going to elect you in or elect you out. So just remember who we're representing here. We're representing people, not the big developers. You guys are doing a great job, and I appreciate everything you're doing. But let's think about the beach, and let's think about the environment on this one.

Thank you.

MR. FRANTZ: The next speaker is Kristin Harvey. Kristin, are you there?

(No response.)

MR. FRANTZ: Kristin, are you there?

(No response.)

MR. FRANTZ: It looks like Kristin was unmuted for a moment and has muted again. We may be having trouble hearing from Kristin, but we'll move on to the next person and come back.

Next person is Julie Fair. Julie, can you unmute yourself. Julie, are you there?

(No response.)

CHAIRMAN FRYER: Okay. It looks like we are possibly down to our last three public speakers. I'm going to read all of these last three names and allow anyone else on Zoom who was expecting to speak but who we may not have called to use the "raise hand" feature in Zoom. There's been quite a lot of people dropping in and out of the Zoom call. And so we've tried to track that but may have missed a few.

Our next speaker is Ashraf Banoub. Ashraf will be followed by Jerry LeFemina, and we'll try again Kristin Harvey.

If anyone else on Zoom has not spoken and we did not just call your name, please raise your hand.

Okay. We're going to try Kristin Harvey one more time. Kristin, can you unmute

yourself?

(No response.)

CHAIRMAN FRYER: Okay. Kristin, it looks like you might be speaking, but we cannot hear you on our end.

MS. HARVEY: Can you hear me now?

MR. FRANTZ: We can hear you now. You have three minutes.

MS. HARVEY: Wonderful. Yes. My name is Kristin Harvey. I'm born and raised here in Naples, Florida. I've been alive for 58 years. My grandparents came here in 1948. I have watched the County Planning Commission come and go. I've seen the clearing of our woodlands. I have seen the clearing of our wildlife. I have seen our infrastructure not being expanded. I have seen no accommodations for the influx of new residents which pour in every year to Naples, and no influx of help with any of the cars. Now we're encroaching the Everglades.

And I've seen Stock Development's arrival. I've seen them tear apart land. I've seen their properties go 50 percent without being fulfilled. Nobody's moving into their properties that they've torn down woodlands. They make their billions here and then they leave. And now this terrible opposing [sic] building here in Vanderbilt Beach.

I live in Pelican Bay. I live at 1000 L'Ambience Circle and have to traverse down Vanderbilt Beach Road to get to my property. Sometimes the changing of the light takes four and five times. The traffic is horrible already.

We already took down the Vanderbilt Beach chickee, which was another public access for people to go to the beach. That's gone. Now you want to do this.

Please, Commission, stop this. Stop this enormous building from going into the Vanderbilt Beach area and ruining, ruining the beach. We are not Fort Lauderdale. We are not Miami. Enough is enough. What's already been approved in Wiggins Pass is horrific, the building that's going on there, and eventually the people are going to come through Pelican Bay, and it's going to clog up Pelican Bay, and they're going to end up putting up private entranceways.

So now you're going to have traffic that's backed up on 41 because Pelican Bay doesn't want all of the Naples One [sic] people coming through to get to their homes because Vanderbilt Beach is impossible.

Please consider this. I've been a resident here my whole life. I understand that people want the same piece of paradise that I've had my entire life when 41 was a shell road, but stop and consider this massive destruction to our beautiful beach community. Thank you.

MR. FRANTZ: Okay. We had two people raise their hands in the chat. The next speaker will be Colin Kanar. Colin, can you unmute yourself?

MR. KANAR: Yeah. Hello.

MR. FRANTZ: Hello, we can hear you. You have three minutes.

MR. KANAR: Okay. Hi. My name is Colin Kanar. And, you know, I just wanted to echo the sentiments of many of the people who are in total opposition to this project.

I've been a Vanderbilt Beach resident for over 20 years. I worked in this community. We've raised our family in this community.

I actually live directly across the bay from what would be these two towers and, full disclosure, they would completely occlude my view of the skyline.

I look at the bay every day. There's wonderful sea life there. I can't imagine the size and density of docks and boats that they're proposing to put in and the extension of these docks out into the bay which, to me, is public space.

The commissioners all seem to be in favor of this. And I recognize this may be a very difficult job for you to do, but you need to take another look at this and listen to the thousands of people who have called in in opposition.

To echo the words of our president, if we don't win, this is rigged. And to the people with

their pejorative laughter about turning this into a park, what on earth would possibly be wrong with that? And how much opposition would anyone give to that? Just like at the opposite end of Vanderbilt Beach where, in fact, there is a park.

This project is too tall. It's too dense. The setbacks are terrible. And you're comparing it to places like the Ritz-Carlton which have a huge vegetation buffer between them and Vanderbilt Beach. It isn't the same thing. It's like trying to put a large -- well, it is large. Not trying to. But just sort of packing in at the very end of a needle.

The scope of this project, I don't know how many people have to stand up and say no before the commissioners understand --

MR. FRANTZ: You have 30 seconds.

MR. KANAR: -- that this just should not be permitted.

I thank you for your time. I clearly hope, again, that everybody does recognize you are representing the people, and the thousands of people who are in opposition to this are the people, not one developer. And many people have said exactly that, and you need to listen and you need to say no.

Thank you.

MR. FRANTZ: Your last speaker will be Joyce Kerridge. Joyce, are you there?

MS. KERRIDGE: Yes, I am. Can you hear me?

MR. FRANTZ: We can hear you. You have three minutes.

MS. KERRIDGE: Thank you very much, and I thank you for your work and the opportunity to speak.

My name is Joyce Kerridge. I live in the Trieste, which is in the Bay Colony community located inside the Pelican Bay community.

I add my voice today strongly to the widespread opposition as expressed today throughout the conversations and statements. I stand with my neighbors in Naples Park and Pelican Bay to make sure that we continue to live in an environment that's safe for everybody regardless of whether you live north, south, east, or west.

My primary concerns are with regard to traffic management, safety, and density. I am very concerned about people trying to find their way to Route 41 during an evacuation or just on a day-to-day basis, and the way that cars will be going through residential neighborhoods with very limited shoulder space, specifically Naples Park and Pelican Bay.

I will tell you that every year I walk along Vanderbilt Beach Road, and there are consistently tire tracks in the grass areas in the soft shoulders where cars have had to pull off to avoid an accident. Fortunately, we have not had anyone hurt thus far. And I tell you that's a regular occurrence. There's no room for more traffic.

I don't think most of us are adverse to the development of this site. It makes sense. Something has to be done there. Let's do something that's fair and equitable. I assure everyone that the people within Bay Colony and Pelican Bay do visit the Beach Box, and we go to Buzz's Lighthouse, and we love it. We love the neighborhood feel. That's why we bought here as opposed to down by Venetian and downtown and certainly on the East Coast of Florida.

I thank you for your time and consideration. I'm obviously adamantly opposed to this development as it stands right now. Thank you.

MR. FRANTZ: That was your final speaker.

CHAIRMAN HOMIAK: Okay. Thank you.

So, Rich, you're on.

MR. YOVANOVICH: I am on, and I appreciate it.

CHAIRMAN HOMIAK: Do you want to break before?

COMMISSIONER SCHMITT: Before we start?

CHAIRMAN HOMIAK: Yeah.

MR. YOvanovich: Can I just clarify? I'm assuming we're done with all the public comment. I'm going to be doing --

CHAIRMAN HOMIAK: Yes.

MR. YOvanovich: -- my rebuttal, and you'll ask whatever questions you have of my team, and then you'll deliberate. Am I -- do I have the process down?

CHAIRMAN HOMIAK: Yes.

COMMISSIONER FRY: May I ask. Rich, you thought that your comments would last a certain period of time, correct?

MR. YOvanovich: Yeah. I'm hopeful -- and I don't know what you-all's schedule is. I would rather than come back, but I also would rather not start and then have to come back. If I'm -- if we're going to have to come back, I'd rather just do my rebuttal right before you do your discussion.

So I don't know what your timeline is. You know, we probably have about 45 minutes. I can do it quicker if necessary so we can get done today, but I'm at your -- how much time you have.

CHAIRMAN HOMIAK: Personally, I think you should just take as long as you need, and we should finish today.

COMMISSIONER SCHMITT: The only thing I did ask is, after you're done, I want James to come up and clarify the staff recommendation, how it differs from the proposal, because there is -- there are staff recommendations.

MR. YOvanovich: That's fine. No, I'm assuming staff is -- when I said "the public," I mean, we're not going to go back on Zoom, we're not going to let -- we're not going to let their experts talk again. We're not going to let --

CHAIRMAN HOMIAK: No.

MR. YOvanovich: I mean, we're --

COMMISSIONER SCHMITT: I believe we're at the point where it's just your rebuttal and then staff clarification.

CHAIRMAN HOMIAK: The public hearing will be closed now, and it will just be --

COMMISSIONER FRY: It still looks like we would go beyond 5:00.

MR. YOvanovich: Right.

COMMISSIONER FRY: Which is fine with me, but it's important to establish whether the other -- our other commissioners can stay and are willing to stay and if we can attempt to get it done today.

COMMISSIONER VERNON: Yeah. I'm -- as far as I'm concerned, I'm willing to stay as long as we need to to get it done, but I would like to know how long the rebuttal might take, and I do want to be respectful, frankly, of the staff. If we're going to be here till late, I'd like -- you know, I'd hate to have them stay too late.

COMMISSIONER KLUCIK: You're the nicest new member we have here.

COMMISSIONER VERNON: It's easy with you.

CHAIRMAN HOMIAK: A lot of us say we're going to stay here till we're finished.

COMMISSIONER SCHMITT: I thank you for being concerned about staff. I never was concerned. I think we ought to take a break, though -- short break before Rich starts.

CHAIRMAN HOMIAK: Yeah, 10 minutes?

COMMISSIONER VERNON: Do you have a guess how long you'll go?

MR. YOvanovich: Well, I'm going to -- 45 minutes-ish. Maybe I can do a little less. I'm going to talk to my team beforehand. I want to hit some points, but I don't want to belabor any points.

COMMISSIONER FRY: So all the commissioners able to stay to get it done?

COMMISSIONER SHEA: Let's do it.

COMMISSIONER SCHMITT: We're here.



MR. YOYANOVICH: Great, thank you.

(A brief recess was had from 4:03 p.m. to 4:14 p.m.)

MR. FRANTZ: Chair, you have a live mic.

CHAIRMAN HOMIAK: Everybody, please take their seats. Okay. You ready?

MR. YOYANOVICH: I think so.

Well, thank you for your patience and time. This is probably -- it's got to be a record for me, the longest project. I thought Rivergrass was long, but this one went a little bit longer.

Our lineup in rebuttal is we're going to -- you're going to hear from Bob Hall, who's the actual architect of the project, to take you through the site plan and the vision and how we arrived at what we have, then Bob Mulhere will address some of the planning comments that were raised by public speakers, and then, finally, we'll have Jim Banks -- I'll have Jim Banks address transportation concerns.

Hopefully, we've anticipated many of your questions in our rebuttal presentation. But if we haven't, obviously I know you're not shy about asking us questions as we go along.

So I'm going to turn it over -- I'm going to turn it over to Bob Hall and see if I can get one of my consultants to stop talking.

COMMISSIONER FRY: But, Rich, you got us excited. We thought we had the prospect of listening to you for 45 minutes.

MR. YOYANOVICH: You don't get me for 45 minutes. I've given them each three minutes, and then I will take the bulk of it.

MR. HALL: Good afternoon. Wow. Three days. Three years, really.

Good afternoon, Madam Chairman, members of the Planning Commission. At the risk of being mugged in the parking lot, I'm the architecture of One Naples. My name, for the record, is Robert Hall. I'm the president and CEO of CGHJ Architects. I'm supposed to get my name slide up there so you can take a look at it.

Since I'm the new face that you guys haven't heard from, I'm going to tell you a little bit about me, my firm, and our history in the area.

CGHJ Architects was founded in 1975 as Design Advocates. We started coming to Naples shortly thereafter. I was a 20-year-old college student in architecture, and I took a summer job there, and I've never left since.

COMMISSIONER SCHMITT: Can you move the microphone.

MR. HALL: Sure, sure.

COMMISSIONER SCHMITT: I'm sorry.

MR. HALL: That's all right. No problem.

And I've never left since except to attend college while working and trying to grow up. Still working on that last part.

While attending college and working between semesters, I received my Bachelor of Design in 1979 and my master's from University of Florida in 1989. I became a licensed architect in 1992 and a partner that same year.

I was the executive vice president and director of design from then until becoming president and CEO in 2016 after the retirement of the firm's founder and my mentor, Jerry Kurtz. I design all of my projects and take very seriously their roles in the communities in which they reside.

A lot of slides to get through here.

During 45 years in practice, my firm has designed projects throughout the U.S. with many significant projects constructed in the Naples area since the late '70s.

I have personally spent most of my professional career designing dozens of residential and mixed-use projects in Naples, Collier, and Lee Counties for many sophisticated developers such as Stock, WCI, London Bay Homes, and many others, and continue that practice today.

I have lived in Collier County at various times -- in Tampa now -- over those last 40 years. My wife and I still own a condo here at Cypress Woods, although we're trying to sell it.

The next few slides are going to illustrate some of the communities that you may be familiar with and recognize. Whoops, went a little too fast.

This slide is going to show you Cove Towers at Wiggins Pass up in the upper left. Project was built with WCI from about the beginnings of the 2000s to about the middle of the 2000s. The project on the far right is one of the first buildings in that five-building development.

The project in the lower left is Altaira, built for WCR Lennar in the Colony. Just finished a couple years ago.

Project in the top is Grandview for London Bay Homes that has the foundation and the ground on Fort Myers Beach and kind of waiting for COVID to stop so we can finish the project.

The project in the bottom is another project that came before the Planning Commission and building commission -- or County Commission many years ago. Rich and I worked together on that one. It's called Aqua. It's also in the Wiggins Pass area.

MS. ASHTON-CICKO: Mr. Yovanovich, I'm not really clear how this is rebuttal testimony.

MR. HALL: I'm just trying to define my firm.

MR. YOVANOVICH: He's giving his expertise, and then he's going to get into the questions that were raised about how the towers fit in in the community and how the setbacks work. So he's just giving a little background into who he is.

MR. KLATZKOW: Okay. I was just wondering, because there's no architectural drawing or renderings as part of the PUD, so...

MR. YOVANOVICH: But he's going to get into the site plan and how he does planning and --

MR. HALL: I'm just trying to introduce myself.

MS. ASHTON-CICKO: Okay.

MR. HALL: Thank you.

Quickly, this is the Seasons at Naples Cay. This is Sun Seer (phonetic) in Olde Naples. Pelican Isle Yacht Club. Just trying to see if you recognize any of these projects. The Tropics on Venetian Bay. Barefoot Beach Club. Lots of projects in Pelican Bay. Bridgewater up at Little Hickory. Bayshore Memory Care on Immokalee Road.

So now into the content. What we're here to talk about today are two main primary principles for our design. In our view, that's community context and complementary design.

What do we mean by community context? Every good planner and architect will advise that the design and planning must take into account the contextual surroundings. What can I see from the site? Who are my neighbors, both adjacent and close by? What is their use and compatibility to my use, and how can I complement and enhance that adjacency, that community fabric while still designing for my client and my end-user.

I'm going to play a little video here for you. It's about 30 seconds. It's just a 360-degree panorama. This was taken just a few weeks ago at about 25 feet off the ground in an aerial drone. What we're trying to show you here is just the surrounding site. I think everybody is very familiar with the neighborhood. We've talked a lot about it today, but you have yet to see things like this.

So what do you see? I see a picture of high-rise and mid-rise mostly residential-type buildings in close proximity or in context with one another. This mixture is both compatible and complementary. Bob Mulhere's going to talk a little bit later more about the planning aspects of that, and I'm just going to try to focus on the architecture.

So following this video, you're going to see some still shots that sort of zoom in on a few of these particulars.

So we have a series of still shots here that were taken at various heights either at eye level

from the ground, 25 feet from the ground, or from aerial drones higher. On the left you see the west to Gulf Shore Boulevard about 25 feet off the ground looking toward Vanderbilt Beach. You see the Beachmoor, and to the right you see another Vanderbilt condominium.

In the center top slide, you see the community context that shows both sides of Vanderbilt Beach Road. This is important to point out. We've been talking about context and compatibility for days.

What you see in this is the Ritz-Carlton, Trieste, you see the Remington, you see other buildings of Bay Colony, you also see the Regatta and other buildings on Vanderbilt Beach.

We look at the right top slide, you see north on Gulf Shore Boulevard. Again, a mixture of mid-rise and high-rise residential, mostly, uses.

In the bottom left corner, this is from the main corner of Vanderbilt Beach Road and Gulf Shore Drive. When you look east, what do you see? You see the Beach Box, you see the Regatta, and you see Trieste. When you look south to the Ritz-Carlton, and you see Bay Colony beyond. Again, a mixture of high-rise and mid-rise; mostly residential uses.

One of the few exceptions to that is right dead center of the site you see probably the biggest commercial use on the property; DaRuMa. It's going to end up, and at the end of our presentation, as looking kind of out of place, I think, but there it is. It's probably the only big commercial use that would be left if this project were approved.

And, of course, what you see in the background is you see lower-scale, mid-rise, and high-rise residential, and a lot of that use is nonconforming and at much higher densities than what we're proposing.

These are additional, in the last slide, of still shots. But if you look at the upper left and the lower left, this is an important point, because this is at the entry to One Naples, the one we discussed earlier today that is across from the county parking garage. So if I stand at that entrance to One Naples, what do I see? I look out to the right, and I see the Ritz-Carlton and Bay Colony. Photo to the bottom left, if I look to the left from the entry, I see the end of Regatta, and I see the Trieste in the distance. If I go to the other corner of the site, it's South Bay and Gulf Shore Drive. I look south and see the Ritz and the Bay Colony. Again, high-rise, residential buildings.

As I look south to the Ritz and Bay Colony from center of the site, this is where our video was taken from looking back at the parking garage.

So what is the vision for One Naples? It's presenting a vision that doesn't reinvent a community but complements. That's an important word; complements its legacy. Architecturally, to me, this means designing buildings and their landscape so as to enhance and complement the surrounding community. It's about reconnecting the existing neighborhood fabric with new public walkable, bicycle, and drivable experiences while enhancing its natural beauty and architecture. That doesn't automatically mean duplicating Mediterranean red roofs or 12-story beige buildings but rather providing complementary and comparable design that flows within the surrounding context.

Back to the context. We showed you an aerial just a few minutes ago. This is that same aerial from a little bit higher up. Kind of defining what we believe the context is. It is mostly high-rise, mid-rise, residential development.

So what are the definitions of complementary and complement? As an adjective, complementary is combining in such a way to enhance and emphasize the qualities of each other or another. You're going to hear this later on well. To complement as a noun, a thing that completes or brings to perfection. We're seeking to do both of those.

So how does One Naples address community context and complementary design? It's all about building placement, and they're critical to complementary architecture. We've talked a lot about numbers. We've talked a lot about setbacks. We've heard all the public enraged by the setbacks. We've talked about 25 feet. We've talked about 15 feet. We've talked about all kinds

of feet. We've talked about 87-foot-tall walls next to a sidewalk. A lot has been said in this testimony.

All I want to do in the next few minutes is try to explain how I, as the architect, try to take my program and make it fit best with the site. So what you see by these images -- and I'm just trying to point out a couple of very important factors. There is a 15-foot buffer that's required. We have a 15-foot buffer. What we've chosen to do is to combine that with the right-of-way landscape maintenance agreement so we tie the landscaping together and completely make the garage podium disappear.

A lot of people have poo-poo'd the idea of landscaping won't hide a building. I submit to you that it will, and if done in the proper way, it is what makes this work. I'll explain more about that.

But, specifically, the 25-foot setback on Tower 2 to the south and east is only at one point along the building. The setup of the buildings and their plan and their curving nature is that that 25-foot setback is in one point, one spot, and it curves back up to about 55 feet of setback. If we look at Tower 1, it's 35 feet from the property line to, again, one single point. Then that falls away to a 100-foot setback and more.

So what I mean by all this is that it's not just about the minimum required numbers. Heights and setbacks are only part of the story. It's knowing where to put them. It's knowing how to use them. And I've just explained to you what those numbers are. And the curving nature of the site plan and tower buildings respect the community importance and natural flow of this defining intersection. And this way sense of place is possible.

MS. ASHTON-CICKO: I do need to step in at this point, because that rendering is not part of your PUD. That may be how they're planning on it, but that doesn't represent the minimums that are currently in your PUD development standards.

MR. YOVANOVICH: Can I jump in for a second? I anticipate, in response to Mr. Pires' comment, that we will attach the conceptual building layouts as part of the PUD. It's already in Exhibit G, as you know, Heidi. But we will -- I'm just telling you, we're planning on doing that later in the presentation.

MS. ASHTON-CICKO: Setbacks and so forth?

MR. OLIVER: Yes.

MS. ASHTON-CICKO: Okay. Perfect.

COMMISSIONER KLUCIK: Madam Chairman?

CHAIRMAN HOMIAK: Yes.

COMMISSIONER KLUCIK: So the point being that it's then -- you have to go in compliance with that plan?

MR. YOVANOVICH: Yeah, I'm sorry. I didn't mean to interrupt the architect's flow. But the answer would be yes, that would be part of the document. So when he finally designs the building, we deliver it according to what we're showing you. Because Mr. Pires' comment, which was legitimate, you could read the document, and it could be one big building lined up right on the road.

COMMISSIONER KLUCIK: At 25 feet.

MR. YOVANOVICH: At 25 feet. And what we're showing you, we're committing to that's -- that's -- again, not to use their term.

COMMISSIONER KLUCIK: That's okay. You've satisfied me. I just wanted to know what the --

MR. YOVANOVICH: That's the context.

COMMISSIONER KLUCIK: -- meaning of -- yeah, of attaching it.

MS. ASHTON-CICKO: The renderings they're providing you today provide more of the detail that you would get at the Site Development Plan stage probably, as you know, in an

architectural. So I think Rich is committing to provide some attachment that's going to commit to the architectural renderings and the setbacks that they're representing to you today.

MR. YOvanovich: Well, yeah, the setbacks, for sure.

MS. ASHTON-CICKO: Right now.

MR. YOvanovich: I don't know that we have the final architectural down. But the setbacks, yes.

COMMISSIONER SCHMITT: Just for clarity, typically, they're not required to give us this kind of detail in a rezoning, but they're committing to do so.

MR. YOvanovich: Say that one more time.

COMMISSIONER SCHMITT: Typically, you're not required to give us this kind of detail in a rezoning, but you're committing to do so with the submittal of these?

MR. YOvanovich: You're going to get what we're presenting, okay. We're not doing a bait-and-switch showing you these beautiful pictures and then building something different.

COMMISSIONER SCHMITT: Okay.

MR. HALL: Well -- and just to take that a bit further, most of the things we're showing you today you've already seen. You've seen this site plan. I merely wanted to make a point of the 25-foot and 35-foot setbacks we've been discussing so that I could clarify it to the Board.

But Rich is right, all of that is intended, planned, and will be submitted.

COMMISSIONER FRY: May I interrupt you with --

MR. HALL: Certainly.

COMMISSIONER FRY: Just because -- so your assertion is that 15 feet from the sidewalk is a 35-foot parking structure, but that will be -- will disappear because of landscaping?

MR. HALL: Well, I'm going to get into the parking structure a little bit, and that might help clarify.

COMMISSIONER FRY: Yeah. I don't want to pull you off your pace, but --

MR. HALL: Not a problem. I'm glad to answer the questions finally, because I have heard all of this for many days now and would like to respond.

The parking structure is 30 feet tall, all right --

COMMISSIONER FRY: Okay.

MR. HALL: -- to its roof. Then it has some handrails, railings, landscape planter walls, those kinds of things, that take us above 30. That's why we're asking for the deviation to 35 feet because we want to be -- we want to make that condition known to you.

And I have this a little bit later, but the parking garage is at 30 feet because of FDEP and the commercial use on the second floor. We've talked a lot about 21 feet and 20.4 feet, and we've talked a lot about feet. I want you to kind of understand where that comes from.

Basically, the roads around this property are at around Elevation 4. That's above sea level. We're planning our ground-level parking to be about 6. So we can get drainage to work, all those kind of things. We're basing that from six feet. Then we've got to get to 20.4 to the underside of any structure to hold up the second floor. That's where FDEP comes in. So we're at 20.4 feet to the bottom of structure and about 21 and a half feet, then, to the surface of that second floor.

Then we have a commercial level at that very end of South Bay and Gulf Shore Drive that needs to be architecturally about 14 feet tall. So we've got about 16 and we've got about 14. That gets us to 30 feet. That's how tall the garage is. And that's what we are concealing with two layers of landscaping; the layer that is our 15-foot buffer and asking for the LMA right-of-way landscaping to combine that.

I think you're going to see some other renderings where I want to talk about that specifically, so if I might just move forward.

COMMISSIONER SCHMITT: Is that two stories of parking or three?

MR. HALL: It's two stories of parking.

COMMISSIONER SCHMITT: I see. Thank you.

MR. HALL: And, of course, you know -- this has also been discussed and is on lots of other exhibits from the opposition and even from the county, you know, parking garages, heck, we could do 10-foot floors, but I can't meet any of the other requirements.

So the first floor has got to be nearly -- nearly 16 feet tall, 15-and-a-half exactly. We'll probably get it to 16 just to make the structure, drainage, all of those other things that have to work when we're really doing the building.

So 16 and 14 for commercial is how you get to 30. A little bit of handrail. We could probably do it in three-and-a-half feet, but we're asking for five just to keep within, you know, not having to come back.

So we were about ready to talk about the third-level amenity deck above the second -- the two-story parking podium blends its lushly landscaped and appointed amenities with that of right-of-way and buffer areas for a virtually seamless transition. That's what I just explained to you.

The two-story garage podium has been immersed in a purposely dense and mature buffer. We're not planting plants that are three weeks old and hoping they grow. I mean, we're going to the expense to do this for a reason, and it really is to create human scale and to conceal the parking garage. We're already taking all the parking in the property, except for a few guest spaces, and allowing them to be completely concealed; not viewed by anyone. The garage is enclosed.

And in order to buffer that from the neighborhood, we're doing this dense landscaping. That's a really important point, and it's not something you would see necessarily in a commercial project. We'd have a 15-foot buffer, put our trees at 40 feet on center, and move on with parking.

Let's see here. Where was I? Anyway, I was about to say the articulation of beautiful layering of the appropriate plantings at the hand of my colleague Hunter Booth, landscape architects, has rendered the base of One Naples almost unnoticeable. Our dramatic fountains, green walls, and public art plaza provide a much-needed oasis for those walking, biking, and driving to and from the beach at a congested corner.

There's been a lot of talk -- and I'm going to get into it in a minute -- about, why don't you put commercial right on the corner. Good brief, all we've been talking about is how congested and how dangerous this corner is. What we're trying to do is ease the tension; allow that to be a public place of -- an oasis, something that is set back, something that is calm, casual, has the sound of water, has landscaping. Plus all the traffic improvements; the combination of the turning lane, the bike paths. All those things tend to calm that area down a bit. And we've decided to put the commercial at the other end at South Bay and Gulf Shore.

So I've already kind of talked about this, but I'm just going to read this paragraph. It is important to clarify the need for -- reason for Deviation No. 1. The deviation of height from 30 to 35 feet is due to the requirements of FDEP for the first habitable floor or base flood elevation and the commercial uses on that floor. The nearly 16 feet in height of the first floor is due to FDEP, and the 14 feet above that for a minimum commercial use places the roof of the garage at 30 feet above grade. The additional five feet of space is required for landscape planter walls, guardrails, and wind screens. Those features are composed of decorative glass railing and architectural walls.

Another important corner, which we've been alluding to is the public access to the commercial needs. The corner at South Bay and Gulf Shore Drive provide an important point of public access to the commercial uses of the project. As we discussed at a previous meeting, we have provided complete and accessible means of ingress and egress at this important corner with an open architectural stair as well as an enclosed egress stair and conditioned elevator lobby. These lead to both the real estate office and coffee/sandwich shop and sundry store, including outdoor terraces with tables and seating at the second level.

Human scale. That really is what this project is about. Even though we have a lot of

opposition about big behemoth buildings. Human scale. It is what the pedestrian, bicyclists, or motorist perceive about building height and mass. You don't sit back in a helicopter and look at building heights. It is how any project is perceived on a daily basis. The placement of sidewalks, bike paths, lighting, roadways, and access points create neighborhood connectivity through design.

The thickness and continuity of landscape buffers conceal parking and blend buildings with the ground plane.

So I'm just going to take you through a few of these to let you feel that.

So as we look at the intersection of Vanderbilt Beach Road and South Bay, walking, cycling, lighting, landscaping enhance the community.

This is approaching the entrance directly across from the garage for the county. I want you to look at this slide, because you notice landscaping at the third floor where it's kind of red and has some palm trees above that. That's actually landscaping at the third level, helping to create that transition to blend the entire base of the building with the ground plane.

This is the project entrance. It's just showing textured paving, a public access, and lush and mature landscaping. This is looking at that corner. I mean, you're looking at the garage. I don't think you see it. I don't. I mean, that's by design. That's intended.

Again, as we move along Vanderbilt Beach Road toward the west, you can see the very tops of the handrail. You can see that there's something back there, but we're not putting a 45-foot wall on the setback of 15 feet, which, as the opposition has stated, is a 45-foot wall. It's a 30-foot wall with a handrail.

And, of course, we talked about the corner fountain with public art and a chance to get a respite, have a bench, be able to sit, wait for the traffic signal that we're going to add to help cross the street to go to and from the beach.

COMMISSIONER FRY: Sir, why don't the -- why don't those renderings show the vertical height of the buildings?

MR. HALL: Well, because what I'm talking about right now is I'm talking about human scale, so I'm trying to show you human scale. We have many renderings that show the building full height from all kinds of different directions but in context.

COMMISSIONER FRY: Would not --

MR. HALL: I'm not here to get you --

(Simultaneous crosstalk.)

MR. HALL: Pardon me?

COMMISSIONER FRY: Would not a full view of the height of the building from this level be context for us to evaluate this project?

MR. HALL: Sure, it would be, and we do have these heights or these full-size drawings that -- you've seen the renderings. I'm going to show you them again as we get through this. I'm trying to show you about human scale and what the ground plane is in this discussion that I'm having right now, okay.

All right. Again, just moving north on Gulf Shore Boulevard toward the commercial end, what you see there. These are just internal roads showing the same kind of connectivity and human scale of bike paths, sidewalks, and landscaping. These are important elements.

This is also the main arrival, which is a public plaza. All of the streets through here are public, and they've been improved dramatically from what is there now in terms of bicycles, lighting, safety, landscaping, all of that walkable, bicycle communities. This happens to be the arrival plaza at the towers.

COMMISSIONER KLUCIK: Excuse me.

MR. HALL: Yes.

COMMISSIONER KLUCIK: Madam Chair.

CHAIRMAN HOMIAK: Go ahead.

COMMISSIONER KLUCIK: So what you're saying is that pool, for instance, at the center would be -- like you could -- the public can just walk up there and enjoy that or no?

MR. HALL: Yeah. We prefer you don't throw quarters, but yeah -- or pennies. But this is all public. I mean, this is a public park within the project. It's all accessible by the public.

Now, the minute you go up the handicapped ramp to get to the top floor arrival, you kind of need a reason to be there. To get through the door, you kind of need a reason to be there. But the ground plane is all public. The sidewalks are all public.

We've tried to take the existing fabric and encourage it, enhance it, make it walkable. Today it's a mishmash. I mean, when you look on South Bay Drive, you basically have, you know, pavement edge with no gutter, no drainage. I mean, it's -- it needs -- it needs to be, you know, brought to life. This is trying to bring all of it to life.

So it's much more than about 208-foot-tall buildings. It's much more than about setbacks and density. It's about trying to bring, you know, a contextual neighborhood and complete that corner. That really is what that is about.

So this is what I mean by showing the buildings in context. You know, if I show you an elevation of just the buildings, you're going to go, wow, that's tall, because it is by itself. If you look at it in the context of its surroundings that we tried to talk about earlier, it blends. It's compatible. It's comparable.

This is looking south from the other direction. This is looking from over the bay back toward the gulf. You know, there are the buildings. There are the buildings in context with Regatta, Trieste, the Ritz, and the buildings even along Vanderbilt Beach that, by the way, there are some 15- and 16-story buildings along Vanderbilt Beach. They're not all small. They're not all 12-story and 2- and 5-. There are examples all around here within 15, 1,600 feet of the project where buildings are 20 stories, 12 stories, 15 stories. We're asking for 16.

There's another in-context rendering of the project. Again, we thought it was important at this level of the Planning Commission and a zoning request to show you this in the community. I'm not here to win an architectural award for how good looking the elevation is or what that means.

Yes, it's 208 feet tall, and that's from the very ground around it. As a matter of fact, that four-foot road is where that's measured from, and that's to the very tippy top of the aircraft light that's on top of the elevator core.

So the building isn't 208 feet. It's 208 feet to the elevator core. It's 180 feet zoned, okay. Those are important distinctions to make. And when we looked back at that site plan and you saw how those setbacks are at tangent points and that the buildings step back and radius and curve to increase the setbacks. It depends where you measure the setback, right? Most of the building's at 100 feet back from the setback.

All right. We're going to -- again, another contextual rendering. It's just northwest over Pelican Bay.

So we've talked a lot about -- and I'm glad it was brought up earlier so I wouldn't have to remind everybody about host of horrors. When I heard that from Mr. Stuart, I thought, wow, that's a really cool title. I've got to remember that one from when I explain some of the host of horrors that have been presented, one of which was the commercial project is only a threat. We're going to talk about that.

I have my own host of horrors. When I look at the site -- and this is not to say it's blighted. I won't say it's blighted. People live there. But it has been disparate zoning. It has been neglected by the plan, Comprehensive Plan, and the zoning for the area. It's surrounded by residential. Residential is everywhere you can see. Most of it is single-family. Lots of it is multifamily. Lots of it is mid-rise and high-rise residential.

So I want to talk a little bit about the disparate zoning uses and the incoherent fabric does



not make a neighborhood.

Also we're going to talk a little bit about misleading models and renderings. We're going to talk a little bit about the SVB corner commercial at Vanderbilt Beach Road and Gulf Shore is also an inappropriate model. And we're going to -- we talked a little bit about the 30-foot setback argument. We think that's misleading.

COMMISSIONER KLUCIK: I don't understand what -- SVB, what is that?

MR. HALL: That is Save Vanderbilt Beach. It just saves me a lot of typing and stays on the slide. I apologize. I should try to write those out. I'll try to say them.

So let me just take these one at a time. A commercial project is only a threat.

Mr. Stuart's contention that Stock Development threatened the community with a commercial project is unfounded in my view. The mere thought of a by-right development was not even presented to his client, although the current C-3 zoning clearly allows for a project of significant size, the county assuming over 150,000-square-foot project.

We have also studied the property and have determined that a more realistic proposal of 100,000 square feet, as has been talked about a lot today and before, is more than possible. It has about 72,500 square feet of retail space and 27,500 square feet of five restaurants and all the parking needed for it without vacating the roads. It's not a threat. It's reality.

So this is a little boring here, but I'm just going to show you, and I'm going to glide through this, but I'm going to read this first. Disparate zoning and incoherent fabric does not make a neighborhood. The Comprehensive Plan and Planning and Zoning recognize these disparities. Our contention is that even though the existing C-3 zoning can and does allow for significant entertainment and shopping development, we contend that the zoning has become the elephant in the room.

We are surrounded by residential development, even though the closest of our neighbors exist as nonconforming and at much higher densities. C-3 is not the best and most appropriate use for the site, we would agree. A residential mixed-use rezoning is the only sensible outcome, as it is the most compatible and complementary to the surrounding context of the community. High-rise and mid-rise multifamily residential at compatible densities and height are appropriate.

And I just will kind of go through those pictures. You-all have seen the site but, in all due respect to those folks that are the neighbors, you know, immediately on the property, we want to support that. You're living in a residential building surrounded by vacant lots, some of which are vacant because my client bought the property and is trying to bring it up, and you have other commercial uses that are disparate. And the ones that are here that serve the public and serve the community we agree with. You know, the real estate office is moving. Matter of fact, they've wanted to move to the other end. Stock has tentative agreements with them. A coffee shop. And we thought because of the 7-Eleven or convenience store that a sundry part so that people going to and from the beach still have that ability to purchase those kinds of things.

We're not trying to put in a large commercial center. I don't think it's appropriate. That's why we originally asked for 25,000, because you do tend to want to put a number in that you can live with. We're really probably less than 10,000 square feet, which we have stated. Probably closer to five when we're all said and done.

What we're showing now is about 4,000 square feet. It might grow a little bit to handle the sundries and those kinds of things, but that's important.

Again, you know, you have disparate zonings. Some of these existing residential don't meet current zoning, but they're here. They're here because they were built. People live in them, right? But the way to fix this is to make it all residential. It's the best use.

All right. Our friends at Barefoot Palms and Barefoot Pelican I think know that. And, of course, they have some concerns, and we're trying to meet those concerns. We have been since day one.

When we started with communication with Barefoot Pelican at some of those meetings, our setback away from them increased from 10 to 15 to 20 to 25 to 30 feet. And when they talk about an 87-foot-tall wall next to them, 87 feet tall is not the wall next to them. The overall actual height is -- or actual height is 87 feet measured from the street, again, to the tippy top of the elevators that are in the center of the building.

The wall adjacent to them, or to the lighthouse, is only 77 feet, just to make that clear. It's also not a blank red wall that you saw earlier. It actually has windows in it. It will be your neighbors.

And it's not blocking anybody's view. The primary-view windows out of Barefoot Pelican look out to the water. There are virtually no side windows to speak of that are largely view kind of windows.

So a lot's been taken into account to try to alleviate concerns of the neighbors. I know we talked a lot about that over the course of this project. We heard some testimony earlier today -- I'm getting a little off track, but it's important to describe -- about view corridors and view cones. We've worked pretty hard to get this project and these towers and the marina buildings to not block views.

It is a vacant piece of property that does exist between the Trieste and the Gulf of Mexico. We're not blocking the view to the Gulf of Mexico. We are using a portion of it to get our own view of the Gulf of Mexico. But when you take view cones from the Trieste, they're like this (indicating). When you take view cones from Regatta -- we heard earlier testimony about the angled walls of the Regatta buildings. This project does virtually little to change their view cones; virtually little. We heard testimony before that 41-some units were going to be affected. We disagree with that.

All right. So one of the other host of horrors, the misleading models and renderings. The model that is -- I thought would be here today. So for the last two-and-a-half days but is only two days that it sat here in front of you. I'm not sure what it did to affect your views on things, but I think it's misleading or was misleading.

I'm not arguing that it's not to scale or not even an inaccurate representation of the existing or proposed buildings. I have no way of knowing. So we'll have to trust Mr. Stuart, just not as much as I trust Mr. Yovanovich.

The trouble I have with this model -- you're supposed to laugh at that point. I have "haha" right here.

COMMISSIONER FRY: That's one.

MR. HALL: That's one, yeah, yeah. All right.

Anyway, the trouble I have with this model is that it's misleading because it lacks any true context. That's what we've been talking about here today. If you recall -- it would be great to be pointing to it, but you see the image -- it doesn't even show all of Regatta, much less anything south of Vanderbilt Beach Road or, for that much, anything north on Gulf Shore Boulevard or the Ritz-Carlton. You can't tell me that those things aren't in context.

All right. So although I don't necessarily dispute the accuracy of the model, the model's scale, I do strongly object to its chosen scale of 1/32nd of an inch equals one foot without showing community context and proposed architectural character. That's an important point. That scale, if he were to show all the context, it would be about eight feet square. You'd need a bigger table, but that would be an important thing to show.

In my contention, this has been used as a device to conjure negative reactions. Naturally. You heard the opposition showing -- showing high-rise buildings with no other immediate adjacent examples, such as the Ritz or Trieste, for example. The One Naples buildings have purposely been shown as faceless boxes of white masses with no consideration to facades, fenestration, or detail. We tried very hard in our renderings to show all of that.

We understand the intent of a mass model. We get that. But if it's a mass model, then make the masses the same. Great purpose was taken to render the existing buildings in a dark color, which make them look automatically smaller. It's a device. And then you do the other buildings in white and stark with no faces. Naturally they look bad together, don't they? We thought so. Anyway, we think that that creates more disparity than needed.

Renderings. The rendering prepared by the SVB group, Save Vanderbilt Beach, was discussed earlier in our presentation and rebuttal, but I reference it here again as yet another example of misleading the viewer. Not only are the rendered towers depicted two stories taller than the proposed 16-story project, which I think they've acknowledged, but the ground plane and amenity parking podium are rendered as devoid of any landscaping or detail. Sure, it would look too good. It would look like our renderings. It would look like the project.

I can certainly appreciate that these types of errors and omissions create a certain feeling in the viewer; most of it negative. Projects of such importance need to be depicted accurately so they inform the viewer, not form their opinion.

One of the other host of horrors is that we were threatening the commercial, and so we've been given -- I think recently in your packet from Save Vanderbilt Beach was an example of how the corner of Gulf Shore Boulevard and Vanderbilt Beach Road should be handled in a commercial setting; how you could step up to get to the floodplain.

Let me talk about that a little bit. Although Save Vanderbilt Beach and Planning and Zoning staff have believed that commercial uses be placed at the intersection of Vanderbilt Beach Road and Gulf Shore, the development team believes strongly in creating public art and a quiet zone at this location. We talked about that a little bit earlier. The pedestrian and vehicular congestion at this important corner does not need and, in fact, would be endangered by increased commercial activity at this important corner.

In reality, the future planned tenants, William Raveis Real Estate and the coffee shop and sundry store, have agreements with the developer to be located at the close by intersection of Gulf Shore Drive and South Bay Drive. This is so that they can provide access to parking within the garage, all concealed, and the existing surface parking that's right on South Bay Drive. It's more convenient for people to arrive -- not everybody arrives by feet.

People arrive at a real estate office because they want to go see real estate in Vanderbilt Beach. Williams Raveis is going to show them. Where do they park? Do they park somewhere and then go try to find the real estate office somewhere on the corner? We've moved the commercial to this corner. We feel it's more important.

Well, we can appreciate the very urban design shown in this centerpiece suggested by Save Vanderbilt Beach in the right context, but this is not a hotel use, in spite of their Fontainebleau delusions. It is an -- it's an inappropriate model.

Also, the suggested design is completely impractical given the strict construction standards of the FDEP and the CCCL zone whereby frangible or breakaway details are required. Furthermore, the parking garage contains the required amount of parking for the One Naples project and would be severely hampered by the intrusive gouge suggested by the example provided by SVB. It simply doesn't work.

I'll make this the last one. Almost there.

So the Save Vanderbilt Beach 30-foot-setback argument is also misleading. We have a few bullet points up here. You can read them. I'm going to read this paragraph to you. Once again, Save Vanderbilt Beach is misleading this Planning Commission and their client by incorrectly depicting the One Naples request for a 15-foot setback to our two-story garage. As you can see there, not this, which is the example on the bottom left -- I didn't put in the "not this" -- graphic incorrectly depicts a 45-foot-high wall at the setback when we have a 30-foot wall, densely landscaped and buffered and topped with a decorative glass railing to a maximum of

35 feet.

They have also depicted the setback condition as devoid of any landscaping except for the One Naples version -- excuse me. Lost my place. They have also depicted the setback condition devoid of any landscaping for the One Naples version while also being completely out of scale. We believe the scale is wrong. And with only minimal landscaping -- and with only minimal landscaping.

The county street section used in their comparison also shows a 25-foot parking garage while we have demonstrated the need for a minimum of 30 feet in our previous explanation and the request for Deviation 1.

I'm very close to being done. You'll probably be glad.

What should you take away from this presentation on the architecture at One Naples is simply two thoughts: Complementary design and responsible development can dramatically enhance and reconnect this community despite misleading and opposing viewpoints; two, creating a vibrant sense of place, beautifully landscaping and connecting its street fabric while finally correcting its disparate zoning and traffic woes completes the neighborhood of Vanderbilt Beach. In fact, in our view, they save it.

And I thank you.

Do you have questions? We're going to give it over to Bob, and you can ask them later.

MR. MULHERE: I can tell by looking at you that you're all kind of tired, so...

COMMISSIONER FRY: Not at all.

CHAIRMAN HOMIAK: No. You can tell?

MR. MULHERE: So Rich has told me that my 15-minute presentation has just been knocked down to eight and speak fast.

CHAIRMAN HOMIAK: Oh, no. Don't speak fast. Terri doesn't like speaking fast.

MR. MULHERE: So I thought I'd try to liven things up a little.

Thank you. Thank you very much.

So for the record, Bob Mulhere. I was going to give you some qualifications, but I'm going to skip that part since most of you know me. It's really on behalf of the newer members of the Planning Commission. I'll get right into the presentation. I'll try not to be repetitive.

I'm here to rebut some of the planning testimony that was put on the record. Mr. Stuart provided an opinion that the proposed project was neither compatible nor complementary with the surrounding neighborhood.

Bob gave you a definition. I'll give you a Webster's couple of definitions.

Complementary is defined by Webster's online as going together well or working well together. It's pretty simple. Compatible is defined by Webster's as capable of existing together in harmony; able to exist together without trouble or conflict.

So I only provide those because that's laymen's terms; however, we really need to look at the LDC definition of compatibility, because that is what we are guided by. There is a definition in the LDC. It says, a condition -- we've talked about it a few times. A condition in which land uses or conditions can coexist in relative proximity -- relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacting, directly or indirectly -- impacted directly or indirectly by another condition or use.

Complementary's not defined in the LDC. So it's true, Policy 5.6 in the Future Land Use Element of the county says, new developments shall be compatible with and complementary to the surrounding land uses. LDC Section 10.02.13.B.5, which deals with the Planning Commission's responsibility in reviewing these types of petitions, says that the Planning Commission shall make written findings at an advertised public hearing and that -- that can either make a recommendation for approval, approval with conditions or modifications, or denial, and then it lists a bunch of criteria. One of those criteria is Subsection D, which says the internal and external compatibility

of proposed uses which conditions may include restrictions on location of improvements, restrictions on design, and buffering and screening requirements.

So the key point there is, yes, you are guided by the Comp Plan and by the LDC. By the way, the LDC is what implements the Comp Plan. The Comp Plan is very general. Think of the constitution of the United States and then the laws that enforce that constitution. The laws that enforce and further the Comp Plan is the LDC in this case.

So remember the term "relative proximity." It's my professional opinion that relative proximity is not a mile away. It's not two miles away. It's within a reasonable distance of the subject site. What we've looked at is one-third mile. It's about 1,700 linear feet or a circumference of about 1,700 feet. And you can see a mixture, as we've said, of different heights of buildings within that circumference. Now, some of those buildings in that circumference happen to be across a two-lane roadway. Should we exclude them from the compatibility review? Gee, that's not what it said in the LDC. It didn't say you should exclude something that's across a two-lane street because in someone's opinion that's not part of the neighborhood. Compatibility deals with what's around the project. And maybe you can make an argument if this was a six-lane arterial roadway, not a two-lane roadway.

You know, these examples I'm going to show you -- I'll go real quick. There are lots of examples throughout Collier County and throughout Southwest Florida -- I've limited these to Collier County -- where you have mid-rise buildings and low-rise buildings in proximity to high-rise buildings. They happen to be some of the highest value real estate in Southwest Florida. So they seem to be pretty compatible and function pretty well together.

These are just some examples. In this particular example, I want to point out in the lower -- the lower left corner of that that there are fee-simple condominiums located directly -- or adjacent to the high-rise that's there. And those are low rise. These are probably 30, 40 feet tall. You can see there's individual swimming pools on those.

So, again, here's another example. Fairly low-rise buildings in high -- in close proximity to high-rise buildings and mid-rise.

So I want to go a little faster. So when we looked at -- I just want to reiterate or point out, again, that the Barefoot Pelican, which is right here, is four foot from the property line. That building is developed four feet from the property line.

When we met with them, they wanted us to set back an appropriate distance, and we pushed it back to 50 percent of the zoned height. So our building is meeting the requirement. Their building's four foot from the property line. Now, it exists, and that's the way it is, but I just want to make that point.

So I wanted to just briefly talk about the architectural standards. Collier County adopted a set of architectural and site design standards about 20 years ago. There were a couple of buildings that were built. People went crazy. One was the Toys R Us on Airport Road. Anyway, they -- and I think the other one -- I forget what the other one was, but a couple of commercial buildings.

MR. YOVANOVICH: Sports Authority.

MR. MULHERE: Sports Authority. And they developed these award-winning architectural and site design standards. They're not just architectural standards. They're also site design standards. And they've applied those, and those apply to this development. That's why we had to ask for a deviation to go from a transitional element that was slightly higher than 30 feet, which was the maximum, for the railing that Bob explained.

But I want to read to you what the LDC says in terms of the architectural standards. The purpose and intent of these standards is to supplement existing development criteria in order to complement, enhance -- complement, enhance, and enrich the urban fabric of Collier County within an abundant variety of architecture.

The development of a positive, progressive, and attractive community image and the sense of place is vital to the economic health and vitality of Collier County.

So the point being that the staff reviewed this project juxtaposed against the architectural and site development standards and found it to be consistent with those and, in fact, pointed out that in order to do the extra five feet on the transition element being the parking garage, that we would need a deviation.

As Bob pointed out -- Bob Hall pointed out, great care has been given to designing the project and locating the project. You know, you use numbers, and you think 25 feet, but really only one point of those buildings is 25 feet. The rest is considerably more set back from those roads, and it's mitigated by a kind of landscaping, the design of which we have not seen before.

And I probably -- I believe I used the term "blighted" when I was preparing my justification and supplemental information which I amended a few times. Contrary to what was put on the record, I don't see anywhere in here where I ever said -- and I can't swear I didn't say it on the record in the last 16 hours of meetings, but I don't think I did, where I ever said that, you know, the whole issue here, is this going to improve property values? What I did say was that it would increase the tax rate in Collier County.

Anyway, there's a substantial analysis here of the -- not only the statutory provisions but the county's provision in every piece of information that we provided such as the traffic impact analysis and environmental analysis, a public facilities impact analysis. All of those are part of the data and analysis that the statute says we may provide. It doesn't require a needs analysis, a residential needs analysis, and I don't think you need to provide a residential needs analysis to know that there's a market for these units across the street from the beach.

So that concludes my rebuttal, and I think the next person --

COMMISSIONER FRY: Can we ask a question?

MR. MULHERE: Sure.

CHAIRMAN HOMIAK: Yeah.

COMMISSIONER FRY: Bob, setbacks have been brought up a lot, and you mentioned setbacks. One of the standards was 25 feet or 50 percent of the building height.

MR. MULHERE: Yes.

COMMISSIONER FRY: To what extent are those relevant or irrelevant here? You have a point that's 25 feet but a building that's 208 feet high.

MR. MULHERE: That's a good question. When I made that reference, I was referring to the mid-rise buildings, so not to the high-rise building, and so I'm not sure --

COMMISSIONER FRY: My question is, to what extent is -- I mean, some of the proposals -- the alternate proposals are that the building heights be -- the setbacks be 25 feet or 50 percent of the building height, whichever is greater. What is the relevance or irrelevance of that?

MR. MULHERE: Right, I heard that. And I think it's irrelevant, and I tell you why. What they're referencing is the C-3 standards, okay. And C-3 requires a 25-foot minimum setback or 50 percent of the building height. We're not talking about C-3 here. We're talking about changing this from a predominantly commercial C-3 zoning to a predominantly residential mixed -- limited mixed-use development, you know, 10,000 square feet, and that was based on people asking for that.

So the treatment is completely different for the two. Now, you do have to, I think, mitigate the building height, which I believe we've done. That building is not just, you know, in every location straight up to 208 feet. The parking deck is set back 15 feet with a super-enhanced buffer, and then the tower is only 25 feet in a couple of locations, both towers.

And so -- and there's a nice separation between the two for light and air, which is important. And so, you know, as the tower curves around, that setback's increased. That's been

placed on the site in the context of the site. So I don't think that's relevant. I don't think -- there's no way that you need to do 50 percent of the building height. It just -- it doesn't make any sense.

So Jim Banks is coming up. And I know -- I was trying to get that done in less than 10 minutes. I don't know if I did.

MR. YOVANOVICH: I think you did.

COMMISSIONER FRY: Jim, do you feel like the cleanup hitter?

MR. BANKS: Well, it's close to my bedtime.

COMMISSIONER FRY: They're only hoping --

COMMISSIONER SCHMITT: Mine, too.

MR. BANKS: Good afternoon. For the record, Jim Banks.

I appreciate this opportunity to provide additional testimony to the Planning Commission. I'm going to try and keep my testimony specific to the rebuttal to what you heard from Bill Oliver and Greg Stuart, but I do encourage you at any time that I'm speaking and you don't understand what I'm saying, please interrupt me and ask a question. And if I'm going on too long and you've heard enough, feel free to stop me as well. Okay.

COMMISSIONER FRY: Okay. Since you mentioned it. Stop it.

MR. BANKS: Good, bedtime.

COMMISSIONER FRY: It is late.

MR. BANKS: Okay. So when we -- my initial presentation was that the One Naples land uses is predominantly a residential product. And it will generate predominantly residential trips. There's a small amount of commercial in there, but the 148 trips that we keep talking about is predominantly residential trips, and that traffic from the residential product will be consistent and more compatible with the traffic that's generated by the nearby residents, because that's residential traffic as well.

Now -- and I said, if we developed a project with commercial land uses, which would be retail shops and restaurants, that is going to be -- that type of land use will generate commercial trips, and those trips will be attracted from areas east of U.S. 41. Now, I'm not saying that the people in Naples Park won't also patronize these restaurants and these retail shops. They will, but we know no business can survive by only marketing and serving people that live within a mile of their business. It just -- it's not feasible. It just wouldn't work.

And so -- and then when you take a product like -- if it moves forward as commercial, you've all been to these places like Tin City and the shops on Venetian Bay where they cluster these restaurants and these specialty retail shops together, and they become an entertainment center, and that's what I envision going in at this location is you're going to create a Tin City type situation, or even down near the Naples Dock where you have some restaurants and those retail shops during season, how people will congregate in that area. You have dinner. You walk out on the dock. You come back. You go to the shops. So that's what I envision at this location.

So -- and I guess what was a little bit frustrating to me was to hear Bill Oliver make a statement almost as if it was factual versus making it clear he was offering an opinion. And I suspect I've done that myself inadvertently. But what Mr. Oliver said was that the commercial at this location would serve the nearby residents or people already at the beach, and he said it almost like it's factual and not, oh, it's my opinion. Now, when I provide testimony to you, I always try to base it on information that's credible and historical data.

Now, in this case, I refer to the Collier County Road Impact Fee Update Study that was updated in 2019. There are over 8,000 field interviews conducted at various type of commercial uses. There were a thousand at restaurants. And the average trip length that a restaurant generates is 3.2 miles. So what that means is, is that there's plenty of people that are driving further than 3.2 miles, about half, and then there's a lot that are driving between one and three miles, and then there's some folks that are driving less than a mile.

Now, what Mr. Oliver said was, in a factual manner, this commercial is just going to serve the nearby residents, but yet we have evidence that proves that that statement cannot be relied upon. It's not even factual. It's not even -- it's not even correct. We know that because, again, we've all been to the Tin Cities and the shops at the Village and those type of locations, and we know that those parking lots and those people that are standing out there waiting to be seated did not all just come from the nearby neighborhoods. It's from areas outside of -- the shops at the Venetian Bay is one of the best examples. It's on the bay. They have the ambiance of the restaurants and the retail shops right on the bay, which would be similar to what we're doing, plus we have access to the beach, which the villages -- or the shops at Venetian Bay do not. So it's the ambiance of coming to these locations, and especially during the season, that you have the snowbirds and the tourists that literally congregate at those locations because of the entertainment value.

So, again, I submit to you that the offhanded comment that all the traffic generated by the commercial would be within the Naples Park neighborhood or the nearby, you know, residents is just not supportable. It's not defensible.

I spent a lot more time on that than I wanted to.

Okay. As I testified to you before, the traffic study was prepared pursuant to your-all's criteria. Now, I've been doing this for 32 years, and I submit to you that your staff has never accepted a traffic study that was not sufficient, complete, and accurate. In my 32 years, they've never accepted a report that didn't meet that criteria.

Now, Mr. Oliver said, well, it's a Comp Plan amendment, and they should have done a 20-year analysis. I have a copy of a traffic study that Mr. Oliver did for a Comp Plan amendment project that is two-and-a-half times more intense than what we're proposing, and he did not do a 20-year analysis, and he never mentioned the Long Range Transportation Plan. So he came up here before you and said, this is what should have been done when he, himself, doesn't even do it.

I know Rich is running a stopwatch on me, so I get a little nervous when he's walking around behind me.

He's going to give me the hook.

COMMISSIONER SHEA: He's watching us.

MR. YOVANOVICH: Okay. Now, this is one, I think, that was of interest to the Planning Commission. We have currently, on Vanderbilt Beach Road between Gulf Shore Drive and South Bay Drive, there are four full access points on Vanderbilt Beach Road. We're going to eliminate the two that are closest to the Gulf Shore/Vanderbilt Beach Road intersection as part of this project, and then we're going to take Gulf Shore Court, and we're going to realign it with the parking structure. And in addition to that access, we also have access to Gulf Shore Drive by South Bay Drive as well as another point of access to Vanderbilt Beach Road by South Bay Drive to the east.

Now, by eliminating two of the access points and then realigning the South Bay Court, we effectively have gone from four full access points to one access point. I submit to you that this is basic access-management policy. This is what we try to do and your staff always tries to do is where can we combine these access points or create shared access to minimize the number of access points on a thoroughfare, and that is what we're accomplishing by -- and we're taking what is considered -- it's not considered. It's factual. The intersection of Gulf Shore Court and the beach access to the garage structure are low-speed, low-volume intersections that are offset about 220 feet, and we're going to combine them, and we're going to create a separation of one access that's over 400 feet from Gulf Shore Drive. That is a desirable result of this project. We presented it to your staff. We presented it to Jacobs Engineering. They agreed with that design, and they found that the preferable.

Now, Mr. Oliver got up here and in excruciating detail explained to you how a four-way



intersection functions, and then used that as the justification of why it shouldn't be approved. I mean, that's like me telling you how your car runs on gas but you shouldn't use it because it's a flammable substance. I mean, it's just not logical what he's telling you. These intersections, these four-way intersections -- go down to Third Street, go down to Fifth Avenue. They're everywhere. We drive through them every day. And Third Avenue and Fifth Avenue, you have high volumes of pedestrian traffic in those intersections, and they're four-way, but yet somehow we seem to be able to navigate through these intersections there.

But at this location it's his thought that it won't work at this location. It's just not true. And, again, I submit to you that your staff reviewed this, Jacobs Engineering reviewed it, and they agreed that that point of access to be aligned with the parking structure is the preferred design.

Mr. Oliver concluded his testimony with a suggestion that we should be considering a roundabout at the intersection at South Bay and Vanderbilt Beach Road. And I'm just going to leave it on this, because this has got the aerial.

So the intersection at South Bay Drive, that's the one that's to the far right of your exhibit you're looking at. That also lines up with the Ritz. We actually investigated the possibility of doing a roundabout there, we also looked at the one at the -- possibly at the parking structure, and we also looked at one at Vanderbilt and Gulf Shore. When we met with staff, they said, and we told them, nothing's on the table. We'll look at everything, and they said, yes, we want you to consider pedestrian signal crossings, we want you to look at roundabouts, traffic signals. We want the -- everything that we can possibly do to be considered.

So we actually -- we went as far as laying that intersection out with the roundabout in order to just determine how much right-of-way was going to be needed, because we wanted to go back to staff and report to them, this is how much right-of-way the county would have to acquire for us to build a roundabout there.

So we kind of got down that road a little ways on that design, and then when we collected the data and then when I made the field visits in both January and February, numerous days down there, it was evident that a roundabout won't work at that location, because what happens is when the parking structure is at its maximum capacity, they close it for 30 minutes or until 30 spaces come open.

So what happens is motorists will start stacking up in that left-turn lane to go into the parking structure, but then they just continue to keep stacking and stacking and stacking, and they go right through the intersection at South Bay, and at times they would stack up all the way up to Vanderbilt Drive. They would sit in the left turn to go to the other development, and they would just extend along through there.

And so what was evident to us was you can't have a roundabout and have vehicles queued up, because a roundabout works because people are circuiting through it. And the minute the queue backs into the roundabout, it comes to -- traffic won't flow through it, and it's just going to result in gridlock.

So we took that information back to staff and presented to staff the evidence that we had, and they came to the same conclusion we did.

COMMISSIONER FRY: Jim, so even with the improvement of the automated occupancy signs and all that, you still would expect traffic sometimes to back up past that intersection?

MR. BANKS: Yes. And what I told you in my original testimony is we're making these improvements to make things better. I can't cure the situation when the parking structure is at its max capacity and the attendants close it. I can't cure that situation. I can make it much better up until the point that they close it, but there is no cure for when they do close it.

Now, we do think some of the other features we're going to provide, like advance notices and that type of thing and plus the don't stop them when they pull in. Let them pull in. And they could literally circuit back and come back out if they don't -- if they're not staying there. They

could actually use the parking structure to actually head back east if they wanted to, which they can't now. They have to make this circuitous route to get back out of that area.

So -- I lost my train of thought on that, so I'm just going to have to go on.

COMMISSIONER FRY: You were talking about the roundabout.

MR. BANKS: Yeah. Well, what I was saying is, is that -- yeah, that we can't cure it when they do close it and that queue would -- every time they do it, it is going to queue up past that intersection, and the roundabout won't work.

And, again, we provided this evidence to the staff. I mean, I thought it was something that we -- I really wanted to investigate it to determine if it would work because I thought it would be helpful. But when that evidence showed that the queuing extends through that intersection, it just -- and I don't want to prolong my testimony or anything. I can explain to you why it works as a four-way and not as a roundabout if you want to hear it. I'll let you ask me that question if you think it's necessary. It works better as a four-way versus a roundabout, I should say. The roundabout won't work at all.

And then I do want to just conclude my testimony and remind you that, as I explained to you-all before, when I took this project on and Stock Development said, we need to come up with some transportation improvements that will make the situation better. Even if we're not obligated to do it, I need you to go down there and figure out some things we could do. And staff told me the same thing: We need to come up with some ideas, get creative.

And what I did is I took this project on, and I prepared a fact-based traffic study based upon real data with the primary objective of determining what transportation improvements could be implemented down there that would be a benefit to the public.

Now, both county staff -- both the county staff and Jacobs Engineering agreed with our reports, findings, and our recommendations. And Jacobs even went even further. Not only did they review the report, we actually provided them all the data we collected in the field and all the input information into the model.

They even went the step further of rerunning the model to validate what we found. And if you recall the video where we showed the vehicles queued up along Vanderbilt Beach Road all the way back to Vanderbilt Beach Drive, and it was because of the volume of pedestrians crossing at Gulf Shore and Vanderbilt Beach Road that was causing the delay, and then when we put the traffic signal in in order to process the pedestrians and then stop the pedestrians and then process the traffic and just redo that cycle, how much better the traffic was -- traffic flow was, it decreased the queue and the delay on Vanderbilt Beach Road by 76 percent. That's a huge improvement. And it reduced the queue and the delay on Gulf Shore Drive by 66 percent.

And so, again, we presented -- and in addition to that, we also looked at doing the improvements to the parking structure, pay as you leave or pay after you park. We're also looking at doing the pedestrian, the bicycle augmentation along Vanderbilt Beach Road as well as the construction of sidewalks and bike lanes along South Bay.

So that concludes my testimony, and I'm happy to answer questions.

COMMISSIONER SCHMITT: My main question, Jim, and maybe it's -- Mr. Yovanovich will answer. I need to set a trigger point. If, in fact, we do -- if this moves forward for these improvements to take place, at what trigger point? It won't be at 100 percent occupancy. I need to find out, have you guys talked about this?

MR. YOVANOVICH: Yeah, I'll answer that in a second, Joe.

COMMISSIONER SCHMITT: But there has to be some point where all those improvements are completed prior to a certain point, 25 percent occupancy or some other point. I don't know what -- what you agree to.

MR. YOVANOVICH: I will tell you. You know, I must -- it's past my bedtime as well. So we're all clear, we've announced that. We were willing to do this before we got our first

residential CO.

COMMISSIONER SCHMITT: Oh, that's awesome.

MR. YOvanovich: So we were going to be out front and, you know, put all that up front which, believe me, I know you're probably surprised, we usually would like to get a certain amount of money coming in from sales before we'll lay out those expenses up front.

COMMISSIONER SCHMITT: This project, if it moves forward, will certainly, especially during the construction phase will have an impact, but these traffic improvements are woefully needed, and it needs to be done before, and I think that before any -- before the first CO, that's an acceptable proposal.

MR. YOvanovich: I would hope that that would be -- you could talk me out of it. I mean, I'm happy --

COMMISSIONER SCHMITT: No, that's all right. I'm good with that one.

COMMISSIONER FRY: Very quick question. Would there still be a right turn on red at that light to go north on Vanderbilt -- or, I'm sorry, on Gulf Shore Drive?

MR. BANKS: Yeah, we're going to stop traffic from turning right, because when we have that pedestrian phase, we have to stop all traffic so the pedestrians can cross, and then we're going to have -- I talked to Tony Khawaja, and we're going to have the right turns and southbound lefts run at the same time and then -- but we will have the separate and then -- which -- so, more specifically, no right turn on red.

COMMISSIONER FRY: Gotcha.

MR. BANKS: Yeah.

CHAIRMAN HOMIAK: Mr. Klucik.

COMMISSIONER KLUCIK: Yes. I'll just piggyback on what Commissioner Schmitt said, and this is for you, Rich, that -- so that's your plan, but is that going to be required?

MR. YOvanovich: Oh, it will be in the PUD as a development commitment, Mr. Klucik.

COMMISSIONER SCHMITT: It will be required.

COMMISSIONER KLUCIK: Okay, great. That's what I just want to make sure.

MR. YOvanovich: Yeah. I know you're new, but we codify all of those commitments in the development commitment section of the PUD ordinance.

Anything else for Mr. Banks?

(No response.)

MR. YOvanovich: So they went more than the nine minutes I had allocated them, so I will hopefully -- I will move mine along, because I think that we did -- we did a good job.

But I just wanted to go back to where we started, which is you have two petitions in front of you. One's the Growth Management Plan amendment, and I don't disagree with Mr. Brookes; it's a legislative decision, and you're here to decide what's the best use of this piece of property under the Comprehensive Plan. And that's -- and we believe that we've presented the required data and analysis for your staff to agree that the best use of this property from a Growth Management Plan standpoint is the mixed-use residential project that we're discussing.

Your staff recommended approval of the Growth Management Plan amendment. I don't think the residents can cherry-pick which staff they think is competent and which staff they think is not competent.

Your staff is recommending approval of the legislative decision to convert this property to the subdistrict we're requesting, which I will, again, reiterate is what your Growth Management Plan originally intended in 1989, that this would be a residential piece of property. It would not be a commercial piece of property.

And, in fact, it's more -- it probably was a residential tourist piece of property considering everything else that's around it is residential tourist. And as you all -- most of you know, some of

you may not know, the residential tourist zoning district in 1989 would have allowed 100-foot-tall zoned buildings together with 26 hotel units per acre and 16 residential units per acre combined.

COMMISSIONER SCHMITT: Combined.

MR. YOVANOVICH: You could have put -- so, effectively, 42 units per acre under the RT. If you can meet the parking requirements and the other development standard requirements, you could have had a far more intense project for what's around that immediate vicinity.

The rezone is a quasi-judicial. I don't disagree with Mr. Brookes when he told you that the law says you provide competent substantial evidence, and then the burden shifts to the county to keep things the way they are. I believe we've met the burden of competent substantial evidence through Mr. Mulhere, through Bob Hall, through Mr. Banks, and the other experts that we have. And, in fact, your Transportation staff recommended approval without conditions, your Environmental staff recommended approval, your Utilities staff recommended approval. It was only your Zoning staff that recommended approval with certain conditions.

I think, unless there's a change from the last hearing, your Planning staff said that the setback can be reduced along Vanderbilt Beach Road and Gulf Shore Drive as long as we activated the street by having the commercial that we agreed to provide. It had to have access from the street. It didn't have to be actually at the street level, and staff was saying they were fine with the setbacks. They have a difference in opinion as to the height that can be allowed based upon that reduced setback. But I do believe staff is in agreement at this point that the setback can be reduced for those buildings as long as we activate commercial from the street.

COMMISSIONER FRY: Question.

MR. YOVANOVICH: Yes, sir.

COMMISSIONER FRY: So I was looking at the GMPA, and it says up to 172 multifamily dwelling units.

MR. YOVANOVICH: Correct.

COMMISSIONER FRY: Based -- now that's based on 200-foot high. It's based on the building height and the number of units you can fit into that number of stories. So by them offering a condition of a reduced building height -- I think it was 125 feet -- is 172 still --

MR. YOVANOVICH: There's a difference --

COMMISSIONER FRY: Is it still possible to do 172 and approve that or -- that condition?

MR. YOVANOVICH: Your Comprehensive Planning staff didn't look at building height. They looked at the 172 -- the density.

COMMISSIONER FRY: Just purely the density.

MR. YOVANOVICH: They looked at the density and residential use on that property and would leave the implementation of that through the PD -- or PUD. I was in Naples yesterday. In Naples it's a PD.

COMMISSIONER FRY: They didn't care if it was five-story buildings or 30-story buildings?

MR. YOVANOVICH: They were looking at -- and then -- correct. I don't think Comprehensive Planning staff determined that the 208-foot actual height building was part of their analysis. They may have because they had them both together, so they understood the compatibility argument. But there's been -- and also your Zoning staff. Mr. Sabo said at the last hearing that he didn't care about the hundred and -- the density was not an issue. For him it was build smaller units, effectively. Just -- and so bring the building height, build smaller units. He's fine with the 172 units from a density standpoint. He just -- he had a difference of opinion on the development standards.

We talked about this. You really do only have two options, because I only have two options available to me, is if I want to do a residential project of the character that Stock

Development wants to do on this property, I have to amend the Growth Management Plan. And if we lose, I'm stuck with what's there today, which is the zoning of C-3. It remains C-3, and that's what I'm -- we're allowed to develop on the property.

We provided the data -- Ray, it's really hard. Sorry.

So those are our options under the current Growth Management Plan. I either amend it to go to the residential option we're talking about, or we live with the C-3 zoning, and those really are the only two options that we have for the development of the site.

I know it will surprise you, but when we first started talking with the residents and the neighbors, their number one issue -- I'm not saying they weren't concerned about building heights and setbacks, but -- was traffic, traffic, traffic. And we keep hearing traffic is a bad thing in this area. Not one person said they think that traffic is good.

Now, I don't truly believe that the residents want us to build the C-3 project with the traffic that goes along with that. I think they're betting that if we lose, we won't build the C-3 development, and they'll live to fight another day.

We've had these discussions on other projects. Mr. Fry, you remember Allura. We had a zoning option. We came through with a small-scale -- we came through with a Comp Plan amendment for Allura, if you remember, to get a little bit more density to do, you know, an apartment complex. The other option was to just build the two existing zoning -- zoning developments, which would have been, in the County Commission's opinion, worse than what's there today.

We could show you the plan that we have that shows we can not relocate any of the right-of-way, build the right parking that we need for the 100,000 square feet that Mr. Banks -- I'm sorry -- Mr. Hall told you about. It would be 27,500 square feet of restaurant space in five separate restaurants, two of them right on the water, and two of them in the other -- and three of them in the other buildings, and they would be, I'm sure, spectacularly popular restaurants. And this would -- it would be what I don't think the residents really want is an attractor.

Chris's kids would go. My kids would go. Your kids would go. They wouldn't tell us they're going, but they would go.

COMMISSIONER VERNON: If we were there with them.

MR. YOVANOVICH: Yeah. They probably would take us so we'd pay, and we'd probably want to go, too, because I do think that it would -- the beach right there is going to be an attractor, and Mr. Banks is absolutely right that people are going to drive there from not around the surrounding area. There will be people from the surrounding area that will go there as well, but it will be an attractor, and it will be what the residents don't want; more traffic in the area.

Our proposed project is, in fact, compatible and complementary. Nobody wants to talk about or acknowledge that the Barefoot Pelican's at almost 46 units per acre, that Vanderbilt Palms is almost at 53 units per acre. We are asking you for 31.7, almost 32 units per acre.

We've had the discussion about the GMP only allows this commercial to exist because it was deemed compatible by policy. It was not supposed to be commercial. But since commercial was already there, it was allowed to continue that.

Your Growth Management Plan wants us to be a residential project. It has incentives to convert it to a residential project. Unfortunately, the incentives that are there today are not enough to convert this to a residential project.

It's an odd-shaped piece of property. It's not a perfect piece of property, so we have put -- we have asked for some setbacks that we've offset with additional landscaping to make it compatible and work with the community.

There were -- if you all will recall when Arthrex was coming through, people were complaining about the height of the Arthrex building because it was taller than what was around in the community. And that turned out, I think, to be a phenomenal architectural building and a

phenomenal development. There's no question that Stock will rise to that occasion and that standard.

We are doing improvements to the transportation, as Jim went through. We're paying a lot of money to do that, and we're willing to do that up front as a commitment.

We're increasing the tax value. I was the one who talked about value. I find it hard to believe, and I think it defies logic, that putting in million-dollar-plus units and reducing traffic in the area is not going to improve property values in the area. I just think it defies logic to say it would somehow diminish the value.

And the people who live in Trieste are still going to see the Gulf of Mexico. The people who live in Regatta are still going to have their views of the water. It will be a slightly different view, but they'll still have their views.

And the people that live in Barefoot Pelican, their view is to the north on the water and to the east on the water. But they'll tell you that they sit out on their balcony to look at the sun, which they won't be able to see if we build under the C-3.

And, finally, and I think, most importantly, is you've got Stock Development backing this project, and they are a known entity. You know they're going to do a quality project. Brian's invested in this community. He's been here 20-plus years. He's not going anywhere, contrary to what one of the speakers said that, you know, we only have 50-percent-occupied projects. You know stock. Stock's going to do the right thing. It's going to be a great project, and we hope you will recommend approval of the project to the Board of County Commissioners as we've proposed it.

And, again, we thank you for your time and your patience, and we're available to answer any questions you may have regarding the specifics of the project, and hopefully we addressed most of them in our closing and rebuttal.

With that, we're all ears, as Ross Perot would say.

CHAIRMAN HOMIAK: Do you have any questions?

COMMISSIONER SHEA: Looking for questions? No questions.

COMMISSIONER SCHMITT: I have questions just of staff. I already warned James.

And, Rich, you may stick around because you may have to address this. But staff's recommendation on the PUD zoning -- or correction -- on the zoning, not the PUD. Long night -- long day. But the -- yeah, the PUD zoning, and it's the recommendations, maximum height for all tracts, 76 feet zoned except for Tract 1 can be increased to 125 feet zoned height if step-back architecture is used for the upper floors of the building. As proposed now, does that meet -- that statement meet the requirements of the petitioner? That's what he's -- that's what's shown here.

MR. YOVANOVICH: We cannot live with the heights that your staff is recommending, nor can we live with the setback limitations on the mid-rises that your staff is recommending.

COMMISSIONER SCHMITT: So the two statements where maximum building height and the minimum building setbacks, those two statements in the recommendation you do not agree with?

MR. YOVANOVICH: We do not agree with those.

COMMISSIONER SCHMITT: You're at 182 zoned height and then the setbacks as presented by Bob Hall in his --

MR. YOVANOVICH: That's on -- don't -- we spent a whole lot of time talking about the towers, but the mid-rise we also have setbacks --

COMMISSIONER SCHMITT: Setbacks well.

MR. YOVANOVICH: -- and height for those.

And if you'll notice in the setback table, essentially, we've only asked for the mid-rises to be 55 feet versus the 50 feet that's today, and that was because of floor elevations for higher

ceilings for residential. So we're asking for, basically, five extra feet on the zoned height.

COMMISSIONER SCHMITT: Okay. Then it says, for the PUD deviation section, the Site Plan with deviation. The language appears to be redundant because the LDC allows it. And it appears that the applicant is creating a hybrid process for administrative deviations that apply to new structures by utilizing the DR process, deviation process.

MR. YOVANOVICH: I'm being told by Mr. Mulhere we can delete that.

COMMISSIONER SCHMITT: You can delete that. The developer commit -- 2B1 shall include the right-turn lane for northbound Gulf Shore Drive; Commitment 2BI [sic] can be found at the bottom of Page 9. So that --

MR. YOVANOVICH: We are doing the right-turn lane. It's part of the improvements that we said we would do.

COMMISSIONER SCHMITT: Update and revise the master concept plan and Exhibit G, perimeter buffers to reflect the compensating right-of-way for the turn lane and the impact on the required landscaping buffer.

MR. YOVANOVICH: Staff recognized that we do not need to provide compensating right-of-way, and I think we're in agreement on that.

MR. SABO: That's correct.

COMMISSIONER SCHMITT: And a Type B buffer is required along the northern waterfront boundary adjacent to Vanderbilt Lagoon for the areas not developed with buildings or structures. This will be reviewed and required at time of Site Development Plan.

MR. YOVANOVICH: Yeah, we've agreed to that, too.

COMMISSIONER SCHMITT: If Deviation 3 is used, the place-making elements are required. I'm not sure what that was. What is that, James?

MR. YOVANOVICH: I don't know either.

COMMISSIONER KLUCIK: Are we saying that Deviation 3 is not -- we're not going to need that?

MR. SABO: No, we're not saying that.

COMMISSIONER KLUCIK: Oh, okay.

MR. YOVANOVICH: James, come on in.

MS. ASHTON-CICKO: They're requesting the deviation because of the elements that they're providing. So this says that they could always elect not to do -- use the deviation. So this says if the deviation's not required, then -- I mean, that they are required in order to have that deviation.

COMMISSIONER KLUCIK: I guess my confusion is, I heard a question about Deviation 3 -- and I'm on Page 522. Is that where we're at? We're at the staff recommendation?

COMMISSIONER SCHMITT: 521 and then 522 says --

COMMISSIONER KLUCIK: Item 3.

COMMISSIONER SCHMITT: -- all -- staff was recommending approval of all three deviations. I won't go into the deviations --

MR. SABO: Correct.

COMMISSIONER SCHMITT: -- but they were recommending approval.

MR. SABO: That's correct.

COMMISSIONER SCHMITT: The applicant had no problem with the deviations, because they were requested. But then it says, if Deviation 3 is used, the place-making elements are required. What --

COMMISSIONER KLUCIK: So let me clarify my question, because I don't think I spoke clearly. So I'm looking at No. 3 on Page 522, and I was -- I was assuming that was Deviation 3.

COMMISSIONER SCHMITT: No. Deviation 3 up above.

COMMISSIONER KLUCIK: Right, okay. So No. 3, the compensating right-of-way, the

staff and the applicant both agree that Item 3 on Page 522 is not needed?

MR. SABO: Correct.

COMMISSIONER KLUCIK: Okay.

MR. YOVANOVICH: Correct.

COMMISSIONER SCHMITT: But could you go back to 522. We're talking about Deviation 3, the buffer type, and then he addresses it down in the recommendation, and I'm not sure what is meant by the place-making elements are required. Is that the architectural?

MR. YOVANOVICH: I hope I have the right area. That's -- the buffer would normally wrap around.

COMMISSIONER SCHMITT: Yep, that's the -- got it.

MR. YOVANOVICH: And since we're asking for that gap, we have to have those improvements.

COMMISSIONER SCHMITT: Improves the element of place.

MR. YOVANOVICH: Yes.

COMMISSIONER SCHMITT: Okay. That's all the questions I have, then. Thank you.

COMMISSIONER KLUCIK: And -- I'm sorry.

CHAIRMAN HOMIAK: Yes.

COMMISSIONER KLUCIK: As to what we're really -- I think the nitty-gritty here is Page 527, and that is -- I'm looking at Exhibit B of the zoning ordinance, which is 527 in our packet. So the issue is whether or not we're leaving that as-is or we're modifying it?

MR. YOVANOVICH: You're talking about Exhibit B, which is the development standards, Mr. Klucik?

(Simultaneous crosstalk.)

COMMISSIONER KLUCIK: Right. And what's in there is the applicant's proposal, and it doesn't include the changes that were recommended by Mr. Sabo.

MR. YOVANOVICH: Correct. What we're saying is we cannot agree to the changes that Mr. Sabo -- and we're asking you to approve our Development Standards Table.

MS. ASHTON-CICKO: Are you going to modify it, though, based on the exhibit for the towers that you had earlier?

MR. YOVANOVICH: Yes, and we will -- we will -- we probably need to modify the master plan exhibit to show -- to tie it to the table. I have to put a footnote, Heidi, I would assume, that says these standards are also subject to the attached conceptual master plan.

MS. ASHTON-CICKO: Well, it might need some modifications on the development standard as to the towers where you've got -- on the northwestern tower you have a minimum of 35 feet, but then you have another maximum area of 100 feet.

MR. YOVANOVICH: We will give you that exhibit and --

MS. ASHTON-CICKO: And we'll match that if we need to with the table.

MR. YOVANOVICH: Yes, yes.

MS. ASHTON-CICKO: Okay. Very good.

COMMISSIONER FRY: Rich, I want to clarify -- oh, sorry.

CHAIRMAN HOMIAK: So the master -- it will be Exhibit G on the PUD?

MR. YOVANOVICH: It may be -- it may become part of the master plan set. So it could be -- it could be part of Exhibit C, but we'll work with Heidi to put -- to incorporate the document we showed you with the setbacks on it.

CHAIRMAN HOMIAK: The one we saw today?

MR. YOVANOVICH: Yes.

COMMISSIONER FRY: So to clarify where we're at, it's looking like zero sum game. There is -- we have the staff who has submitted conditions with a pretty significantly reduced building height and some other changes. You have an alternate recommendation from the Save



Vanderbilt Beach folks, reduced building heights and densities and such.

So if the Planning Commission decided that -- in favor of the staff's amended -- or their conditions of approval, that, in effect, is a rejection to you, what would the position of the applicant be if that happened to be the outcome of this conversation?

MR. YOVANOVICH: Welcome to C-3 zoning.

COMMISSIONER FRY: Okay.

MR. YOVANOVICH: I mean, their conditions result in none of the buildings that we're proposing being able to be built.

COMMISSIONER FRY: I think that's important to know going into --

MR. YOVANOVICH: Likewise, what was presented by Save Vanderbilt Beach results in none of the buildings that we're proposing being capable of being built, because Bob didn't get into all the details about how the garage actually has to be built and how cars need to circulate in it, but there are increased setbacks that they want for that. You can't have a parking garage. For their setback for the tower, I think they had it at -- I don't know what the exact number was. It doesn't fit on the podium. So it just -- it results in a project that the great -- it sounds great on paper, but it doesn't fit within the building envelope that we have as far as the property goes.

COMMISSIONER FRY: So even though the -- even though they've approved -- staff has approved the GMP amendment with 172 units and are not -- you know, they're not questioning the density, you could not redistribute the units on that property at a lower height in a feasible way?

MR. YOVANOVICH: No, sir.

COMMISSIONER FRY: Okay. Thank you.

COMMISSIONER VERNON: Yeah, just -- I kind of have a clarification. What we're doing here -- and this is my first controversial vote -- is that we're making a recommendation. So welcome to C-3 zoning, with all due respect, doesn't resonate that much with me, because you're going to the Board of County Commissioners, and they may disagree with us, or -- or, excuse me for interrupting -- or between now and the time we make a recommendation, there may be further discussions that may result in some modifications that you might make based on our recommendation that may lead to the Board of County Commissioners approving something that you can live with.

MR. YOVANOVICH: So far I've been given two choices -- three choices. My Development Standards Table, staff's Development Standards Table, or Save Vanderbilt Beach's Development Standards Table. Those are the three things I think I was asked. What will happen if you recommend, you the Board, recommend from those two choices? You may come up with something different. I don't know because I haven't heard it, so I can't react to it. What I'm saying is, if I have -- those are my choices, I don't have a project. I have -- I have to go with C-3.

So I hope that -- I hope that answers your question.

COMMISSIONER VERNON: It does, but not necessarily coming out of this. But if the Board of County Commissioners gave you the Save Vanderbilt or gave you the staff, you're saying your client's not going to -- he's going to go with C-3 is what you're saying?

MR. YOVANOVICH: I will withdraw my petitions, and I will live with the zoning I have. And, yes, we understand what -- we understand that C-3 is what we bought. We don't think it's in the best interest of the community, but those are my choices. I haven't heard a fourth option. Let me just --

COMMISSIONER SCHMITT: Chairman, I recommend we close the public hearing and deliberate amongst us.

CHAIRMAN HOMIAK: This is -- the 16 floors, that is the height in this table, right?

MR. YOVANOVICH: Yeah. The 14 floors over two of parking is the height in that table.

COMMISSIONER SCHMITT: Fourteen over two.

MR. YOVANOVICH: So it is a combined 16, yes. And that's where you got the zoned height and you get the actual height is based upon those numbers.

COMMISSIONER SHEA: Are we into discussion?

COMMISSIONER VERNON: We need a second for what you just --

COMMISSIONER SCHMITT: Well, no. If there's no other --

CHAIRMAN HOMIAK: Do you have any other questions?

(Simultaneous crosstalk.)

(Interruption by the stenographer for clarification.)

CHAIRMAN HOMIAK: Okay. Stop. Stop.

COMMISSIONER SHEA: I just asked if we've closed the public hearing and we are starting discussion.

CHAIRMAN HOMIAK: Okay. We'll close the public hearing. Go ahead.

COMMISSIONER SHEA: This has been -- I'm a little newer than you guys, or not a little newer; a little older. This has been -- in my 50 years in -- as a professional, I've never seen so many experts in one room at one time, and I can't imagine paying the bill for all these experts.

But we've heard some very, very good presentations. And it's -- me, it's very difficult to -- how do you sort through what my responsibility is as a Planning Commissioner?

Well, I view us as a steward of the Growth Management Plan. That's the number one role. I think the citizens depend on us to manage the growth in the county in accordance with the plan, or we should change the plan. And occasionally we do change the plan. We change the plan generally when there's an enhancement or an added benefit to the community.

To me, how do you measure that? Well, we obviously have no agreement on how we measure it, whether it's comparable, compatibility, whatever. How I measure it is when I get thousands of people writing me notes saying that you shouldn't do it, they view that as not an enhancement to the plan. They're invested in the community, and they view that as not an enhancement. And, to me, I don't think it's our role to go into a community like that and tell them what's best for them. They've told us. They've told us they want to live with C-3. I can't support it as -- the options you gave, I would vote no on the Growth Management Plan as not being a benefit to the community; therefore, why should we change it?

CHAIRMAN HOMIAK: You know, also, every one of them complained about the traffic. The C-3 is the biggest generator of traffic.

COMMISSIONER FRY: Which is why it's unfortunate we have a zero sum game here.

COMMISSIONER SHEA: Yes, exactly. I agree.

COMMISSIONER SCHMITT: I'd like to -- I talked about the Growth Management Plan in the -- when we did the reevaluation. It was even before my time. I was on staff from 2002 to 2010. But just before I arrived, they went through the reevaluation. And, as I brought up previously, this is RT zoning. One of the elements that started the whole VBRTO was a project; it was a couple years ago. It was Moraya Bay, which is all the way down at the end of Vanderbilt Beach, and it was a major significant emotional event because of the size of the Moraya Bay, which is a very high-end development.

The intent -- and I think Mr. Yovanovich brought this up, but the intent of this area, it probably, during the reevaluation, would have never stayed three -- C-3 except for the fact that there was commercial on the property. It would have been wrapped up in the RT zoning and been part of the VR -- Vanderbilt Beach Residential Tourist Over -- the VBRTO overlay, the Vanderbilt Beach Residential Tourism Overlay.

So the fact that I -- again, I look at it that, as I said two meetings ago, be careful what you ask for, you may get it, because C -- commercial zoning in this area is not going to be well accepted because of the impact it's going to have.

This is very valuable property. I have absolutely no idea what Stock paid for it, but I have

to believe because of the proximity of the beach, it was very costly. And any type of restaurant or other activity going in there is going to be a high end, and it's going to be an attractor.

And I -- just, to me, it just fundamentally doesn't make sense to create an attractor in that part of the county on Vanderbilt Beach Road. So I have to -- so I support from the standpoint of the compatibility and reasonable development.

I know James talked about the area, but I'm inclined to believe the circle that the applicant talked about, one-third of a mile, I have to take everything into consideration; the Regatta, the Trieste, the Ritz, the Remington. The Trieste which is 21 stories; the Regatta which is 12.

It -- to me, this development -- and I'll talk about the development -- is certainly a significant enhancement to what exists there now. It is, I believe, compatible, and it's certainly a very responsible development.

And with that, I would -- I'm ready to make a proposal, but I'm waiting to hear what the other commissioners want to discuss. So at least you have my viewpoint.

But I think, from the standpoint I would -- I'm willing to make a proposal and throw it on the -- in the middle of the floor for consideration. That we approve the 14 stories over two stories parking. And if we want to look at a reduction, we can talk about a reduction. But I would say initially we support 14 stories over two stories.

The staff has already approved the -- or recommended approval of the Comp Plan amendment, which is the easy part. The hard part of this is the rezone.

So with that, I conclude my remarks.

COMMISSIONER SHEA: We don't have to approve the Growth Management Plan just because the staff recommends it.

COMMISSIONER SCHMITT: No, we -- that's correct. We don't.

COMMISSIONER SHEA: My proposal is we reject the --

COMMISSIONER SCHMITT: Okay.

COMMISSIONER VERNON: We reject --

COMMISSIONER SHEA: The Growth Management Plan. We have to do them one at a time, or do we do them together?

COMMISSIONER SCHMITT: Well, if you reject the Growth Management Plan, the other --

COMMISSIONER SHEA: Exactly.

COMMISSIONER SCHMITT: They can't go forward with the --

COMMISSIONER SHEA: But we could bring some of the qualifications forward that Mr. Sabo proposed and put them into the Growth Management Plan and say, we approve if you bring these forward. But Rich has already said that's dead on arrival anyways. Right?

MR. YOVANOVICH: Is it appropriate for me to --

CHAIRMAN HOMIAK: I don't see how --

COMMISSIONER VERNON: No.

CHAIRMAN HOMIAK: -- this is -- to me, I don't see how these -- this development is not compatible with the surrounding area.

COMMISSIONER SCHMITT: I agree.

COMMISSIONER KLUCIK: I agree.

CHAIRMAN HOMIAK: That's the first thing I looked at when we first got this packet. I got on Google Earth and started down the beach from -- all the way down Pelican Bay and started counting stories and went past this and counted more stories, because some of these buildings past this are older. They're going to be redeveloped at some time --

COMMISSIONER SCHMITT: They're going to be redeveloped.

CHAIRMAN HOMIAK: -- and they're not going to be that height, because they have to start at 21 feet.

COMMISSIONER SCHMITT: Correct.

CHAIRMAN HOMIAK: Some day there's going to be -- they're going to -- the storm surge is going to take some of these places out someday. It just hasn't happened yet, but it's going to.

COMMISSIONER KLUCIK: Well, as for -- I'm sorry. You wanted to speak.

COMMISSIONER VERNON: Well -- no, that's fine. I was just going to address your two points. And I do want to hear from everybody before we throw something out there.

But on the C-3, you know, I totally agree. I mean, I just don't see the C-3 as something we want. I do see residential. And where maybe I differ a little -- but my view has been since the beginning, I've listened to all the evidence, and it really hasn't changed. You know, my view is the neighborhood is -- starts at the corner of Vanderbilt and Gulf Shore and heads north, and there's a big association that sort of confirms that. They organically created an organization built on that, you know. And to use an analogy, I've got -- I live at the edge of a subdivision, and right behind me, literally 100 feet away, maybe 150 feet is some houses. I don't know who those people are, but I know my neighbors a quarter of a mile away. My point being, when I think of that neighborhood, I don't think of the Ritz-Carlton, I don't think of Pelican Bay. I think of the Turtle Club, I think of Buzz's, and I think right along that.

Now that -- I don't know that that's dispositive, you know. It doesn't mean I'm going to reject the project, but it means that's the filter in which I'm looking through.

And from my perspective, you take it into that, you look at Regatta, and I forgot the other one.

COMMISSIONER FRY: Beachmoor.

COMMISSIONER SCHMITT: Trieste.

COMMISSIONER VERNON: No. Beachmoor and Regatta. You're talking about, like, 127 feet and 148 feet.

So I don't want to reinvent the wheel, but I'm almost thinking 150-foot might be acceptable, and that's bigger than the objectors want. The -- what the objectors want, from my perspective, is a little unrealistic. I think we should give a lot of deference to the staff. I mean, it's what they do for a living, so I'm very differential to the them. I think absent the staff's recommendation, I would probably try to push it towards the towers being 150 feet. That may take care of some of the density. It may take care of some of the setback issues.

So where I'm leaning is accepting the staff's proposal on the height or proposing something along the lines of 150 feet. So those -- I just wanted -- I want to get my thoughts out not only to you guys, but also if the Board of County Commissioners want to take a look at what we're thinking.

COMMISSIONER KLUCIK: All right. And -- are you done?

COMMISSIONER VERNON: Yes.

COMMISSIONER KLUCIK: Okay. What I am most concerned about is, of course, the legal standard, that -- you know, that applies to our decision-making or in general, what does -- what are we obligated to consider?

And so I would ask for -- regarding the zoning ordinance that we're proposing, when we have the staff recommendation for the changes so that it's not what the petitioner asked for, the legal standard is, if we're sitting quasi-judicially, is that we have to have a basis to say no to it, is that correct, if it's lawful, if it meets requirements?

MS. ASHTON-CICKO: Let me answer it in two parts and a little bit further expand upon your question.

So I'm going to start with the Comp Plan. As to the Comp Plan, that's a legislative decision, a legislative recommendation. So you really just have to have a reasonable justification, okay.

The zoning is a little bit different because it's based -- it's a quasi-judicial hearing, and it's based on substantial competent evidence. Substantial competent evidence is testimony of experts. You've heard a lot of them. You've heard the county expert, but you also heard Mr. Mulhere. You heard some other people that qualify as experts who appeared for some of the other property owners associations. And you can also consider observations that were testified as to fact by some of the other witnesses that testified.

So you have to make your decision based on substantial competent evidence, which is all of those things that I mentioned.

COMMISSIONER KLUCIK: Thank you.

MS. ASHTON-CICKO: Does that help?

COMMISSIONER KLUCIK: That does help.

MS. ASHTON-CICKO: Okay.

COMMISSIONER KLUCIK: And I guess what I would say after hearing all of the -- all of the sides, the petitioner as well as everybody who was opposed, and our staff, that I don't see a problem with the traffic; I don't see a problem with the property values; I don't see a problem with the streetscape as far as the landscaping; I don't think it's a wall. I think it actually will be pleasant; and I don't think it's -- yes, it's going to be different than what's there now, but I don't think it's going to be imposing in a negative way. I think it is -- they did a nice job, and I appreciate the explanation of showing that, yes, there is a point where it is 15 feet, but then it goes to -- or 25 feet, but then it really -- you know, I mean, I didn't really think about it that way, but that was a really good point. It really does go further away, and the setback becomes very much increased.

And so the fact that it's that one tangent point, I don't -- I understand by definition that is 25 feet for the tower and 15 feet for the parking garage, but I also think that we can consider the fact that it then rapidly goes further away.

Compatibility and complementary, I think, have been satisfied. I do think we can look, you know, within a third of a mile or 1,700 feet and see these uses that are similar, that are very tall, and we even have -- as we've already discussed, we have 148 feet and 127 feet adjacent to this building. And I agree that we're going to see more and more requests as these properties are redeveloped, and I don't see the justification for not allowing -- I think it's compatible. I don't see the justification for saying it's not compatible when the building right next to it or right near by, you know, has these features that people might object to.

And I heard what Mr. Sabo had to say, and I think he -- you know, I think he explained himself and his viewpoint. He answered all our questions, but at the end of the day I see that we have to have more than the opinion of our expert, you know, the staff expert when we have other experts, you know, showing and explaining that there are other considerations and reasons that we can move forward.

And I think that, you know, I'm inclined to go forward as-is, you know, as these two ordinances are written.

COMMISSIONER FRY: May I?

CHAIRMAN HOMIAK: Yes.

COMMISSIONER FRY: So I think -- I feel like we owe it to the applicant, to the public, and to the County Commission to explain our decision and why we made it, the grounds why we made it. So I'm going to just walk through briefly what I consider to be the major components of this decision and where I stand on them, just my -- personally my opinion.

Compatibility, I think there's a lot of different ways you can look at compatibility. I absolutely agree that it's mostly residential, so residential use is compatible.

I think you -- there is a question that is what range -- what directions, what do you consider the compatibility based on. And I find it compelling that Vanderbilt Beach is a neighborhood and

that Pelican Bay is a neighborhood, and that not only is Pelican Bay a neighborhood whose foundation has a written a letter expressing, I think, and detailed some data saying that it is much more than just high-rises. It is a land of high-rises. The high-rises are almost all right along the beach. I mean, they're the closest structures to the beach with one exception, which is Trieste. Trieste and Remington and the Ritz-Carlton are really within Bay Colony. Bay Colony is the most upscale part of Pelican Bay.

You've got -- Vanderbilt Beach has its own association, and Pelican Bay Foundation says that we should not be considering Pelican Bay as compatibility. That's their opinion. I happen to concur with it, because I do think it's radically different. They're talking about all the other development standards, setbacks, buffers. They have common areas that they maintain.

I believe -- in my compatibility, I believe it's much more reasonable to look at Vanderbilt Beach. Now, there are some tall buildings on Vanderbilt Beach. You have the Beachmoor and you have Regatta, which are immediately adjacent to it. So I can see compatibility with those, but I can't really -- myself, I can't justify looking into Pelican Bay, so I concur with the staff on that.

In terms of intensity, you've got some high intensity, as Mr. Yovanovich pointed out. You've got the two condo buildings that are 40 and 50 units density per acre. So I'd have a hard time saying that this is too intense, because you've got buildings right next to it that are more intense. And I believe the intensity is -- in this case should be more driven by traffic, building heights, the other specs of compatibility, setbacks, you know, kind of what's possible in terms of what is the resulting intensity for meeting those other -- from balancing those other things.

Complementary is a term that -- you know, it brings something to perfection. It adds benefit to the surrounding area. So I look at, really, who is benefiting from this. This is a beautiful development from a very high-quality developer. No question about that. This, in my opinion, is like a Bay Colony or a Pelican Bay high-rise that is being put into -- it's being proposed for Vanderbilt Beach.

In my sense, that's -- for this building to dwarf the Beachmoor, which is right on the beach where you typically have the higher building, I didn't see any examples of photos where the buildings that were across the street from the beach dwarfed the buildings that were on the beach. And so I kind of have a struggle with the building height being higher than that.

But complementary, I believe there should be -- this is the gateway to Vanderbilt Beach, and I believe that -- this is a beautiful project. And in that sense, I think you built a case that it's complementary. You know, it's aesthetically beautiful. But the benefit to the residents from this development, it's really benefiting 172 people that are paying multimillion-dollar price tags to be there. For the residents, they have a tiny footprint of commercial. It's the minimal commercial standard.

So I think if I were to vote for approval of this, it would require more commercial to give more services and products, a different balance to the residents and to the neighbors.

Building heights and setbacks. The Beachmoor, 125; Regatta, 148. I think you mentioned -- you mentioned 150. Somebody mentioned 150. You know, I could probably support a building height above the 125 that the staff has reported just to try to come up with a balance, because there's been a huge investment by this party to develop something nice. The development standards -- the architecture is incredible. The landscaping, the buffers, the bike paths, everything is an incredible project, which I think any of us would be proud of. I just think it's a little too much. I think it's -- I don't think it's compatible with Vanderbilt Beach in this area.

And I want to point out the concept of precedent which we -- I pressed Mr. Klatzkow on. Where does precedent -- how is this -- does it -- how is it relevant or irrelevant to this process? And he said, there is no precedent. You do not -- you are not bound by what's next to it or what's here or what's there. It is totally a subjective decision by you as to how you evaluate this decision.

But I would -- I would say that precedent is at work in every application that we evaluate.

Compatibility is based on what is next to it, which was based on what was next to that, because every time we do a compatibility check, we are looking at what was approved by the Board two years ago, 10 years ago, 15 years ago, and what is there now.

So if this gets approved, I believe there's no question that at 208 feet, the next building will point to this project and say, I need 230 feet. I need 250 feet. And it's compatible; it's residential. I get that. But I think it's a bit of a potential domino effect which I do have concern about.

I love the project. I think even the neighbors have stipulated they don't mind the project. They like the residential nature of it. I completely agree with the C-3 being -- you know, be careful what you wish for; that it is -- it's not the best. Traffic is the main concern of people, but yet -- but yet this is a lesser -- a lesser use.

So I'm in support of the project really very close to based on what the staff has approved, and I'm happy also with what the Save Vanderbilt Beach has approved in terms of a lessened version of this. If it's a zero sum game, which is why I asked that question, then I can't -- I can't vote yes for this at those building heights because I do believe it is not commensurate for the location.

COMMISSIONER SCHMITT: Well, given the -- go ahead.

COMMISSIONER SHEA: It's more a question for us. And I guess I really don't know how we can ignore the overwhelming protest. It feels like we're saying, we're from the government, and we know what's best for you. And, quite frankly, I guess I don't see that. Most of the projects we deal with, if there's one or two people, they're usually supporting it and not supporting it, and then we need to step in and make a decision on whether it's compatible, whether it's beneficial. But when you have hundreds and hundreds of people saying it's not compatible, it's -- it's a very subjective thing. So we're going to look at all this data and say, we think it is compatible and it will enhance your property value and it's a -- it's a good thing.

I agree with you that the best use is exactly what you said, but that's not an option for us here. I just don't know how we can ignore the overwhelming public opposition to this.

COMMISSIONER SCHMITT: Let me just comment.

COMMISSIONER SHEA: Yeah.

COMMISSIONER SCHMITT: Because it -- the reality is, this is not going to stay vacant. It just is not.

COMMISSIONER SHEA: Yeah.

COMMISSIONER SCHMITT: And unless somebody approaches the county commissioners and they buy the property as a -- to become a county park, which I would assume would -- that lot would probably be in the -- well above \$25 million.

COMMISSIONER SHEA: Water park.

COMMISSIONER SCHMITT: So the reality of that is just not going to happen. But who knows. The folks can bring that to the County Commissioners.

It will be developed as residential. The real issue here is, of course, the financial aspects of the development. What can I build there in order to create a greater turn. And I'm not going to get into the whole business of it, but somebody just doesn't go out there and build something and not make any money. That's why we were -- they get in the development business.

Let me -- obviously, we've heard -- and I guess from indications, it looks like almost 3-3 here. Because if this were reduced to 12 stories over two stories parking, where would that get us?

COMMISSIONER SHEA: Is that basically the staff? Oh, no, it isn't. Staff's lower, okay.

COMMISSIONER SCHMITT: Instead of 14 stories to 12 stories over parking. So 12 and two; 16 [sic] stories total.

COMMISSIONER VERNON: Yeah, I tell you, that's kind of where -- there's where my head was coming into today, and I think I just got pushed -- from everything I heard today, I got

pushed a little lower, candidly. That's -- and some of it has to do with what Paul heard.

And this is going to sound very jaded on my part, but I really -- I agree with you conceptually, but I think the world we live in now, you know, people -- these are two sophisticated groups here with -- you know, who know what -- you know, and oftentimes developers come in and ask for a lot more than they want, but also on the other side, the objectors say, oh, we're fine with that, but then when it starts to go in that direction -- I know this sounds jaded -- then all of a sudden they'll come back and say -- and maybe they can't do anything to stop it -- but say this C-3 is no, no, no; this is not what we wanted.

So I know that sounds a little jaded, and I don't want to ignore the people. But I -- I'm repeating myself, but I can't believe they really want a bunch of bars and restaurants. And I concur with Joe and Karl that we -- I think the best thing here is residential. I'm just concerned about -- even 12 stories seems high to me at this point.

COMMISSIONER FRY: I could --

COMMISSIONER SHEA: But even if there's a poker game going on between the two parties, what's that have to do with us?

COMMISSIONER SCHMITT: Well, I would -- I punt to the -- we make the recommendation, and it goes to the Board of County Commissioners. I mean, that's the name of the game, and they're going to have to make the final decision. All we can do is advise and consent based on our review of the project.

COMMISSIONER SHEA: But you're all saying you're comfortable ignoring the public -- the large public outcry. Not the little one.

COMMISSIONER SCHMITT: I think the public doesn't understand --

COMMISSIONER SHEA: Whoa.

(Simultaneous crosstalk.)

(Interruption by the stenographer for clarification.)

COMMISSIONER SCHMITT: Let me --

COMMISSIONER SHEA: Whoa, I think they're way more sophisticated.

COMMISSIONER SCHMITT: No, I don't think the public understands that the restrictions today to meet the flood elevation requirements and all the other requirements at a 21-foot for a first habitable floor, that anything that goes in there is going to have a height at least of -- if not one, two stories of parking, something over two stories of parking. Just --

COMMISSIONER SHEA: Yeah.

COMMISSIONER SCHMITT: -- even a restaurant. You're not going to build a restaurant at ground level.

(Simultaneous crosstalk.)

COMMISSIONER SHEA: They have as many experts as the petitioner has, and shame on them if they don't know that. They've stated they're comfortable with C-3. They've got experts telling them and counseling them.

COMMISSIONER FRY: Actually, I mean, the presentation that I heard was -- and I think the most official group was Save Vanderbilt Beach that represents the public, thousands of people, and that was a proposal for a lower alternative to this, which was 12 stories and nine stories and a little bit more density. So they were -- they were in support of residential, just a more limited residential, not too far from what Mr. Sabo -- a different variation, a different flavor of what Mr. Sabo presented.

So I guess I would present -- Joe's presented basically a recommendation to approve as it is. I would support an alternative at a -- an actual height of 150 feet, I think, is what you suggested with the same density --

COMMISSIONER SCHMITT: Well, what --

COMMISSIONER FRY: -- and staff conditions.



COMMISSIONER SCHMITT: How many -- how many -- how many -- I'd have to ask the architect then, because I want to know if at that -- at that -- at 150 feet, how many stories is that?

MR. YOvanovich: Can I? Can I?

COMMISSIONER SCHMITT: Yeah.

MR. YOvanovich: In order to go to 12 over two, the zoned height would be 160.

COMMISSIONER SCHMITT: 160.

MR. YOvanovich: So that's a reduction of 22 feet of zoned height and then 22 feet off of actual.

COMMISSIONER VERNON: So what -- Commissioner Schmitt's proposal would only -- would be actual height 160?

MR. YOvanovich: No, that would be zoned.

COMMISSIONER VERNON: Zoned height.

MR. YOvanovich: Because you've got to remember, I've got to get 21 feet in the air just to start having residential floor.

COMMISSIONER SCHMITT: Zoned height was 182. Now you're talking 160.

MR. YOvanovich: Did I hear it right, Bob?

MR. HALL: Yep.

COMMISSIONER FRY: How many stories is Beachmoor? How many residential stories? Is it 12?

UNIDENTIFIED SPEAKER: Twelve.

COMMISSIONER VERNON: Okay. Do we know the zoned height of Beachmoor --

MR. YOvanovich: The problem is Beachmoor was built before you had the ceilings that people command today, and the zoning -- the minimum elevation was a different minimum elevation.

So, you're -- I don't think -- I can give you the height, but I don't think it's an apples-to-apples comparison.

COMMISSIONER VERNON: Fair. Fair comment, but I'd still like to know the zoned and the actual of those two --

MR. YOvanovich: I don't know that I know --

COMMISSIONER VERNON: -- Regatta and Beachmoor.

MR. YOvanovich: I think Beachmoor was --

COMMISSIONER KLUCIK: 148 actual, Regatta, and then if you --

COMMISSIONER SHEA: Oh, Regatta was --

CHAIRMAN HOMIAK: One at a time.

MR. YOvanovich: He's right. I know Regatta, the actual height was 148. I don't know -- and the zoned -- remember, Regatta has that interesting -- the -- Regatta had -- it was 10 stories. It was 100 feet or 10 stories, whichever was greater. So I think we thought it was 125 zoned, 148 actual -- I could be -- I know the actual I'm absolutely right on, and the Beachmoor -- we're pulling it up.

COMMISSIONER SCHMITT: I'm going to make a recommendation. I make a recommendation for approval of PL20190000696, which is the GMPA, Vanderbilt Beach Road mixed-use as recommended by staff as the -- for the Growth Management Plan amendment, and I recommend, for the One -- zoning PUD -- Naples amended to no greater than 160 feet zoned height, which is 12 stories over parking; that traffic improvements -- all traffic improvements will be completed prior to the issuing of the first certificate of occupancy, and that all the other requirements, as specified by the developer to include all of the architectural renderings, will be included as part of the PUD packet as a commitment to the design that was presented, and to include both low-rise and the two towers as part of the petition, and to include the three deviations

as proposed -- as posed by the applicant and recommended approval by staff. So that is my recommendation for the GMPA as well as the PUDZ. So that's my motion.

COMMISSIONER FRY: I would be in favor of 150 feet of zoned height but not -- 160, I think we're -- it's a little bit beyond my comfort level, so I would --

COMMISSIONER VERNON: Yeah, my --

COMMISSIONER SCHMITT: I understand, Karl, it's probably -- then that's down another floor. But the real driving factor here was within the last year, the FEMA elevation requirements drove all of these measurements up. They drove them all up. And any redevelopment that's going to take place there is going to meet these requirements. And I don't know if Jamie's still here.

And where are we, Jamie, with the new map studies? It's going to probably even be more of a significant impact; is that correct?

So this falls under the existing, but --

MR. FRENCH: So --

COMMISSIONER SCHMITT: Introduce yourself for the record since you haven't testified yet.

I haven't been sworn in.

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

MR. FRENCH: Yes, at 6:33 p.m. Thank you.

Commissioners, Jamie French, for the record, Deputy Department Head.

The -- we are currently under a study right now. The petitioner's engineer firm, again, I referred to them in previous testimony, is they're very good in this field as well.

The current maps have not been filed yet with the Federal Registry, but once they do, it will be the most restrictive data at the time. So there'll be some lim (phonetic) wall for limited wave action movement considerations. There'll be some different construction standards that will take effect, and in the event that there's ever any type of reconstruction or new construction, it will all fall under that more restrictive code.

So, Commissioner Schmitt is -- he's correct in his suggestion that the development standards are changing, and it will change for that entire community. That is, in fact, if these maps are adopted. We intend to go through some appeals. That's yet to have gone to the Board of County Commissioners, but most likely FEMA is -- our last study that we're still in with them is from 2007, and we've still not settled that with FEMA.

COMMISSIONER SCHMITT: Okay. Well, there's a motion on the floor. We have to --

CHAIRMAN HOMIAK: Yes, and I second it because I --

COMMISSIONER SCHMITT: -- call the question.

COMMISSIONER FRY: Discussion?

CHAIRMAN HOMIAK: -- because I feel the same -- I feel totally different about this than you do. I was here -- I've been here for 32 years, so I was -- I remember when there was no Pelican Bay.

COMMISSIONER FRY: Wow.

CHAIRMAN HOMIAK: So I was here before that with someone who bought into it, and the only way you could go to the beach was on a tram, and there was nothing built. So things change. And if you're not going to keep -- well, go ahead.

COMMISSIONER VERNON: I think we're kind of moving towards a compromise myself, but I guess I'm falling along Karl's lines is that, as I understand it now, the motion is 182 feet, roughly, actual height. And forget about Beachmoor. But just look at Regatta at 148 feet. And I understand the world's changing but, still, that's a little bit a bridge too far for me. So I'd like to -- I don't think I'd support that motion.

But I think we're kind of moving together, it sounds like. And I don't know where you are, Karl.

COMMISSIONER FRY: Well, I guess, it was --

COMMISSIONER SCHMITT: Well, it was 160 feet -- well, yeah, correct. It's 180 from ground height, yeah.

COMMISSIONER FRY: I would like to ask -- I'm trying to just remember, Save Vanderbilt Beach, you proposed 12-story and 9-story. Were those -- that was over two stories of parking. Am I able to ask him to come up and just clarify or no?

CHAIRMAN HOMIAK: No.

COMMISSIONER FRY: No, okay.

COMMISSIONER SHEA: We closed the public. Does anyone know what the actual -- the zoned height of the proposed alternative solution was?

CHAIRMAN HOMIAK: No, no, no.

MR. BROOKES: Why does he get to speak?

(Simultaneous crosstalk.)

COMMISSIONER FRY: Nobody gets to speak?

CHAIRMAN HOMIAK: No. It's done.

COMMISSIONER KLUCIK: No, we're past that point.

CHAIRMAN HOMIAK: Please sit -- stop, please. Please, please, please.

COMMISSIONER VERNON: Karl, I think they're relying on this document, but I think they were looking at building height, if I understand their document, at only 100 feet. So I think we're --

COMMISSIONER FRY: Well, it says 12 stories, 135 feet; nine stories, 102 feet. I think that was zoned height.

MR. BROOKES: Actual height.

COMMISSIONER FRY: That was actual height.

So those are much shorter stories than are being proposed, and maybe -- yeah.

CHAIRMAN HOMIAK: We have a motion and a second. Is there more discussion or --

COMMISSIONER SHEA: The motion's at 160, though, right, zoned height?

CHAIRMAN HOMIAK: Zoned.

MS. ASHTON-CICKO: Did anyone second the motion?

(Simultaneous crosstalk.)

COMMISSIONER SCHMITT: Fourteen stories over two stories parking.

CHAIRMAN HOMIAK: I did.

COMMISSIONER SCHMITT: Which is 160 zoned height for the two towers. All the setbacks remain as proposed or as -- as proposed by the applicant. The setbacks do not change.

COMMISSIONER SHEA: And the heights and the setbacks on the other building stay the same as proposed? Okay.

COMMISSIONER SCHMITT: Yes. The low-rise, four feet, if I recall, from the -- to match the neighboring property.

COMMISSIONER FRY: I'm not sure I can -- I have concerns about the setback as well, because I believe one of the major complaints was the canyon effect, and I did not -- I felt something was missing that I really would have liked to have had to evaluate and be able to satisfy myself that the canyon effect was not an issue. But the renderings were all street level, and they only showed up about 20 feet. There wasn't anything that showed you on the street level looking at a 208-story -- 208-foot building that's 25 feet. I know just the corner is, but I do believe that you have some very high heights very close to the road, that it would have been nice to see renderings that accurately depicted what that would look like from the street.

So I would have to -- I really could not go forward and approve that height, but I could

approve a reduction of that height if that was feasible with the other commissioners.

CHAIRMAN HOMIAK: Okay. Well, we have a -- do you have more discussion, or I'm going to call for --

COMMISSIONER VERNON: You need a second. I don't think --

COMMISSIONER KLUCIK: Yeah, we have a second.

CHAIRMAN HOMIAK: I seconded already.

So all those in favor of the motion --

COMMISSIONER SCHMITT: You have to vote one at a time, so the GMP amendment --

CHAIRMAN HOMIAK: Oh, you did them both at the same --

COMMISSIONER FRY: Roll call vote?

COMMISSIONER SCHMITT: I labeled each one, but I'm recommending approval for both. The first one as approved by -- and proffered by staff, so we could vote on that. The second one as amended as I discussed.

COMMISSIONER KLUCIK: So we have two votes to --

COMMISSIONER SCHMITT: We have two votes to --

CHAIRMAN HOMIAK: So on the GMP, that's the first one?

COMMISSIONER SCHMITT: Right.

COMMISSIONER KLUCIK: As proposed.

CHAIRMAN HOMIAK: You motioned and I second.

COMMISSIONER SCHMITT: Yes.

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

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: Aye.

Aye.

CHAIRMAN HOMIAK: Opposed, like sign.

COMMISSIONER SHEA: Nay.

COMMISSIONER FRY: Nay.

COMMISSIONER VERNON: Nay.

COMMISSIONER KLUCIK: For the GMP.

CHAIRMAN HOMIAK: Okay. So it passes --

COMMISSIONER SCHMITT: It's 3-3.

COMMISSIONER SHEA: 3-3.

CHAIRMAN HOMIAK: Oh, 3-3. You said no.

COMMISSIONER VERNON: I said no.

COMMISSIONER FRY: It's a hung jury.

COMMISSIONER VERNON: It's a hung jury.

COMMISSIONER KLUCIK: But the GMP doesn't include any height. So what's the basis for the -- for saying no? Because you -- the two of you --

COMMISSIONER SHEA: Doubling the density.

COMMISSIONER KLUCIK: -- have indicated that you're not opposed to changing the GMP.

COMMISSIONER VERNON: Madam Chair, may I respond to that?

You know, I think what -- I think Joe's moving in the right direction, and I think Karl and I are close to getting there. I guess what I would be pushing for is a little less height.

CHAIRMAN HOMIAK: But that's not in the Growth Management Plan.

COMMISSIONER SCHMITT: That has nothing to do with the GMP.

COMMISSIONER VERNON: Okay. Well, first time mistake, so...

COMMISSIONER SCHMITT: Okay. I understand.

COMMISSIONER VERNON: But I'm hesitant to approve anything until I'm comfortable with everything.

COMMISSIONER FRY: I agree with that.

COMMISSIONER SHEA: Exactly.

CHAIRMAN HOMIAK: Okay.

MR. YOVANOVICH: Are you going to take a motion on the PUD?

COMMISSIONER SCHMITT: I already made a motion on the PUD as stated. I don't want to go over it all again. It's on the record. But I did state 160 zoned height, which is 12 stories over two stories parking and all the other elements that I addressed, to include the -- all of the architectural standards and traffic improvements that will be completed prior to the issuing of the first certificate of occupancy for any of the units within the development.

COMMISSIONER SHEA: It we don't approve the GMP, why do the second one?

COMMISSIONER SCHMITT: No, it's a -- a 3-3 is not a denial.

COMMISSIONER KLUCIK: It's a recommendation to the commissioners.

COMMISSIONER SHEA: Oh, okay.

CHAIRMAN HOMIAK: We're only recommending anyways.

COMMISSIONER FRY: Joe, would you consider an additional condition to set a minimum of 10,000 square feet of commercial as part of that motion?

MS. ASHTON-CICKO: It does have a minimum already.

CHAIRMAN HOMIAK: It's in there already.

COMMISSIONER FRY: It has a -- this says up to 10,000 square feet.

CHAIRMAN HOMIAK: It's a maximum of 10,000.

MS. ASHTON-CICKO: Oh, maximum.

CHAIRMAN HOMIAK: It's in the GMP.

MS. ASHTON-CICKO: Is there a minimum?

COMMISSIONER FRY: And I'm just suggesting that we get a certain minimum amount of commercial to support beachgoers and residents. And I'm not -- I'm not even saying -- listen, I'm not saying that I support that, because I can't vote yes on that and no on the GMP, but I believe if this goes to the County Commission, that at least it's something for them to consider and make the decision on.

COMMISSIONER KLUCIK: Well, if you're not changing your GMP vote --

CHAIRMAN HOMIAK: There's already a motion.

COMMISSIONER KLUCIK: -- then it wouldn't make sense to change the --

COMMISSIONER SCHMITT: Yeah. I mean, it's already in the GMP.

COMMISSIONER KLUCIK: -- zoning vote.

CHAIRMAN HOMIAK: There's a motion already on the floor, and -- by Joe, and I second. And all those in favor, signify by saying aye for the GMP.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: Aye.

CHAIRMAN HOMIAK: Aye.

And all those opposed?

COMMISSIONER SHEA: Nay.

COMMISSIONER FRY: Nay.

COMMISSIONER VERNON: Nay.

CHAIRMAN HOMIAK: Okay.

COMMISSIONER SCHMITT: 3-3.

COMMISSIONER FRY: Just like the federal government.

COMMISSIONER SCHMITT: Hung jury.

COMMISSIONER FRY: Hung jury.

MR. YOVANOVICH: Can I be the vice president and break the tie.

COMMISSIONER SHEA: Ned would have been the guy.

COMMISSIONER VERNON: Well, I'm a little confused -- before we adjourn.

CHAIRMAN HOMIAK: We have --

COMMISSIONER VERNON: We can't have another motion? I mean, we --

CHAIRMAN HOMIAK: No, that's it.

COMMISSIONER VERNON: Okay.

MS. ASHTON-CICKO: No.

CHAIRMAN HOMIAK: We had -- there's no new business, no old business. Public comment?

(No response.)

CHAIRMAN HOMIAK: I don't think so. So this -- no further business, 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 6:41 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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COURT REPORTER AND NOTARY PUBLIC.