

December 3, 2020

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida, December 3, 2020

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

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

ALSO PRESENT:

Raymond V. Bellows, Zoning Manager
Jeffrey Klatzkow, County Attorney
Heidi Ashton-Cicko, Managing Assistant County Attorney

PROCEEDINGS

CHAIRMAN FRYER: Ladies and gentlemen, let's start our meeting, please. It's 9:00.

Welcome to the December 3rd, 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: Present.

COMMISSIONER FRY: I'm here.

Chairman Fryer?

CHAIRMAN FRYER: Here.

COMMISSIONER FRY: Vice Chair Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER FRY: Commissioner Schmitt?

COMMISSIONER SCHMITT: Here.

COMMISSIONER FRY: Mr. Vernon?

COMMISSIONER VERNON: Here.

COMMISSIONER FRY: Mr. Klucik?

COMMISSIONER KLUCIK: Here.

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

CHAIRMAN FRYER: Thank you, Mr. Secretary.

Addenda to the agenda. We have three matters to be continued from today's agenda as noted in the agenda. First is PL20190002680, which is Safety Service Facility CU, and this is to be continued from today's agenda, excuse me, yeah, to December 17, and the second one is PL2020000191, the Heritage Bay PUDA, also to be continued to December 17 and, finally, 20190002105, the Richdale Recycling CU, and that one is to be continued indefinitely.

May I have a motion to continue these three matters as stated?

COMMISSIONER VERNON: Vernon moves.

CHAIRMAN FRYER: Is there a second?

COMMISSIONER FRY: Second.

CHAIRMAN FRYER: Any further discussion?

(No response.)

CHAIRMAN FRYER: If not, all those in favor, please say aye.

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: They have been continued. Does staff have any further addenda to the agenda, Mr. Bellows? You could just nod if you --

MR. BELLOWS: No.

CHAIRMAN FRYER: That was a nod in the negative.

Planning Commission absences. Our next meeting is on December 17. Does anyone know if he or she will not be able to be in attendance at that meeting?

(No response.)

CHAIRMAN FRYER: And it looks like we'll have a full house. That's excellent.

Approval of minutes. We have just one set of minutes before us for approval, and that is our minutes of November 5, 2020. Any corrections, changes, or additions to those minutes?

COMMISSIONER HOMIAK: Yes.

CHAIRMAN FRYER: Go ahead, Vice Chair.

COMMISSIONER HOMIAK: On Page 125, on our last motion, near the bottom, after Chairman Homiak, the second sentence that says, all those in favor signify by saying aye for the GMP, it should be the PUD.

CHAIRMAN FRYER: Thank you. Change noted.

Any further addenda, changes to the minutes?

COMMISSIONER KLUCIK: Do the minutes note my arrival?

COMMISSIONER HOMIAK: Yes.

COMMISSIONER KLUCIK: I guess they do on page -- all right. Yeah, I see it. All right, great.

CHAIRMAN FRYER: Further changes, correction to those minutes?

COMMISSIONER HOMIAK: I make a motion to approve with that change.

CHAIRMAN FRYER: Is there a second?

COMMISSIONER SCHMITT: Second.

CHAIRMAN FRYER: All those in favor, please say aye.

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: They pass unanimously as changed.

The BCC report recaps. Mr. Bellows, if you have something. If not, you can nod your head.

MR. BELLOWS: (Shakes head.)

CHAIRMAN FRYER: No. Thank you. That was a negative nod. Fair enough.

***Public hearings, advertised. The first one before us is PL20190000808. It's the Edward's Grove Road Excavation CU. All those wishing to testify in this matter, please rise to be sworn in by the court reporter.

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

CHAIRMAN FRYER: Thank you. Ex parte disclosures from the Planning Commission starting, if we may, with Mr. Eastman.

MR. EASTMAN: No disclosures.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SHEA: Staff materials only.

CHAIRMAN FRYER: Thank you.

COMMISSIONER FRY: Ditto.

CHAIRMAN FRYER: Staff materials and a conversation with staff.

COMMISSIONER HOMIAK: I spoke with Ms. Harrelson briefly.

COMMISSIONER SCHMITT: Yes, and I also spoke with the applicant.

CHAIRMAN FRYER: Commissioner Vernon.

COMMISSIONER SCHMITT: Loss for words there.

COMMISSIONER FRY: That was a lot of suspense, Joe.

COMMISSIONER VERNON: Hanging Chad. No disclosures.

CHAIRMAN FRYER: Thank you. Commissioner Klucik.

COMMISSIONER KLUCIK: I spoke with staff on Monday.

CHAIRMAN FRYER: Thank you very much. All right. We'll begin with the applicant's presentation. You may proceed, ma'am.

MS. HARRELSON: Good morning. For the record, Jessica Harrelson, certified planner with Davidson Engineering.

I have a brief presentation that I'll run through, and then we can answer any questions you have.

The subject site is located on Edward's Grove Road just over a mile south of State Road 82 and a mile west of State Road 29.

The purpose of the conditional use is to permit the proposed expansion of an existing commercial excavation operation known as Stewart Materials. Stewart Materials supplies sand for things such as beach renourishment projects throughout Florida.

The property contains two separately owned parcels totally 450.7 acres. The current mining operation is located here in blue, and the expansion parcel is in yellow. There is a current conditional use that permits the existing operation, and this petition is seeking to establish a new conditional use over both properties allowing for that expansion into the western parcel.

The properties are zoned rural agricultural within the mobile home overlay and also designated as open lands within the Rural Lands Stewardship Area Overlay. Earth mining is a permitted conditional use within the ag zoning district.

Our master concept plan illustrates a total development area of 451 -- oh, sorry, 421.58 acres. There is an existing access on Edward's Grove Road that will remain. No additional access points are being proposed. As requested by Collier County transportation staff, we've reserved 200 feet along the property's western boundary for the future Little League Road expansion.

Perimeter landscape buffers are being proposed and required by the Land Development Code.

A neighborhood information meeting was held on July 23rd at the Immokalee Sports Complex. We had a total of three individuals that participated virtually, and to date no objections have been received.

And then just to quickly run through the conditions of approval. Condition No. 1 limits the development of the property to what is shown on the master concept plan.

Conditions 2, 7, 10, and 11 are related to the need for federal and/or state-level permits if applicable.

Condition No. 3 requires exotic vegetation removal from the site.

Number 4 limits the hours of hauling activities from 5:00 a.m. to 5:00 p.m., and excavation and processing activities are permitted 24 hours a day, seven days a week.

Number 5 requires a berm to be constructed.

Number 6 limits the site to 49 two-way peak-hour trips.

Number 8 requires a littoral shelf planting area to commence during the reclamation phase per the LDC.

Number 9 requires signs to be posted along the entry drive related to the possibility of panther presence so drivers use caution while driving.

And No. 12 requires the western 200 feet of the site to be reserved for that right-of-way for

Little League Road.

And, lastly, No. 13 requires that the petitioner be responsible for maintenance of Edward's Grove Road.

And then I'm going to have the engineer come up and discuss some traffic.

MR. THRUSHMAN: For the record, Carl Thrushman with Davidson Engineering.

CHAIRMAN FRYER: Your last name again, sir.

MR. THRUSHMAN: Thrushman.

CHAIRMAN FRYER: I'm sorry?

MR. THRUSHMAN: Thrushman, T-h-r-u-s-h-m-a-n.

CHAIRMAN FRYER: Thank you very much.

MR. THRUSHMAN: So the existing mine operates under the 2003 conditional-use approval wherein the approved Traffic Impact Statement estimated the two-way p.m. peak-hour trips as 28 vehicles, yet it did not establish a maximum trip capacity. Since then, we have identified, through real recorded data and field counts, the mining facility generates up to 49 two-way p.m. peak-hour trips.

There are no proposed our future associated -- I'm sorry. There are no proposed or future trips associated with the conditional-use application. In other words, the 49 two-way p.m. peak-hour trips are already on the roadway network today and need to be officially banked for the project.

Per the 2019 AUIR data, State Road 82 exceeds capacity; however, roadway improvements are currently funded and the construction has commenced. Therefore, by Florida Statutes, the petition is consistent with the GMP, and staff has recommended approval.

So on this slide you'll see the proposed improvements to State Road 82. They're going to make that a four-lane divided roadway and then also create a roundabout at State Road 29 and 82.

And now we have a short video we'd like to share. So this just kind of gives an overview of the operation out there at the mine.

COMMISSIONER FRY: Was it taken at night?

MR. THRUSHMAN: It sure looks like it, right? Just imagine the big hole in the ground.

COMMISSIONER FRY: I couldn't resist. I'm sorry.

COMMISSIONER SCHMITT: That was good.

(The video was played as follows:)

Florida, life, just the words bring good things to mind. Natural treasures, miles of shoreline. Seemingly endless blue ocean. Golf, lots of golf. Aquatic life, wildlife, birdlife, plant life. World renowned destinations, theme parks, and historic places.

A thriving economy and all that Florida has to offer, accessible from one of the nation's most complex and efficient major inner highway systems. None of this sustains itself. Even Florida's greatest natural asset, our beaches, require maintenance, renourishment, enhancement. Golf courses don't remain green or even challenging without human intervention. Roadways don't pave or repair themselves.

For Florida to remain Florida, as we love it, takes a little bit of help. Materials help, but it's a process.

Stewart Materials is a privately held Florida-based aggregate materials product company. Since 1982, it has evolved to become one of the largest suppliers of inland sourced, processed, controlled materials in the state of Florida.

In the simplest terms, the process leverages an environmental life cycle that removes raw materials from the earth. It then processes and refines the materials for a variety of uses: Beach renourishment, golf course nourishment, roadway, and other construction as well as a host of other uses.

The raw material is sand. Few people are aware of how vital a resource sand is.

Remove sand from our lives and life would be different; not just Florida life, all life.

Stewart Materials uses sand in many different variations to responsibly enhance Florida life. Ultimately, our customers are the residents and visitors of Florida. The men and women who call Stewart Materials home are all professionals, most home grown, some transplanted. All Floridians.

They each bring specialized skills, education, and experience to bear in our work sustaining and responsibly enhancing Florida.

Florida, life, as good as it is, as good as it gets. It doesn't happen naturally. It can't sustain itself. In the void, you find Stewart Materials meeting the daily challenges of responsibly enhancing Florida life. We start with social and environmentally responsible processes. Our green-centered approach encompasses a post-use methodology and planning phase that begin even before a site is launched. The question we ask is simply: How will we lead this place? How will it eventually serve the community?

COMMISSIONER KLUCIK: Mr. Chairman?

"Post use, every material recovery site is returned to the --"

COMMISSIONER KLUCIK: Could we pause this for a second?

"-- community as it is found or as is often the case --"

(Video paused.)

CHAIRMAN FRYER: Yes. Can it be paused, please.

Thank you. Go ahead, Commissioner.

COMMISSIONER KLUCIK: This is a lovely video. I'm just trying to figure out the purpose of showing it to us, especially considering -- I mean, if it was, like, a 30-second nice little thing, but --

CHAIRMAN FRYER: I was kind of asking myself the same thing --

COMMISSIONER VERNON: Thirty seconds left.

CHAIRMAN FRYER: -- but I think they're trying to show how they participate in the good -- what good is going on in Collier County by means of sand. So, I mean, I think it's pertinent, maybe running a little long, but it's pertinent. How much longer will it go?

MS. HARRELSON: It's almost over.

CHAIRMAN FRYER: Okay. Let's bring it on down.

COMMISSIONER VERNON: Close.

(The video continued as follows:)

-- enhanced to manifest and sustain greater community good. Stewart Materials' mindset is always to go beyond, beyond the givens, beyond the mandates, beyond the requirements.

Responsibly enhancing Florida. It's not that we have to. It's that we get to.

(The video concluded.)

CHAIRMAN FRYER: Okay, thank you.

No one has signaled at this point, and -- any other -- Commissioner Schmitt.

COMMISSIONER SCHMITT: Oh, I was going to ask staff some questions when they come up for their presentation. I'd like to ask staff.

CHAIRMAN FRYER: Okay.

COMMISSIONER SCHMITT: Well, I do have one question for the petitioner.

Jessica, do you have -- well, two questions. One I asked you on the phone about blasting.

MS. HARRELSON: No blasting.

COMMISSIONER SCHMITT: There is no requirements for blasting, so that's a moot point. But the other one I didn't ask and -- what is the depth that you dig to as far as --

MS. HARRELSON: Eight-five feet.

COMMISSIONER SCHMITT: And are --

MR. THRUSHMAN: It's 85 feet from the control elevation.

COMMISSIONER SCHMITT: Okay. And from the county's perspective, is that pretty well monitored by the county, or is that --

MR. THRUSHMAN: I believe --

COMMISSIONER SCHMITT: -- depth controlled --

MR. THRUSHMAN: I believe so, but I'd have to defer that to --

COMMISSIONER SCHMITT: Or is that depth controlled through permitting requests?

MR. THRUSHMAN: Through the excavation permit.

COMMISSIONER SCHMITT: Through the excavation permit.

But as far as the littorals or anything else, you wouldn't be required to do any of that unless you were going to convert it to a residential property?

MR. THRUSHMAN: Right. The littorals would be part of the reclamation plan for the --

COMMISSIONER SCHMITT: The -- okay. Do you have a reclamation plan for this yet, or is -- or nothing anticipated at this time?

MR. THRUSHMAN: Not at this time, but I believe it will be a part of the excavation permit.

COMMISSIONER SCHMITT: Okay, thanks.

CHAIRMAN FRYER: Commissioner Shea?

COMMISSIONER SHEA: So mining will continue on both sites?

MS. HARRELSON: Mining is almost complete on the existing site, so it will expand over to the western parcels once everything's approved.

COMMISSIONER SHEA: And the accesses to the new site will be through the existing Edward's Grove?

MS. HARRELSON: Right.

COMMISSIONER SHEA: Who owns Edward's Groves [sic] Road?

MS. HARRELSON: I would defer that to transportation if that's a public road.

CHAIRMAN FRYER: Mike, we've got the other microphone.

MR. SAWYER: Thank you, Chair. I keep forgetting that.

For the record, Mike Sawyer, Transportation Planning.

I would want to double-check and make sure the ownership of the roadway. I know the requirement is that it's being maintained by the mine itself.

COMMISSIONER SHEA: So what does that mean?

MR. SAWYER: It means that --

COMMISSIONER SHEA: First of all, is it a paved road, or is it a dirt road?

MR. SAWYER: Again, I would have to double-check --

COMMISSIONER SHEA: It's a dirt road --

MR. SAWYER: -- Commissioner.

COMMISSIONER SHEA: -- or it's a paved road you've got so much dirt on it you can't tell the difference. So you've got a choice there.

MR. SAWYER: I believe at this point it probably is a dirt road but, again --

CHAIRMAN FRYER: Mr. Sawyer, is there a phone call you could make, perhaps, to get that answer before we vote?

MR. SAWYER: I can try, yes.

CHAIRMAN FRYER: Would you? Appreciate it.

COMMISSIONER SHEA: Well, what I'm looking for is what is the applicant's responsibility for maintenance? I visited the site, and I'll tell you what, in most states of the

Union, that site would have been shut down based on that one day. I've never seen so much dust in my life coming from a site. So I'm wondering who's responsible. There's a mile road, and it's just a big cloud of dust. And I -- I'm trying to find out who's responsible. Should the road be paved and swept? I mean, there -- I don't know what the answer is, but I'm certainly not in favor of continuing traffic like that.

CHAIRMAN FRYER: Let's ask Mr. Sawyer if he can get an answer to that question before we vote.

MR. SAWYER: I will do that as soon as I get back to my chair.

CHAIRMAN FRYER: Thank you, sir.

MR. THRUSHMAN: Just one thing. For the record, Carl Thrushman again. The road is owned by the county, and part of the conditions in the conditional use is that millings are used for that roadway, and they're required to maintain it.

COMMISSIONER KLUCIK: I'm sorry. What did you say? Part of it is what? I just couldn't hear what you said.

MR. THRUSHMAN: Okay. They're supposed to put asphalt millings on the road, which are there, and they're required to maintain the roadway.

COMMISSIONER KLUCIK: The applicant or the --

MR. THRUSHMAN: The applicant, yes.

COMMISSIONER KLUCIK: The applicant.

COMMISSIONER SHEA: So how is that enforced? Because, I mean -- quite frankly, it was not maintained. And I know it's only one day, but it certainly looked like a pretty typical day. And this is a question in general. I'm not for extending the use on something that's not really being taken care of and is having an adverse impact on the local -- I mean, there's cattle around breathing dust. There's orchards. There's crops all around getting saturated with dust. What's the enforcement on maintenance of the road? And that's a general question. I don't know who to ask.

CHAIRMAN FRYER: I assume it would be Code Enforcement, would it not, County Attorney?

MR. KLATZKOW: I have no idea. How do you like that? We have multiple mines throughout the county. I don't know if we actually take any look at them as far as their operations go or not. I know we have staff that can answer that question. And I would ask that staff come back and answer that question.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SHEA: I think what makes it unique is it's a mile-long access road, and I think it's just a dirt road, which makes it worse. And if it's a paved road with dirt on it, that's even worse because nobody's tending to it.

CHAIRMAN FRYER: Good point. Anything else, Commissioner Shea?

COMMISSIONER SHEA: No.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Jessica, I'm not a -- I'm not as well versed in earth mining as Commissioner Schmitt, perhaps, so I have a couple maybe more basic questions. Why is 24-hour -- 24-hour-a-day excavation and processing needed on site?

MS. HARRELSON: So that's -- that's typical for an earth mining operation, and that's just to meet their operational needs.

COMMISSIONER FRY: Okay. I mean, I noticed a barge on the water. Is the sand being mined -- is it being dredged from the bottom of the lake? So the lake is just getting deeper and deeper? Please explain the process.

MR. THRUSHMAN: So the dredging process is a 24-hour process. So that dredge is constantly running all day every day. But the hours for employees and truck hauling are only from

5:00 a.m. to 5:00 p.m.

COMMISSIONER SHEA: So that the dredging operation is not generating a lot of noise or dust as Commissioner Shea is --

MR. THRUSHMAN: No, no.

COMMISSIONER FRY: Okay. And then -- so is all of the sand coming from the bottom of the lake?

MR. THRUSHMAN: Yes. So, you know, as they dredge deeper, you know, this is more sand until they reach 85 feet.

COMMISSIONER FRY: So how will the other -- the additional site, if approved, will there be a large lake constructed there as well that is dredged similar?

MR. THRUSHMAN: Correct. We'll just expand the mine further west.

COMMISSIONER FRY: So the dry land areas are all for processing, loading trucks, and that type of activity? All of the sand comes from the bottom of the lakes?

MR. THRUSHMAN: Correct.

COMMISSIONER FRY: Okay. Can you -- just looking at the aerial. I've got the satellite image up. It looks to me as if Edward's Grove Road dead ends into the northeast corner of the property but yet there are arrows, north/south arrows down along the middle of the property. And I'm just curious, does Edward's Grove Road, is it going to continue alongside the --

MS. HARRELSON: No. Those arrows just demonstrate internal circulation in the site.

COMMISSIONER FRY: Okay. So Edward's Grove Road officially ends at the northeast corner of the site?

MS. HARRELSON: That's correct.

COMMISSIONER FRY: Okay. I saw -- there's a note saying possible relocation of the processing plant to the northeast corner. How possible is -- how likely is that and why?

MR. HARRISON: They may want to mine the area of the existing processing plant and just locate it within this area here.

COMMISSIONER FRY: Okay. It seems to be surrounded by all agricultural lands.

MS. HARRELSON: That's correct.

COMMISSIONER FRY: I thought it was unusual that they would maintain a road alongside the properties that I assume are owned by other people. It looks like citrus farming to the north. That Edward's Grove Road comes from State Road 82.

MS. HARRELSON: Right.

COMMISSIONER FRY: It passes several other fields, agricultural fields. So those are all owned by other homeowners, correct?

MS. HARRELSON: Correct, correct.

COMMISSIONER FRY: Okay. It says that it meets the criteria for the RLSA, and I'm curious. The RLSA has several components to it, and one is not converting agricultural lands. This is considered a conditional use under the agricultural. Is there any land being preserved as part of this conditional use as part of --

MS. HARRELSON: No, that's not a requirement.

COMMISSIONER FRY: Okay. So it's simply a conversion of the use of part of this property with no other impacts within the RLSA program?

MS. HARRELSON: Correct. And it's open land, designated as open lands within the RLSA.

COMMISSIONER FRY: Okay.

CHAIRMAN FRYER: Before I call on Commissioner Schmitt, I just want to interject, following up on what Commissioner Shea said and the question he asked about the condition of the road. Would the applicant object to another condition being added in the conditional use calling for more rigorous maintenance of the road? Better cleanliness?

MR. KLATZKOW: I'd really get a staff person down here to see how exactly we handle this.

CHAIRMAN FRYER: Okay.

MR. KLATZKOW: This is where I miss Stan being on the Planning Commission, because Stan would know this like that. But we only have a handful of these mines. I do know that they're regulated. I just -- this issue comes up so infrequently that I would prefer the staff person who would have to actually regulate them tell you what they would need.

CHAIRMAN FRYER: Well, if staff is maintaining, then we'll get that answer that -- withdraw the question. But if the burden, indeed, falls upon the applicant, if it turns out that that's what the situation is, I'd like to see some, perhaps, stronger language in the conditions and just be thinking about whether you would accept that. Go ahead.

MR. STEWART: I'm Nick Stewart, Stewart Mining.

And originally the roadway was a dirt road that was a 60-foot -- excuse me -- 30-foot-wide county right-of-way road. Our requirement when we originally opened the mine was to put millings on it or asphalt-type millings.

What happens is --

COMMISSIONER KLUCIK: Explain that, because it's been -- that's just a term I'm not familiar with.

MR. STEWART: Millings are crushed asphalt --

COMMISSIONER KLUCIK: Okay.

MR. STEWART: -- that then is placed and it bonds back together and, typically, millings is a bondable surface, does not have dust.

What is happening is, is the truck drivers will periodically open their tailgates as they're going down the road, and it drops sand on the road. We have to go out there continuously and clean it back off. And we tried -- we've even tried police enforcement, you know, to have that stopped. And they just lighten their load a little bit, and then they go down the road. So that's how that is happening. We also run water trucks on the road to try to wash it off when that occurs as well.

Over the years, we have cleaned up the roadway from -- with pepper trees, and it is a county -- county-owned property -- or easement. And that's also a favorite tire dumping area. And so we're constantly cleaning up tires and disposing of them in -- you know, in a high capacity.

The land, we do mine the top portions. The land is mined from the top all the way down to 85 feet. The dredges are electric. They run with the very -- there's a three --

CHAIRMAN FRYER: Excuse me, sir. I apologize for interrupting you, but I don't think you're responding directly to my question, and that is -- I'll ask it another way.

Commissioner Shea stated a condition that he observed, and it sounded pretty dirty. And so my question restated is, for the applicant, does anyone from the applicant disagree with what Commissioner Shea observed?

MR. STEWART: I do not disagree with it, because there's certainly times that that does occur, and I would believe that that was in between us, you know, handling it, and it is a constant battle.

CHAIRMAN FRYER: Okay. If you want to -- if you want to finish what you were saying -- and I apologize for interrupting, but I just -- I wanted to get an answer to his question and my question.

COMMISSIONER KLUCIK: Mr. Chairman?

MR. STEWART: And we can certainly up, you know, if you're talking about --

COMMISSIONER FRY: Okay. Good --

COMMISSIONER KLUCIK: Just for clarification, I'm assuming you don't agree that you should be shut down?

MR. STEWART: I would appreciate not being shut down.

COMMISSIONER KLUCIK: No. I mean, because that was part of the commentary that anywhere else this would be shut down, and it should be shut down.

COMMISSIONER SHEA: If it was a construction site. I don't know what the regulations are for mining sites, but if it --

COMMISSIONER FRY: Commissioner Shea, was -- that condition of dust, was that confined to the roadway, or is it -- are you talking about the entire site, the processing plant as well?

COMMISSIONER SHEA: No, just the roadway.

COMMISSIONER FRY: Roadway. Thank you.

CHAIRMAN FRYER: And, once again, before I call on Commissioner Schmitt, which I'm going to do immediately after this short statement is simply to remind everyone -- and I'm going to remind myself as well, because I'm a frequent offender -- let's not talk over one another. It's impossible for the court reporter to do her job when we do.

So with that, I'll call on Commissioner Schmitt.

COMMISSIONER KLUCIK: And I'd like to get in line.

COMMISSIONER FRY: Yes, sir. Thank you.

COMMISSIONER SCHMITT: This is relatively easy. We make it a condition, and it's -- it is definitely a requirement of the permit. If you get a permit from the state for mining, I have to believe that dust control is a -- is required. It's required on any construction site. It's required under any -- under the EPA guidelines. It has to be required under the state. We can -- the part that annoyed me about this was we made a very clear statement in the conditional use that -- one of the conditions, that you have to seek the appropriate state and federal permits. Well, that's -- that's perfunctory. You have to do it anyway. And I brought that up to Jessica. That was one of the points I was going to bring up to staff. Those kind of conditions are a waste of energy and time, because they have to be done as part of the code.

But we can be very specific in the requirements and it can place in a condition to impose dust control.

Now, you -- the dust control is a very engineering and scientific issue. You can't go out and put oil down on the road anymore. You can't do any of those type of things because that's an environmental impact. But there are dust control measures that can be utilized.

The problem with using water, water is a very short-term process. And then when the trucks pass down the road, all they're doing is picking up mud and then bringing it out onto the main thoroughfare, which is unacceptable as well. But we can make it very easy and a requirement that you have to maintain dust control 24/7. That is -- that -- we can place that condition on the -- on this conditional use.

And it would be -- whether it's a county road or a private road, it would be the applicant's responsibility to control dust. Just like any construction site. Paul, you know that as well. I mean, it's any construction site.

The other point I did want to make, though -- and I believe you said these are electric, but it's a hydraulic dredge, is it not? It's nothing more than vacuuming sand off the floor of the lake and pumping water and sand and then separating the water from the sand?

MR. STEWART: That's correct.

COMMISSIONER SCHMITT: That's pretty much what it is.

MR. STEWART: But it's done through electrical means.

COMMISSIONER SCHMITT: Through electrical means.

But, again, we can make very easily -- I want to hear from staff, though, because it would have to be enforced by periodic visits either from the engineering department -- which they do. And County Attorney was correct, Stan would know this immediately. I don't recall anymore.

But engineering controls any type of mining. And their inspectors typically go out and validate that they're in compliance with the conditional use, and then we would place conditions that an engineering inspector would inspect as well.

MR. KLATZKOW: Mr. Chair, completely agree with Mr. Schmitt. The problem right now, as I understand it, Matt McLean is on vacation. He would know. The other person I think who might know, not to the extent that Matt would know, would be Jamie French. If we can get Jamie French at least on the line to weigh in on this, what they would need as a staff, you know, for enforcement. But Mr. Schmitt is absolutely right. I just would like the details for staff to recommend.

CHAIRMAN FRYER: Understood, and I'm inclined to agree with Commissioner Schmitt, too, and I think we should wait for someone from staff who's knowledgeable.

MR. KLATZKOW: I mean, if we could just table this until we can just get a staff person who has knowledge on this.

COMMISSIONER SCHMITT: And I need to know as well -- because clearly it should be part of the state permit. There should be language in the state permanent.

MR. KLATZKOW: I absolutely agree with you.

COMMISSIONER SCHMITT: I don't have access to that, or I would have looked it up.

MR. KLATZKOW: Yeah, I couldn't agree with you more. I just want language that staff could say, yes, we can enforce that.

CHAIRMAN FRYER: Fair enough.

MR. YOVANOVICH: Can I just make a suggestion --

CHAIRMAN FRYER: Go ahead, Mr. Yovanovich.

MR. YOVANOVICH: Rich Yovanovich, for the record. I didn't quite make it two hours like I did the last meeting, Mr. Fry, before I spoke.

Can I make a suggestion? Obviously, we don't object to a condition that says we maintain the road dust free. We put that in the conditional use.

The next part of this process, as Mr. Schmitt knows, and maybe some of you have seen earth mines come through this, is we'll be back with the actual permit, so we won't have the ability to actually expand yet until the permit comes back to you-all sitting as the EAC.

So you're not -- you're not -- you're going to see all those level of details as far as the depth and all that stuff at the next permit. So if you -- we would, obviously, agree to a condition to maintain the road dust free, and then when we come back, we can get into all the details that you're asking now about how it happens, and we'll answer all those questions on how it happens. But you will be seeing the permit next, the excavation permit next.

CHAIRMAN FRYER: Before I call on Commissioner Klucik, I'm going to recommend that we follow the lead of the County Attorney. And with respect to the dust questions and the conditions, we probably should wait until we hear from someone from staff who's knowledgeable and then return to the subject and decide what we want to do.

Subject to that, Commissioner Klucik, go ahead.

COMMISSIONER KLUCIK: Well, I guess I was going to suggest that it seems as though all we have to do is add a couple words to Condition 13 -- I'm looking at it at Page 150 in the agenda -- to Condition 13 to mention the dust. And, you know, as Mr. Yovanovich said, the commission, County Commissioners, as well as our Planning Commission, will have a chance to then -- rather than delay it --

MR. KLATZKOW: Well, it's not delaying.

COMMISSIONER KLUCIK: We will have a chance --

MR. KLATZKOW: I'm not asking it be delayed. I'm just asking, table it so I can get somebody on the phone.

COMMISSIONER KLUCIK: Okay. So we're talking about resolving it today.

MR. KLATZKOW: Yes.

COMMISSIONER KLUCIK: Well, that makes sense, then. Sorry.

CHAIRMAN FRYER: Mechanically, I think it's a pretty easy fix. But the County Attorney has raised a good point. We want to hear exactly --

MR. KLATZKOW: All right. I see Jamie now.

CHAIRMAN FRYER: Oh, good.

COMMISSIONER SCHMITT: Is Matt McLean -- Matt would -- oh, Jamie.

MR. YOVANOVICH: Matt's on vacation. I can't believe --

CHAIRMAN FRYER: The chair recognizes Mr. French.

COMMISSIONER SCHMITT: Who told him he could take a vacation?

MR. KLATZKOW: I heard that.

MR. FRENCH: I approved it. For the record, Jamie French, Deputy Head for Growth Management Plan. I ran upstairs, so my apologies.

MR. KLATZKOW: It's one flight, Jamie.

MR. FRENCH: I was double booked, so I was on another call, but -- I apologize. I missed the question. What's the question, sir?

CHAIRMAN FRYER: The question has to do with the condition of the road and the ownership and maintenance responsibility of the -- what's it -- Edward's Grove --

MR. FRENCH: Okay.

CHAIRMAN FRYER: -- Road. Are you knowledgeable about that?

MR. FRENCH: A little, yes, sir.

CHAIRMAN FRYER: Can you tell us what you know.

MR. KLATZKOW: And a little more than that. Commissioner Shea was actually at the site. Commissioner, do you want to tell Jamie what you saw there, and Jamie could get a better idea.

COMMISSIONER SHEA: I guess the part that was upsetting, this is a big operation, and it takes a big cleaning operation, and there was no cleaning -- I couldn't tell -- the roads were dirt roads to me, and it was just a cloud of dust for a mile, dust flowing over the orchards, flowing through the cattle fields. And my question was, who's responsible for that? If that was a construction site, it would have been shut down immediately.

MR. FRENCH: Well, if it was an active construction site, they do have an obligation under the Land Development Code and even under the building code to maintain their site.

In this particular case, as this development would move forward, in the event that it would create a public nuisance, we would address that through Code Enforcement. But the maintenance responsibilities would be -- would be addressed in any type of Site Development Plan that would come forward for us to review and approve.

COMMISSIONER SHEA: So you'd -- like, for instance, they said they hose it down, they wash it down.

MR. FRENCH: For dust control.

COMMISSIONER SHEA: Where does what wash water go? Because now you're just moving the dirt someplace else it probably shouldn't be. So I know that's a detail, but we're approving a conditional use and, to me, the end result helps me in making a decision whether to approve a conditional use.

MR. FRENCH: Well, sure. So there's also additional codes that exist within the Code of Laws and Ordinance for Collier County. And, essentially, what happens is that there's a Pollution Control Ordinance. So in the event that they'd be washing anything, pollutants, that would get into our stormwater system, again, there's a requirement that they would have to meet -- in the event that they violated it, we would address that through Code Enforcement as well, whether or not it was approved or not. So whether it's an active construction site -- so, for example, if it's an active

construction site, they don't have silt fencing to keep out those contaminants, then we would address that through the permitting as well as through our Code Enforcement.

MR. KLATZKOW: Jamie, do we need additional language in the conditional use, or is the ordinances -- and then will the permit be enough to control the situation?

MR. FRENCH: The ordinance should -- the ordinance itself should suffice as well as any Site Development Plan, and we would identify conditions within the Site Development Plan that would be reviewed and approved administratively.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, sir. Oh, who said that?

COMMISSIONER KLUCIK: As soon as you're done, Mr. Attorney.

CHAIRMAN FRYER: Go ahead, Commissioner.

COMMISSIONER KLUCIK: So what I would say is it makes sense that we have a concern, but what seems to be getting lost in this is two things. It doesn't appear -- well, we certainly haven't heard any evidence of any complaints, you know, from the people that are most directly impacted on this, and so without the complaints and then, you know, we have a lack of enforcement. I'm assuming that a similar condition is already in place as Condition 13. That already is in place on the current operation; is that true?

MR. YOVANOVICH: Yes.

COMMISSIONER KLUCIK: And so what we have is a lack of complaints and a lack of enforcement. And I just want to make it clear that we shouldn't be coming down hard on the applicant if those two conditions are really -- you know, maybe I'm wrong. Maybe there are a lot of complaints, but we haven't heard that people are complaining. And I'm not doubting the seriousness of what you saw. It just seems as though what we have is, rather than becoming more rigorous in what we're imposing, it sounds as though we have an enforcement problem.

CHAIRMAN FRYER: Ms. Cook, do you want to weigh in on this?

MS. COOK: Yes. For the record, Jamie Cook, Principal Environmental Specialist with the Development Review Division.

In answer to Commissioner Schmitt's question, sorry --

COMMISSIONER SCHMITT: That's a mouthful.

MS. COOK: The Development Review Inspections Team inspects active mining operations once a month, at least 12 times a year. So the site will be inspected by staff to make sure that they are complying with these conditions.

MR. KLATZKOW: Do you need any additional language to help you as far as the dust goes?

COMMISSIONER KLUCIK: Number 13.

MS. COOK: I mean, if the applicant is open to adding that condition for dust control, yes.

MR. KLATZKOW: No, it's not a question of open. Do you need this to enforce it?

MS. COOK: I don't believe that we do, no.

MR. FRENCH: So -- and if I could just clarify for the record with regards to Code Enforcement --

CHAIRMAN FRYER: Mr. French. The Chair recognizes Mr. French.

MR. FRENCH: Thank you, my apologies.

So the way Code Enforcement works is that we don't monitor. We don't go out and patrol. So if we receive a verified complaint, meaning that a person calls in, we can verify that it is a person, whether they're a resident or not, that we can have a conversation, so we record that, we will go out and inspect the site. So if you -- so if anyone within the county, so whether it be a visitor, whether it be a resident, if they see a violation, we'll certainly go out and we'll look at that. And in the event that there is a violation, we'll open a case.

And we take more of an educational approach to give the property owner or the business

owner the 30-day window of time. And in the event that there's a hardship or there's a reason why they can't perform that function within 30 days, we work with them before we take them in front of the Code Enforcement Board or the Special Magistrate.

So our Code Enforcement team is very active. And I'm only saying this in response to the commissioner's lack of enforcement. Well, the lack of enforcement simply is that if we get a complaint, we will -- we'll run it down.

MR. KLATZKOW: The real issue here is, do we need language added to these conditions?

MR. FRENCH: No, sir.

MR. KLATZKOW: Okay.

MR. FRENCH: No, sir.

COMMISSIONER KLUCIK: And what I want to say, Mr. Chairman, is it certainly wasn't a dig at Code Enforcement. It was just reminding everybody, you know -- whatever. No one needs to be reminded. But just stepping back. For me, important factors are, that we haven't -- you haven't -- you know, you have a notice now from Mr. Shea. You know, I don't know if that is considered enough for Code Enforcement to go out there. It seems like it should.

MR. FRENCH: It is.

COMMISSIONER KLUCIK: And so now we can -- you know, we're all aware that this might be something to monitor more closely. Because regardless of a -- you know, the lack of the complaints might just be that everyone has given up complaining because it's just always dusty near the sand mine.

The point being that we seem to have language in there that allows us -- that's what I'm hearing. We already can enforce dust control. And my perspective would be you don't make regulations more onerous or rigorous in the face of lack of enforcement. You enforce them rather than expand, you know, the tentacles or, you know, the rigors of the government regulation.

And that's what I would hope that we can see, that maybe we don't need -- we just need -- we can always come back, I think. We can -- you know, even before this gets approved by the County Commission or when they come back through the process the second time to us, we'll already have a report on -- you know, from Code Enforcement on what actually is happening out there.

CHAIRMAN FRYER: Well, it sounds like, from what Mr. French said, that Commissioner Shea's comment will be taken as a formal complaint and followed up with.

MR. FRENCH: Yes, sir.

CHAIRMAN FRYER: Great.

COMMISSIONER VERNON: Mr. Chairman.

CHAIRMAN FRYER: Yes, sir. Commissioner Vernon.

COMMISSIONER VERNON: I agree with what Paul and Joe said, pretty much everybody said, but I have I guess a little bit of a nuance. When I hear the applicant, the applicant said, well, we're trying to control the problem. So it kind of sounds like what they're trying to do, their best efforts, is not working, and I really don't want -- I mean, I want Code Enforcement to do their job, but I don't want to put a greater burden on enforcement. If what's being done is not working, I'd love to see it if the applicant could give us a little more detail on what they're going to do different to permanently solve the problem as the condition --

CHAIRMAN FRYER: And hope --

COMMISSIONER VERNON: -- so that we're not dependent on enforcement. To just go out there every month, and they say, well, we're throwing down water, but these guys are breaking the rules. We've tried law enforcement. We've tried everything. What do you want us to do? I mean, if there's something else they can do so that we work collaboratively to permanently fix the problem, I think that would be great.

CHAIRMAN FRYER: Mr. Yovanovich, before you reply, I've got two commissioners who've been holding for a while. First, Commissioner Fry.

COMMISSIONER FRY: Oh, I thought I was No. 2.

So the way I look at it is I understand our role here is that they're applying to expand their use, and we have the ability to put conditions on that. And in line with what you're saying and what Commissioner Shea are saying, I mean, for my yes vote, if not now, my question is, will we -- at permit time, before this actually expands, will we have a definition of the system, the frequency and the methods used to control the dust so that we can evaluate whether that's sufficient? I agree with Commissioner Vernon that it shouldn't be Code Enforcement. It should be the applicant doing the right thing.

MR. YOVANOVICH: And we're not trying to not do the right thing. You know, we've -- just to answer the question. It's not because people gave up on the complaints. We're not aware of any complaints regarding dust. It wasn't that -- so just rest assured we're not hearing complaints from the neighbors.

I'm not saying that it's never occurred; it's only occurred the one time Mr. Shea went up and down the road. We are committed, and I would -- I would have suggested a condition that as part of the Site Development Plan we bring to staff for their review the dust control method we're going to use so that then you get the assurance that professionals have reviewed it. It's a mechanism that you can do that's allowed under the code.

And we're starting the process now with the permit. So I'm assuming when we get back to you, that method will have been reviewed and approved by staff.

COMMISSIONER FRY: I second your motion.

COMMISSIONER SHEA: Me, too.

MR. YOVANOVICH: So that's -- we're not asking -- we're not blaming staff. We're responsible. The condition says we're responsible, and we're not trying to shirk that responsibility. But if it's not working, we need to come up with a plan that's reviewed by experts, and we'll bring that back to you as part of the permit, if that is an acceptable --

COMMISSIONER FRY: That satisfies --

COMMISSIONER SHEA: That's fair.

COMMISSIONER FRY: That satisfies my concern.

I have one question for Mr. Stewart, since he's still up there.

Mr. Stewart, the video seemed to emphasize the use of your sand products on beach renourishment. What other uses of the sand are there? What are the beneficial uses?

MR. STEWART: The beneficial uses are our sand is used in concrete, in the production of concrete. We're the largest supplier of mason sand for the masonry people in the state of Florida. We serve both coasts, you know, west coast and the east coast via Alligator Alley.

Our materials are used in the golf course industry, and we're one of the largest in producing those materials. We also do work for Lee County. We do volleyball courts. We do horse tracks. We do everything that is applicable, typically, to sand.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: Thank you, sir.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. One of the biggest uses for the sand right now -- of course, they're re-nourishing the beach right now, and the trucks are hauling. That's probably why you've seen the dust.

Jamie, I do have a question, because we -- typically, when there's blasting or other -- any other type of excavation, we send an engineering staff out as an inspector, one of Jack McKenna's guys. And I forgot some of the names that are down there now. But we always send out inspectors to evaluate. Jamie is correct, from an environmental standpoint, we send out.

My recommendation is we add -- but tell me, are -- we still have people that go out and do periodic inspections of these type of permits. That's Engineering responsibility.

MR. FRENCH: Yes, sir. Thank you.

COMMISSIONER SCHMITT: Under Jack McKenna's team or Matt McLean?

MR. FRENCH: Yes. So that is currently under the purview of our county engineer. We do have an inspection team, and although the names have changed, I can assure you that the institutional knowledge is still intact. Joe Bianchi now heads that group up; used to be No. 2, you know under Daryl Hughes many years ago. But, yes, we're out there quite often.

COMMISSIONER SCHMITT: Daryl's not there anymore?

MR. FRENCH: He's in North Florida, retired.

COMMISSIONER SCHMITT: What's he doing retired?

I would recommend that we make it a stipulation that as part of this, that the -- that the applicant submits a formal dust control plan for review by the county, by the county engineer, and it would be enforced by the county engineer, and I think that's the best way to handle this.

CHAIRMAN FRYER: I'm inclined to agree and just going to -- subject to what we hear from staff when they formally present and any members of the public, but at the appropriate time I think that should be included --

COMMISSIONER VERNON: I would second that motion.

CHAIRMAN FRYER: Yeah. But before we take formal action, we've got to run through the agenda in the proper order. We haven't really officially heard from staff yet. But that -- but I am inclined, personally, to agree with your approach.

And no one has signaled at this point. Any other commissioners wish to comment before we ask, before we proceed --

(No response.)

CHAIRMAN FRYER: Sounds like not. Does the applicant have anything further, or are we going to staff?

MR. STEWART: Unless you have any questions.

CHAIRMAN FRYER: Well, I've got -- actually, I do. I want to talk about traffic. And my concern, I believe, has been adequately addressed and will be adequately addressed when staff's presentation comes along, and it was teed up in Ms. Harrelson's presentation, and I'm talking about the pending road improvements.

Were it not for that, I would be very concerned about the additional traffic going on here. And when I say "additional traffic," let me tell you what I mean, and then you can tell me if I'm reading this wrong. But it looks to me as though, first of all, there are, at the present time -- well, I'll say it another way. Proposed trip generation has truck traffic 34 two-way peak p.m. Now, somewhere else in here I believe it's mentioned that the additional site, the companion site is not going to generate more traffic. So the base number is 34.

My question is: You're asking for 49. And so why? What is the -- what is the basis for going above 34?

MR. THRUSHMAN: So the 34 is the truck trips, and the additional 15 are employee trips. So 34 and 15 --

CHAIRMAN FRYER: Okay. I can do the math. Wait. Before you go; before you go, though. The -- lost my train of thought here for a moment. The current conditions are 49 based upon truck plus employee?

MR. THRUSHMAN: Yes. Using, you know, current data. You know, before the original TIS, just use another mine as an example. This is actually taking data from this mine.

CHAIRMAN FRYER: Did you do an actual traffic count?

MR. THRUSHMAN: Yes.

CHAIRMAN FRYER: You did, okay. And 49 was the number?

MR. THRUSHMAN: Forty-nine for the p.m. peak hour, yeah.

CHAIRMAN FRYER: Okay. That answers my question. I just wanted to be sure that there weren't additional trips being asked for, but you've clarified it. Okay.

And the 2020 AUIR, of course, paints an even more dire picture of the segment in question. But in my conversations with staff, I was given to understand that it's going to be fully remediated by the work that's underway. But I'm going to wait for Mr. Sawyer to make his presentation just to confirm that. So thank you.

I don't have any further questions.

Commissioner Shea, you're signaled, sir.

COMMISSIONER SHEA: So I guess it's another enforcement question. When I was on a mile-long road, I'd be shocked if there weren't more than 49 trucks on that road with me. What's the enforcement? I mean, they say 49 trucks. So somebody ever count them, or -- I mean, there were -- there had to have been more than 49. There were -- they were no more than 100, 200 feet apart, and they were going both ways.

COMMISSIONER FRY: As the traffic consultant, sir.

MR. THRUSHMAN: So the 49 is for the p.m. peak hour, which is from 4:00 to 6:00. The mine closes at 5:00, so we got an hour overlap there. So within that hour, 49 trips is what we anticipate.

COMMISSIONER SHEA: But your a.m. peak hours are going to be more than your p.m. peak hours.

MR. THRUSHMAN: Right, but, again --

COMMISSIONER SHEA: So should there be a different criteria for this type of operation?

MR. THRUSHMAN: So the peak hour for this roadway is in the p.m., and that's what we look at.

CHAIRMAN FRYER: Actual peak hour is in the p.m.?

MR. THRUSHMAN: Yes, per the AUIR.

CHAIRMAN FRYER: How did you determine that, sir?

MR. THRUSHMAN: From the AUIR data.

CHAIRMAN FRYER: Did you physically observe to confirm that the peak p.m. hour is the largest volume time frame?

MR. THRUSHMAN: No, we did not.

COMMISSIONER SHEA: What is the peak p.m.? Explain that.

MR. YOVANOVICH: Can I answer the first -- ask for clarification on the first question. Are you asking if we went out there to confirm whether or not the AUIR was right that --

CHAIRMAN FRYER: No.

MR. YOVANOVICH: Are you asking us to confirm when our peak is?

CHAIRMAN FRYER: I was just --

MR. YOVANOVICH: Mr. Shea's asking, I think, that question --

COMMISSIONER SHEA: Yes.

MR. YOVANOVICH: -- which is different than how traffic is measured.

CHAIRMAN FRYER: I am following up on Mr. Shea's -- I want to know the actual traffic there without regard to the AUIR. I want to know what was actually observed by the traffic consultant to determine when your actual -- the busiest hour is.

MR. YOVANOVICH: Okay. That's what I wanted to understand, what the question was before we have to guess what the --

CHAIRMAN FRYER: Well, that's the question.

MR. STEWART: Primarily, our peak times are first thing in the morning. They would start at 5:30 or 6:00, and we have a round of trucks that come through. Those trucks typically take

about several hours if not two or three hours to cycle back. They're going, again, over to the East Coast and to the west coast out of Immokalee.

So we get those probably from 11:00 till 2:00, another wave of trucks. And then in the afternoons they really start dwindling off because there's not enough time for them to pick up a load and then deliver it in a reasonable time. So --

CHAIRMAN FRYER: Okay. And if I may first. The traffic on Edward's Grove is not something we're really looking at. We're concerned about Segment 88, which is on State Route 82, and that's why we would focus peak p.m. and -- so what is happening on your local road is not what we should be necessarily focusing on because --

MR. YOVANOVICH: Right. And to answer your question, Mr. Fryer, we counted only in the p.m. peak. We did not do an all-day count, so I can't tell you today. We told you how it operates, but I can't tell you the actual number of trucks, Mr. Shea. But, yes, I think the busier time of the day is not the p.m. peak, when the county has the busiest time on its road.

CHAIRMAN FRYER: But what we need to look at, I think, is Segment 88 of State Route 82, and in that case, I'm sure the peak p.m. is the busiest time because that's a heavily traveled road.

And so what you're telling us is that your contribution to peak p.m. trips on that segment of county road is going to be limited to 49.

MR. YOVANOVICH: Yeah, that's the -- that's what's actually happening today. So we are part of the background trips.

CHAIRMAN FRYER: Yeah.

MR. YOVANOVICH: So we're already on that road. We're not asking you to let us put more trips on the road.

CHAIRMAN FRYER: Yeah. Does that satisfy your concerns? It does mine.

COMMISSIONER SHEA: I just -- it's probably -- my only question was, how do you enforce that? And -- but, again, that's not an issue for us, so that answers my question.

CHAIRMAN FRYER: Yeah. But I think it's important for us to remember that when we're looking at the intensity of use of the roadways, we're focusing on the segments that are looked at carefully by Collier County, and the ones that -- in this case the one that is deficient at present is Segment 88 of State Route 82, and what I think we're going to hear from Mr. Sawyer will alleviate, certainly, my concerns, at least the concerns that I had before I spoke with them recently.

So let's see. No one else has signaled. Any other commissioners have questions or comments for the applicant?

(No response.)

CHAIRMAN FRYER: Does the applicant have anything further to say?

(No response.)

CHAIRMAN FRYER: Okay. Then we'll call on staff for its presentation. Mr. Bellows.

MR. BELLOWS: Good morning. For the record, Ray Bellows, Zoning Manager. I'm filling in for Tim Finn, who's the principal planner for this project.

This is an expansion of an existing conditional use for earth mining. It's not going to result in any additional trips. They're almost completed with their current site location, and they're moving over to the adjacent. This project's been found consistent with the Growth Management Plan, and Transportation has recommended approval.

And I have a PowerPoint that goes over the 13 conditions, but since the applicant reviewed it, I don't know if we need to do that again, unless you want to see it.

CHAIRMAN FRYER: Did any commissioner want to go over those again? I think we're probably going to add to one of them.

MR. BELLOWS: Yes.

CHAIRMAN FRYER: But I don't personally believe we need to hear it again.

COMMISSIONER SCHMITT: The only question I had, again, was the kind of

perfunctory statement that permits are required. Well, they're required by code. And staff, I guess, saw a need to add that.

MR. BELLOWS: Some of those were --

COMMISSIONER SCHMITT: It's self-explanatory.

MR. BELLOWS: -- continuation from the original conditional use.

COMMISSIONER KLUCIK: Which ones are they? So we have the 13 -- I mean, I think it would be a worthwhile exercise based on your point, Joe, that we actually walk through. You know, it seems like half of these conditions can be eliminated.

COMMISSIONER SCHMITT: Oh, it's Condition 2. The petitioner shall obtain South Florida Water Management District --

(Simultaneous crosstalk.)

COMMISSIONER KLUCIK: Well, there's several, I thought. The wildlife --

(Simultaneous crosstalk.)

MR. BELLOWS: Staff is still recommending these 13 conditions.

(Simultaneous crosstalk.)

MR. BELLOWS: They're still necessary.

COMMISSIONER SCHMITT: -- environmental resource permit or any federal permit.

And, again, any impact on federal guidelines through either U.S. Fish and Wildlife, you mentioned -- they mentioned the sign for panther habitat. Typically, that would come out as part of the federal permitting process or the state permitting process, the requirement for posting of signs or otherwise.

Actually, I would have assumed that that would have been more of an appropriate condition than just simply stating that that they have to get federal and state permits. But I do want to add the other one that I discussed about.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Ray, one question: The westernmost 200 feet has been reserved for Little League Road. I'm looking at an aerial, and I see nothing but farm fields around this property. So what is the vision for Little League Road? I'm expecting to see ball fields somewhere, and I see nothing but citrus groves.

(Simultaneous crosstalk.)

MR. KLATZKOW: You know Heritage Bay?

CHAIRMAN FRYER: Yes.

MR. KLATZKOW: This is going to be Heritage Bay in 20, 30 years. When these lakes are completely dug out, there's nothing left to be mined out of there, you're going to have waterfront property. I'm serious. You'll have waterfront property that you will then get homes around, so that reserving the right-of-way, you know, to access this is absolutely the appropriate long-term plan.

COMMISSIONER FRY: I'm in favor of it. I was just curious what the vision -- is that the vision, that it connects to Heritage Bay?

MR. SAWYER: For the record, Mike Sawyer, Transportation Planning. No, it's not, quite honestly.

The extension of Little League Road to 82 is one of the priorities that we've got currently for the Immokalee area just to get better circulation through the area itself and get another north/south segment other than 29.

COMMISSIONER FRY: To Jeff's point -- and I don't know who answers this, but -- so looking to the future, if this does become -- when this is done with the earth mining operation and now it's converted to homes with waterfront views, there is a reclamation process, I think, that Joe alluded to where this site is restored to being suitable for building and there are no adverse conditions from the existence of the earth mining operation; is that correct?

MR. SAWYER: That's my understanding, yes.

COMMISSIONER FRY: Okay. Looks like Mr. Stuart would like to speak. Oh, I'm sorry.

CHAIRMAN FRYER: Well, we're in staff's presentation.

COMMISSIONER FRY: Sorry.

CHAIRMAN FRYER: And I want to be informal to the point that it can be productive and efficient. But we'll give the applicant an opportunity to speak after staff does.

The next person to speak is Commissioner Shea.

COMMISSIONER SHEA: Just a clarification. Ray, are those 13 conditions also attached to the current conditional use? I thought somebody said those were the same 13 that were on the existing conditional use.

MR. BELLOWS: No. The existing conditional use doesn't have all of those conditions. There's a couple of new ones.

COMMISSIONER SHEA: But they -- the existing one does have several that require permitting that has to be done no matter what?

MR. BELLOWS: Yes.

COMMISSIONER SHEA: Okay.

MR. BELLOWS: That's correct.

CHAIRMAN FRYER: Okay. No one else is signaling, no other commissioners at this point. Mr. Bellows, at the appropriate time, I'm going to want to hear from Mr. Sawyer.

MR. BELLOWS: I think we're ready now.

CHAIRMAN FRYER: Okay. Good. Mr. Sawyer, good morning. Would you please give us some details on the improvements that are planned and the extent of planning and the irrevocability of the project that's underway and how it will remediate the situation on Segment 88.

MR. SAWYER: Yes. Thank you. Appreciate it. That's why I stood -- stayed up here.

What we've got going on is 82, obviously, is the responsibility of FDOT. They are currently working on improvements on 82, which is going to incorporate the mentioned traffic circle at 29. All of those improvements are budgeted for 2020. The anticipated completion is going to be in '21. We confirmed that recently with FDOT.

Just as a reminder, what we look at for consistency, which is really what we're looking at at this point, is a five-year window. And by state statute, if there are improvements in the roadway system, an applicant is able to use that as justification for allowing them to move forward with their development, anticipating that the development itself will occur sometime within that five-year window. When we look at concurrency where we actually put those trips on the system, that's a two-year window. That happens at SDP and platting.

And I'm just doing -- I'm just giving you that just as a reminder. That's one of the things that -- Trinity Scott kind the pointed it out when she was talking about the AUIR. And, by the way, she is available if you want to ask her any questions. She can be unmuted. She is listening.

CHAIRMAN FRYER: I'm sure she is. I think we're happy to take it from you, Mr. Sawyer. Specifically, what you're testifying to is that it's -- the conditions at present are going to be resolved within -- within the five-year horizon that you look at so that it wouldn't be unreasonable or irresponsible of this Planning Commission to allow this conditional use to go forward.

MR. SAWYER: That is correct, Chair.

CHAIRMAN FRYER: Okay. Thank you. Any -- let's see. Commissioner Shea.

COMMISSIONER SHEA: Just an educational question. Define peak p.m. Is there a -- like, is it from 3:00 to 5:00, 5:00 to 6:00 or --

MR. SAWYER: Correct. It's generally the 4:00 to 6:00 hour period, and that is what the GMP directs us to look at, because that is when our trips are occurring on the system at the highest

level. It is also directional. So most of the roadways that we look at, not all but most of them in the p.m. peak, are generally going north and east. So those are the primary directions that we principally look at. Now, if you look at the AUIR, it actually shows you what those peak directions actually are as well as what those peak numbers are and the number of trips that are remaining available.

COMMISSIONER SHEA: So on this particular road what would you say most of the traffic comes from? The -- from the trucks coming off the site or just -- it just seems like the peak time for that road is not in the p.m.

CHAIRMAN FRYER: Well, we're talking Segment 88.

MR. SAWYER: Correct.

COMMISSIONER SHEA: I know, but trucks are coming out of and going onto 82, which is the segment you're talking about.

CHAIRMAN FRYER: Yes.

COMMISSIONER SHEA: But you're defining a peak p.m. later in the day when the truck load is the lowest, and that's probably the majority of the load is 82.

MR. SAWYER: Correct, and that does sometimes happen where we have a particular use that has a higher a.m. as opposed to p.m. But, again, what we need to concentrate on is when our roads are at or nearing capacity, when they are the busiest, that is in the p.m., not the a.m.

What you have occurring in the a.m. is that those trips that people are out on our roadways is a much larger period of time. It's not as concentrated in the p.m. If you kind of think about it, we've got staggered work hours in the morning. People are out dropping kids off to -- off to school, off to daycare.

COMMISSIONER SHEA: That's not what's happening on this road is my point. You're applying a standard -- on this road the traffic is pretty much controlled by the trucks which don't peak in the afternoon. That's -- I'm satisfied with where we're heading. I just --

MS. SCOTT: This is Trinity Scott.

COMMISSIONER SHEA: I'm trying to get educated a little bit.

MR. SAWYER: I would disagree when we're actually talking about 82.

COMMISSIONER SHEA: Okay.

CHAIRMAN FRYER: Let's ask Ms. Scott to weigh in.

MS. SCOTT: Thank you. And I don't have any great entry music. Sorry, Commissioner Fry.

COMMISSIONER FRY: I'm very disappointed.

MS. SCOTT: And thank you for allowing me to -- I'm sorry. Thank you for allowing me to appear via Zoom.

So State Road 82 is actually very similar to the remainder of our roadways in Collier County with a strong influx from the Immokalee area towards the Lehigh Acres area in the a.m. and in the p.m. that reverse commute. So, certainly, you're seeing truck traffic in the a.m., and they come in early, as the applicant had talked about. But for the p.m. peak, which is what we utilize for consistency purposes, certainly that movement back towards the Immokalee area is the p.m. peak based on the data that we collect.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: So, Trinity, what you're saying is although they generate a lot more traffic in the morning, that is not the most stressed time on that road, and so it's not an issue.

MS. SCOTT: From a consistency purpose and even from a concurrency purpose, that is what we would look at is that p.m. peak. So, yes, you're correct.

Now, that doesn't say that -- when they come in for a Site Development Plan or a Plats and Plans, that is when they really start digging into that operational analysis where they will look at their peak times as well, and so they may need to do turn lanes or things of that nature to deal with

when the actual site-specific peak times are. But that analysis is done later on, and that's operational-type analysis.

COMMISSIONER FRY: How can we -- when these trips are already on the road and they're not adding any trips, how could we vote against this on the basis of traffic is my question?

MS. SCOTT: I would tell you that staff has recommended approval; that it's consistent with the Growth Management Plan. So that's staff perspective, that we're recommending approval of it.

COMMISSIONER FRY: I agree. I'm just -- I'm not seeing a way we could say no on the basis of traffic, because the trips are already there, so...

Thank you.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SHEA: Well, that was helpful for me to understand the operational one, that they go back and look at the specific load from the site and the time of day. That was helpful for me to understand that. They weren't ignoring it.

CHAIRMAN FRYER: Good. Right. Anything further for Mr. Sawyer?

(No response.)

CHAIRMAN FRYER: Mr. Bellows, do you have anything further?

MR. BELLOWS: No. We're just recommending approval subject to any modifications to the Condition 13, if you wanted to address the maintenance.

CHAIRMAN FRYER: Thank you.

Commissioner Klucik.

COMMISSIONER KLUCIK: I have a real basic question, and it's really a chance for -- to be educated. Sorry I didn't ask it on Monday when we had our meeting with staff.

MR. BELLOWS: No problem.

COMMISSIONER KLUCIK: But as to the RLSA, explain to me the relationship of this property and the -- why that's being mentioned. Is it being used as a sending area or receiving area, or what is the reason it was --

MR. BELLOWS: As noted in the staff report, we talk about it being a designated open, and in those open lands, earth mining is one of the uses allowed. So I'm not sure I understand the question.

COMMISSIONER KLUCIK: So -- because it's within the RLSA area --

MR. BELLOWS: Yes.

COMMISSIONER KLUCIK: -- we monitor what's being done there, and so you're just mentioning that it's a -- it's a permitted use -- it's an allowed use, and it doesn't require any -- it doesn't trigger any RLSA special requirements.

MR. BELLOWS: Correct.

COMMISSIONER KLUCIK: Okay.

MR. BELLOWS: It's just to inform you of the FLUE designation, and this project is consistent with that FLUE designation.

CHAIRMAN FRYER: Further to that, it's designated open. It's in the RLSA. It could have been designated sending or receiving, but right now it's not.

MR. BELLOWS: Yeah.

COMMISSIONER KLUCIK: And even in the future it could be.

CHAIRMAN FRYER: It could be. Absolutely. Yeah.

COMMISSIONER KLUCIK: All right.

CHAIRMAN FRYER: Okay. Anything further for staff?

(No response.)

CHAIRMAN FRYER: If not, does the applicant have any rebuttal?

(No response.)

CHAIRMAN FRYER: No rebuttal from the applicant. Thank you.

Any public speakers who wish to be heard?

MR. FRANTZ: We have two public speakers on Zoom.

CHAIRMAN FRYER: Thank you.

MR. FRANTZ: I don't have any registrations from in the room. Our first public speaker on Zoom is D. Manzi.

CHAIRMAN FRYER: Manzi is the name?

MR. FRANTZ: They've registered as D. Manzi. If you could unmute your microphone on your end.

CHAIRMAN FRYER: Mr. or Ms. Manzi, can you hear us?

(No response.)

CHAIRMAN FRYER: Who is the next speaker?

MR. FRANTZ: The next speaker is Lisa Daugherty.

CHAIRMAN FRYER: Ms. Daugherty?

MR. FRANTZ: Lisa, can you unmute on your end?

MS. DAUGHERTY: Yes. Hi. Good morning. I'm actually just a consultant for the applicant who was here just in case there were questions, and I was just advised by the listed contact to register to be able to attend via Zoom.

CHAIRMAN FRYER: Oh, okay. Do you have anything that you wish to add?

MS. DAUGHERTY: No, sir.

CHAIRMAN FRYER: Okay.

MS. DAUGHERTY: Thank you.

CHAIRMAN FRYER: Thank you very much.

All right. Any further members of the public either on Zoom or in the room that wish to be heard on this matter?

(No response.)

CHAIRMAN FRYER: If not, we will close the public comments segment of this application, and we'll take up the matter of deliberation. And I know Commissioner Schmitt has a proposal. Would you mind stating that, sir?

COMMISSIONER SCHMITT: Yeah. I would -- I recommend approval based on the -- I recommend approval, and I'll read 2019000808. Yeah, that's what it looks like, yes -- 00000808 is the number. And I would recommend that the condition be added that the applicant at submittal of the Site Development Plan submit a dust control plan and that dust control plan be reviewed and monitored and enforced by the Collier County engineering department, the county engineer.

CHAIRMAN FRYER: Do you wish to be heard?

MR. YOVANOVICH: Just -- we don't do a Site Development Plan, Mr. Schmitt. It will be as part of the excavation plan.

COMMISSIONER SCHMITT: Well, the excavation plan.

MR. YOVANOVICH: Well, I just want to make sure.

COMMISSIONER SCHMITT: Thank you. Thank you for clarification. The excavation plan.

COMMISSIONER VERNON: Vernon seconds with that clarification.

CHAIRMAN FRYER: Thank you. Any further discussion on this? Commissioner Shea.

COMMISSIONER SHEA: Yes. I would just add that to do this right is a very expensive proposition, and in your film you said you go beyond. I would challenge you to go beyond in this situation.

CHAIRMAN FRYER: Thank you. Any further discussion?

(No response.)

CHAIRMAN FRYER: If not, we're ready for the question. All those in favor of granting this conditional use as an -- as a recommendation to the Board of County Commissioners, please say aye.

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: Aye.

CHAIRMAN FRYER: Those opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously. Thank you very much.

We could take a break now or go to 10:30 and interrupt ourselves in the second application. What does the Planning Commission --

COMMISSIONER HOMIAK: Ask Terri.

COMMISSIONER SCHMITT: Take a break.

CHAIRMAN FRYER: Well, I'm looking at Terri.

THE COURT REPORTER: Now makes sense.

CHAIRMAN FRYER: We'll stand in recess -- we'll stand in recess for 10 minutes. We'll be back at 10:23.

(A brief recess was had from 10:13 a.m. to 10:23 a.m.)

CHAIRMAN FRYER: Ladies and gentlemen, let's reconvene, please.

The next advertised public hearing is PL2020000564. It's the Bembridge Emergency Services Complex Community Facility PUDA and RPUDA [sic].

All those wishing to testify in this matter, please rise to be sworn by the court reporter.

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

CHAIRMAN FRYER: Thank you. Disclosures starting with Mr. Eastman, please.

MR. EASTMAN: I've had a brief conversation with the developer's engineer about a pedestrian interconnect. Other than that, no disclosures.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SHEA: Staff materials only.

COMMISSIONER FRY: Ditto.

CHAIRMAN FRYER: Staff materials and communications with staff.

COMMISSIONER HOMIAK: I spoke to Ms. Harrelson.

COMMISSIONER SCHMITT: Just for the record, I was the representative on the Affordable Housing Committee representing the Planning Commission. So this Bembridge issue was an issue for probably two years. I haven't been involved in that committee for over a year, but the Bembridge issue with Cormac and the team -- so I was involved only from the standpoint of fully aware of what was going on in discussions at the Affordable Housing Committee, and that's a Collier County approved advisory panel. And, Jessica, you'd have to remind me, did we talk about this during our phone call? We did.

MS. HARRELSON: Yeah, we did.

COMMISSIONER SCHMITT: Okay. See, that was -- that was, like, a month and a half ago. So when you get to be a senior, you can use that excuse and say I forgot. Thank you for reminding me.

CHAIRMAN FRYER: Ms. Harrelson, did I also speak with you?

MS. HARRELSON: Yes.

CHAIRMAN FRYER: Okay. I apologize.

COMMISSIONER SCHMITT: You can use the same excuse.

CHAIRMAN FRYER: Believe me, I can, plus three years. So I'll amend my disclosure.

CHAIRMAN FRYER: Commissioner Vernon.

COMMISSIONER VERNON: No disclosures.

CHAIRMAN FRYER: Thank you.

Commissioner Klucik.

COMMISSIONER KLUCIK: I spoke with staff.

CHAIRMAN FRYER: Thank you.

All right. Ms. Harrelson, you may proceed.

MS. HARRELSON: Good morning. For the record, Jessica Harrelson, certified planner with Davidson engineering.

The Bembridge Emergency Services Complex is an existing residential and community facility Planned Unit Development located along the east side of Santa Barbara Boulevard north of Davis Boulevard. The PUD is just under 40 acres in size. Existing development within the PUD consists of the Calusa Park Elementary School, an EMS station, and a water management lake.

The undeveloped 5.1-acre parcel located here is the subject of this PUD amendment. The parcel is owned by Collier County.

This project is a direct result of the BCC's efforts to increase affordable housing opportunities within our community. The county has entered into a public-private partnership in a 99-year lease agreement with McDowell Housing Partners to develop the residential community.

The purpose of the PUD amendment is to request an increase in the permitted residential density of six units an acre to 16 units an acre for a maximum of 82 residential units pursuant to an affordable housing agreement. The community will provide one-, two-, and three-bedroom apartments, clubhouse, and pool.

This is the PUD master plan depicting the subject property designated as Tract A1. Of the overall property area of 5.1 acres, a pump station will be developed on the southernmost 1.33 acres, and the remaining 3.77 acres will be constructed with the residential community.

Per the density rating system, utilizing the property's entire acreage is permitted to calculate density. This shows the breakdown of how we came to the 82 units being requested. We have our base units of four units an acre and then the additional 12 units an acre for the affordable housing bonus.

Pursuant to the affordable housing agreement, the developer has agreed to 100 percent of the residential units as affordable units with corresponding rents for each. The development will serve residents of Collier County earning between 30 to 80 percent AMI.

There is a .12-acre preserve requirement. This can either be provided on site or off site, due to the size of the requirement being less than half an acre, via monetary or land donation.

Access to site will be a right-in, right-out along Santa Barbara. A right-in turn lane will also be constructed. Through coordination with the school district, a pedestrian interconnect is also likely going to be added so the kids can have a direct interconnect internal to the PUD to the school.

Per the PUD, the maximum zoned height is 40 feet or three stories, whichever is less. Just to note, there is no increase in the height being requested with this amendment. This is existing in the PUD today.

Per the current SDP that's been submitted simultaneously with this PUD amendment, it's currently in review, the principal structures are being designed at an actual height of about 44 feet.

CHAIRMAN FRYER: Excuse me, ma'am. Is that to be part of the ordinance, the actual height as well as the zoned height?

MS. HARRELSON: It's not in the ordinance today, no.

CHAIRMAN FRYER: Would you object to it being in there?

MS. HARRELSON: Absolutely not.

CHAIRMAN FRYER: Okay. Thank you. Sorry to interrupt.

MS. HARRELSON: Setbacks are a minimum of 50 feet from Santa Barbara Boulevard and a minimum of 20 feet from remaining boundaries.

The Traffic Impact Statement concludes there will be no negative impacts on the surrounding roadway network. The development will be limited to 50 two-way p.m. peak-hour trips.

We've added some deviations to the PUD beginning with Deviation No. 2, requesting to allow a 15-foot Type D buffer along Santa Barbara for Tract A, which is the EMS site which is existing, and Tract A1, the subject property, rather than the required 20-foot Type D buffer.

The EMS station has an existing approved 15-foot Type D buffer that will remain; therefore, this deviation will solidify the existing buffer on that site and allow the subject property to have that same buffer for consistency.

Deviation No. 3 has been added and is requesting a reduction in buffer width along the property's eastern boundary. So this is internal to the site. A 15-foot Type B buffer is typically required, and we're requesting a 7-foot Type B. Again, all code-required landscaping will still be installed within this reduced buffer. This is being requested because of the existing water management lake and lake maintenance area create development constraints for this property. This deviation will also allow the site to be designed to allow for emergency vehicles to easily circulate the site.

Deviation No. 4 is seeking relief from the county's parking-space requirements for the clubhouse and accessory recreational facilities to allow a total of four parking spaces to meet actual parking demands. Parking for the residential units will meet LDC requirements.

And Deviation No. 5 has been added at the request of staff to solidify the existing 10-foot Type D buffer on the lake tract. This is consistent with the approved plans for the water management lake.

Deviation No. 6 has been added, requesting to allow vehicular overhang into the reduced buffer along the property's eastern boundary. To create a plan with more green space, parking spaces abutting this eastern buffer have been designed at 16 feet in length rather than 18 feet. So providing parking at this length hinders the opportunity to provide wheel stops, which would prevent vehicular overhang into that buffer. We have coordinated with our landscape architect and staff, and there are no negative impacts proposed to this buffer.

And to conclude, we've had a neighborhood information meeting on September 10th at New Hope Ministries. Six individuals from the public attended in person. And concerns from the public were related to traffic, noise from the EMS station, height, and the property being developed with rental units.

And that's it.

CHAIRMAN FRYER: Thank you. No one has signaled. Any Planning Commissioners have questions of the applicant?

COMMISSIONER SHEA: Question.

CHAIRMAN FRYER: Commissioner Shea.

COMMISSIONER SHEA: Just a simple question. On the drawing, Tract A1, what's the acreage of that?

MS. HARRELSON: It's 5.1 acres.

COMMISSIONER SHEA: So that's the acreage we're talking about that you're going to have residential development on? That doesn't include the land for county pump station and EMS station.

MS. HARRELSON: Right. So the southernmost portion of this Tract A1 is 1.33 acres, and that will be developed with a county pump station.

COMMISSIONER SHEA: But the actual box in there that says A1 residential is 5.1 acres?

MS. HARRELSON: No, that's 3.77.

COMMISSIONER SHEA: So the density isn't really 16 if you just go by that.

MS. HARRELSON: I'm sorry?

COMMISSIONER SHEA: You're saying -- you're using the whole 5.1 acres --

MS. HARRELSON: Correct. It's one county-owned --

COMMISSIONER SHEA: -- which isn't going to be residential.

MS. HARRELSON: Correct. So it's one county-owned parcel, 5.1 acres. And per the density rating system, we're able to utilize the entire property acreage to calculate density.

COMMISSIONER SHEA: Really? That's silly.

CHAIRMAN FRYER: It's not the first time I've heard that be criticized, but it is the case; it is the case.

COMMISSIONER SHEA: Well, you could end up with a small piece of land and a big chunk of land out here, and now all of a sudden you've got a thousand homes per acre, and -- it doesn't make any sense to me from a planning standpoint.

CHAIRMAN FRYER: I understand.

COMMISSIONER SHEA: But that's not a question for you. I'm sorry.

MS. HARRELSON: No, that's okay.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Jessica, could you put back up the aerial site plan a few slides back. I just want to understand the -- no, it was a slightly different one. I think it showed more of a view of the layout of the buildings. I swear you went --

MS. HARRELSON: Was it an architectural rendering?

COMMISSIONER FRY: If you flip through it --

MS. HARRELSON: That one?

COMMISSIONER FRY: No, I guess not. So -- that one's fine. That one, I guess that's fine.

MS. HARRELSON: Okay.

COMMISSIONER FRY: Just describe the setback. So this is 50 feet from Santa Barbara Boulevard. That's not very far. That's 17 steps, where the face of the clubhouse is. But there's a turn lane also into this. So is it 50 feet from the edge of that turn lane?

MS. HARRELSON: Let me pull up the site plan. I think I have a copy of it.

COMMISSIONER FRY: I feel like there was another slide that showed -- maybe it's that one there. Go up a couple. Up a few. Up a little bit more. Like, three up. Two more.

MS. HARRELSON: This one.

COMMISSIONER FRY: That one there. That's the one. There you go.

MS. HARRELSON: Okay.

COMMISSIONER FRY: So that's 50 feet. That arrow stops in the middle of the parking lot, but that's 50 feet from the edge of the turn lane to the face -- to the structure of the clubhouse, correct?

MS. HARRELSON: Right. And right now -- and I'll bring up our current Site Development Plan that we have under review. We're actually providing more than 50 feet here.

COMMISSIONER FRY: How does that compare to other setbacks of other --

MS. HARRELSON: We're actually providing 67 at this point --

COMMISSIONER FRY: Sixty-seven.

MS. HARRELSON: -- with the current design, correct.

COMMISSIONER FRY: Can we -- how would you feel about us having that as a requirement in the --

MS. HARRELSON: That's fine.

COMMISSIONER FRY: -- in this as a condition?

MS. HARRELSON: Yep.

COMMISSIONER FRY: That's 66 feet now. How does that compare to other setbacks of other buildings along Santa Barbara?

MS. HARRELSON: I haven't researched other developments and their setbacks.

COMMISSIONER FRY: Okay. I'll ask that question of staff then.

MS. HARRELSON: Okay.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: Mr. Eastman?

MR. EASTMAN: On this slide, 23, it shows the potential pedestrian interconnect. What are the -- what are those -- they look like maybe pedestrian interconnects in each of the corners of the property.

MS. HARRELSON: The crosswalks?

MR. EASTMAN: They're crosswalks.

MS. HARRELSON: Right.

MR. EASTMAN: Are those -- are those interconnects?

MS. HARRELSON: No.

MR. EASTMAN: Okay. One of the points I'd like to make is that we're having a little difficulty. It's not a slam-dunk situation. We would like the pedestrian interconnect between this site and the school district, but it's one that we want to keep not pinned down. We'd like the freedom to work from different spots on site.

And, also, I don't think we want to make it a requirement as a condition. Rather, the requirement should be that we'll work in good faith to try to achieve one that would be mutually agreeable. So that would be flexibility I would hope for here rather than pin the county down as a requirement to do one. And we're hopeful that we can find a way mutually agreeable.

The school district wants one, but I've had some pushback as to the location of where it is, the proposed location of whether that's going to actually create some conflicts with traffic and so on and so forth.

CHAIRMAN FRYER: County Attorney?

MR. KLATZKOW: I love these interconnects. If the school district wants it, then make it a condition.

MR. EASTMAN: We want it, but what I'm trying to say is that I don't want to have it be limited to where it's shown on the plan.

MR. KLATZKOW: Then it will be required, you know, with the ultimate location to be mutually agreed upon.

MR. EASTMAN: That sounds wonderful. Thank you.

CHAIRMAN FRYER: So the great [sic] part is on the location, but the requirement is a requirement somewhere.

MR. EASTMAN: Yes, provided -- provided we can find a spot where we think it's safe. And the school district is in favor of pedestrian interconnects there. They almost in all cases make for a better situation than not having them.

MR. KLATZKOW: And we could -- we could phrase it so the school district can waive it.

MR. EASTMAN: That's perfect.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: In coordination with the -- and approval of the school district, and this would be a pedestrian -- if it's a gated or at least secured, but it would be a turnstile or some other type of entrance which would allow for school children to walk to school; is

that -- that's what you're looking for?

MR. EASTMAN: Yes, and we have --

COMMISSIONER SCHMITT: Makes total sense and I totally agree.

MR. EASTMAN: Yes. We have these at several sites. In fact, this will be the second one at Calusa Park. There's an apartment complex to the south where we worked with the developer there and look forward to -- that one, its location is secure and agreed upon.

This one, the initial proposal, well, in my personal opinion, makes things better than crossing the front entrance drive. I did have some pushback with some folks in the interior and some other employees at the school district regarding its safety. And so it's become an item that we're going to have to look at more closely and negotiate a little bit more in depth.

MR. KLATZKOW: This is Santa Barbara, so it's, like, a six-lane arterial. You know, I get trapped every now and then when a school bus stops. It usually takes, like, five minutes for the kids to go all out. On a six-lane arterial, I imagine that would be awful. Do you need something to get the school bus in site to pick up the kids?

MR. EASTMAN: The issue -- the issue really involves -- if kids were to walk from this site, they would go out to Santa Barbara, they would turn to the north, and then they'd have to cross the mouth of the driveway. And the proposed interconnect, they would go through the interconnect, they would be on the south side of the driveway, and they would enter the parking lot where they're going to have an -- they will have a conflict point with traffic. But in my opinion, the traffic will be moving more slowly than at the mouth of the drive, and it's still not the greatest --

MR. KLATZKOW: But do you need --

MR. EASTMAN: -- location.

MR. KLATZKOW: But do you need a place for a school bus to pick these kids up rather than having them get onto an arterial?

MR. EASTMAN: If there's a way to accommodate a school bus that would preserve the level of service in their arterial road, that's a good suggestion. That's helpful. We haven't discussed that with engineers. But certainly a potentially good idea. Because not -- there will be other school kids, obviously. Not everyone's going to be an elementary kid walking to Calusa Park. We'll have middle-schoolers and high-schoolers as well who will need the bus service.

CHAIRMAN FRYER: So we can deal with it as a general requirement and leave the details up to the good-faith discussions.

MR. EASTMAN: That sounds good.

CHAIRMAN FRYER: Okay, good. No one else is signaling. Any other planning commissioner?

MR. EASTMAN: Just one other point. I'd like to point out that Davidson Engineering's done a really good job of reaching out and attempting in good faith to coordinate this with us, and we look forward to working with them more in the future.

MS. HARRELSON: Thank you.

CHAIRMAN FRYER: Thank you. I want to add my word of thanks to Davidson and to the county and everybody who's worked on this, because I think this is just exactly what is needed, and all are to be commended. Thank you very much.

MS. HARRELSON: Thank you.

CHAIRMAN FRYER: Any other questions or comments for the applicant?

(No response.)

CHAIRMAN FRYER: If not, we'll hear from the county.

MR. BELLOWS: First time this side of the --

COMMISSIONER FRY: Ray, did you draw the short straw today? This is your second visit.

MR. BELLOWS: I shouldn't allow vacations on CCPC days. But, no. Ray Bellows, for

the record, the Zoning Manager filling in for Tim Finn again.

This project -- and I'm glad you recognized this. This is something that the county works with our Housing Department and Cormac to try to provide this type of housing, and this is a great location for it.

It is consistent with our Comprehensive Plan. There's no transportation issues with this. No environmental issues. You'll have an affordable housing agreement that you'll be voting on as well with this.

And we are supportive of the deviations, and we don't have any additional conditions. It's recommending approval as PUD is currently provided to you.

CHAIRMAN FRYER: Thank you.

Kudos also to Mr. Giblin for all the work he's done.

COMMISSIONER KLUCIK: Mr. Chairman.

CHAIRMAN FRYER: Yes, sir, go ahead.

COMMISSIONER KLUCIK: I didn't want to cut you off.

CHAIRMAN FRYER: No, I've got a list, but you go ahead.

COMMISSIONER KLUCIK: Sure. Okay. So I have -- just out of curiosity, if this was a private proposal, you know, for just somebody wanting -- for profit to create the same complex, would the -- you know, would you be making the same recommendations?

MR. BELLOWS: The county staff reviews this as a project and not who the applicant is. So our recommendations would not change no matter who the applicant was.

COMMISSIONER KLUCIK: If this wasn't low-income housing and all these deviations were asked for --

(Simultaneous crosstalk.)

MR. BELLOWS: We're reviewing to code, and that's all that we look at.

COMMISSIONER KLUCIK: All right.

COMMISSIONER SCHMITT: Well, wait a minute. It would have to be -- for this density it would have to be some kind of affordable housing. So when you said --

COMMISSIONER KLUCIK: Yeah. So assuming that the affordable housing -- we're not talking density. I'm talking about setback deviations, for instance. Would we be having the same recommendation of approval if this was for a private apartment complex that was not low income?

MR. BELLOWS: I think the question was asked earlier is, what would be an appropriate or typical setback, front setback, and I just looked into the Land Development Code. Similar zoning district would be the RMF-16 residential multi-family at 16 units an acre, and it requires at 50 percent of the building height not less than 30 feet. So, generally speaking, the setbacks proposed by the applicant are consistent with what we would do in a straight zoning district such as RMF-16.

COMMISSIONER KLUCIK: They are not consistent?

MR. BELLOWS: Are similar.

COMMISSIONER KLUCIK: They're similar?

MR. BELLOWS: Yeah. Not less than 30. RMF-12, the front yard setback is 30 feet, and they're providing 66.

COMMISSIONER KLUCIK: Okay. Thank you.

CHAIRMAN FRYER: As an individual planning commissioner, I would also say if a private entity were coming in to offer this kind of affordable housing 100 percent, I would want to be very generous within reason, of course, on the deviations, because I just think that this really renowns to the significant benefit to everybody in the county.

Let's see. Let me go to the list, and then I'll get you, Mr. Eastman.

Commission Schmitt.

COMMISSIONER SCHMITT: Yeah, I would ask if Cormac would come up, because I'd like Cormac, just for the record and for the other commissioners, to give a brief history of Board direction and how this proposal came into being; just for the record. Thank you.

MR. GIBLIN: Sure. For the record, Cormac Giblin, the Housing Operations and Grant Development Manager for Collier County.

This project has been a long time coming. Several years ago, probably in 2016, '17, the Board of County Commissioners commissioned staff to create a Community Housing Plan, and that was a holistic look at all things affordable housing in Collier County and a look at how we can do things differently to perhaps get some better results.

There were several recommendations that came out of that plan that was ultimately approved by the Board in late 2018. One of those recommendations was that the county itself look at county-owned surplus properties and determine if any of them are viable for affordable housing uses. This is one of the ones that was identified through that survey. And, subsequently, the Board of County Commissioners put this out for RFP to look for developers to build affordable housing on this piece of county-owned land.

There was a -- there were 11 firms who replied to the RFP that was vetted by Procurement, and then, ultimately, the Board of County Commissioners selected McDowell Housing Partners, who's the developer in this case, to be the county's developer for this site.

Early this year, the Board executed a developer agreement with McDowell laying out the broad parameters -- the specific parameters of how many units the Board would like to see here, what kind of income they would like to target, and then once approved -- approving the development agreement with the developer, now it's on the developer to go ahead and make this happen, and that's why they've retained Davidson to take care of the zoning and the site plan and the density bonus issues.

So this is -- we hope this will be an award-winning project for Collier County in our affordable housing endeavors. And following this model, we then used sort of the same methodology in talking -- when we were talking about the Golden Gate Golf Course and possible location of affordable housing there and several other county-owned properties as well.

COMMISSIONER SCHMITT: Thank you.

CHAIRMAN FRYER: Thank you, Mr. Giblin.

Mr. Eastman.

MR. EASTMAN: I'd just like to pick up on the Chairman's comments about the deviations that are being afforded this project.

In the past, and having sat on the Commission for many years, deviations are frequent with affordable housing, and the theme has kind of been, especially for private developers, let's try to get the costs down so they can do this project. So I would say that this is very consistent as to what's been done in the past with other projects across the board.

I'd also like to point out that the county and its leadership really should be commended here for doing an actual project. It's been many, many years where we've talked about affordable housing and talked about affordable housing, and now we're actually building a project, and that's through the county's leadership.

CHAIRMAN FRYER: Thank you.

Commissioner Fry.

COMMISSIONER FRY: I wonder if we might put up the slide that had the income -- the table of incomes as a backdrop to my question for Cormac.

MR. GIBLIN: Sure. I have one, also.

COMMISSIONER FRY: As the other commissioners are alluding to, I mean, I've been here two years. I haven't seen any projects -- we've had a few affordable housing references, but this one attacks the lowest three levels of affordable housing, and that's truly a first, which is

wonderful to see.

My question is, with those three tiers of affordable housing, does that overlap the essential services spectrum and, if so, how much?

MR. GIBLIN: Sure. This project proposes -- and is on the visualizer. I know it's a little small, so I'll read it. There will be ultimately 13 units that are available to extremely low-income residents. That's 30 percent or less of median income; 50 units at the very-low-income level, which is 50 percent or less or, I'm sorry, 60 percent or less; and then 19 that go up to the low-income level that is 80 percent or less of the median county income. So I've also got on the slide a corresponding household income. So when you say someone or a household is at 80 percent of median, that would be a household of two at less than \$65,890 a year or a single person at 57,670.

Certainly, I think that does reach that level of the essential services personnel: Your schoolteachers, your EMS workers, your first responders, nurses, people that work for county government. Those types of essential service personnel jobs, those are the types of categories that would be served by that highest tier here. The lowest ones, the very low and the low, would be held by other jobs, more service-industry positions.

COMMISSIONER FRY: Fantastic. Thank you.

CHAIRMAN FRYER: Thank you. Go ahead, Vice Chair.

COMMISSIONER HOMIAK: Will there be any effort to coordinate with the school to allow them to be able to rent before anyone else, or is there --

MR. GIBLIN: I'm not privy to the discussions that McDowell has had with the school board as of yet. I know that there are some easement issues when they ultimately do agree on a pedestrian access, and there would be nothing that we would object to having the school board get priority, advertising or something. We do have that in several other PUDs. Not only the school board, but other essential service type employers.

COMMISSIONER HOMIAK: It makes sense to allow them to be able to live there and walk to work.

CHAIRMAN FRYER: It would. Help traffic, too.

COMMISSIONER HOMIAK: Yeah.

CHAIRMAN FRYER: Any other comments or questions?

COMMISSIONER SCHMITT: I'll make a comment.

CHAIRMAN FRYER: Mr. Schmitt.

COMMISSIONER SCHMITT: I mean, my concern on something like that would be an equal protection issue. But that was -- as Cormac said, it's nothing more than just advertising to make sure that people are aware of this opportunity, and I think that's what we would encourage, but it shouldn't prohibit anybody else from -- who meet the criteria from trying to apply for one of these units.

MR. GIBLIN: Correct.

COMMISSIONER SCHMITT: Because the need is there.

MR. EASTMAN: Exactly. And we also get a lot of focus on those essential service people. And as Commissioner Fry said, we're talking about the very lowest levels here. So we wouldn't want to displace those who need it the most. I agree with the comments made by Commissioner Schmitt.

CHAIRMAN FRYER: Thank you. Further questions or comments of staff from the Planning Commission?

(No response.)

CHAIRMAN FRYER: Any further from the staff, Mr. Bellows?

MR. BELLOWES: We're done. Any questions, I'll be happy to answer.

CHAIRMAN FRYER: Okay. Thank you.

Let's see. Probably nothing by way of rebuttal from the applicant, I would assume. Am I correct, Ms. Harrelson, you didn't have anything further to offer?

MS. HARRELSON: (Shakes head.)

CHAIRMAN FRYER: Okay. Do we have any public speakers, Mr. Frantz?

MR. FRANTZ: We've one public speaker, Roy Anderson.

CHAIRMAN FRYER: Okay. Mr. Anderson, if you're on -- oh, you're here. Good. Let's -- why don't you go to that one that's being cleaned, sir. Mr. Anderson, I'm talking to you.

MR. ANDERSON: Oh, over here.

CHAIRMAN FRYER: Yeah. That one's just -- that way you can start sooner.

MR. ANDERSON: Okay.

CHAIRMAN FRYER: Thank you very much.

MR. ANDERSON: Thank you, Commissioners. Roy Anderson from Countryside Golf and Country Club. We're located right across the street from this proposal.

There were actually two neighborhood information meetings for this project. The first one was on January 30th of this year, and that project involved 42 units with two stories in height over a land area of 6.3 acres. We looked at that project and didn't really have any concern with it. We can certainly sympathize with the need for affordable housing, and that layout was -- you know, was okay with us.

Then we went to the next neighborhood information meeting on January 30th [sic], and suddenly the project size was doubled. The two stories originally went up to three stories, and the number of units went from 42 to 82, so we were very, very concerned with that.

And I should have mentioned that we spent a lot of time with the consultant, Davidson. They explained to us, you know, the reasoning for, you know, the justification for the project. And -- but still, we brought the matter to our board of directors in Countryside, and on October the 29th, the master board approved a resolution unanimously opposing the proposal. We felt that it was just too much, you know, for that site, for a small site of 3.77 acres.

And as Commissioner Shea pointed out, that was one of our big concerns, the same one that you mentioned, that they're using the pumping station land of 1.33 acres to -- and applying the maximum allowable density with the deviation of 16 units to -- 16 units to -- that's what helps them get up to the -- to the 82 units proposed. So we don't think that that's appropriate. If that wasn't done, it would probably bring the project down so it wouldn't need three stories.

The concern, of course, in Countryside is we're right across the street. This is going to have a -- it will be a very intensive use, very high buildings visually impacting us. So that was one of the main reasons for the objection.

And, again, we can -- certainly we have staff in our country club that will probably benefit from this project, so we've got kind of mixed feelings about it. But, still, we think it's just a little too much for this small site.

CHAIRMAN FRYER: Thank you, sir.

MR. EASTMAN: May I ask a question, please?

CHAIRMAN FRYER: Please go ahead.

MR. EASTMAN: What are the heights and stories of the buildings in Countryside? What are the tallest buildings there?

MR. ANDERSON: Let's see. Country Hollow is two stories, and Country Haven is three stories. Yep.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. Roy -- of course, Roy, given his background, he spent many years working in the county staff, Public Utilities.

MR. ANDERSON: Public Utilities, yep. We were both hired by the former county manager, Mr. Mudd.

COMMISSIONER SCHMITT: Roy, you guys are -- it's a six-lane highway, correct?

MR. ANDERSON: Correct, yep.

COMMISSIONER SCHMITT: So you're across the street from a six-lane highway. And I'm trying to -- I was trying to look in Google Earth. But how far of a setback, then, from Santa Barbara to the first residential units? It's fairly significant, is it not? I mean, there's a pretty good setback.

MR. ANDERSON: Yeah, maybe -- 50, 75 feet maybe.

COMMISSIONER SCHMITT: Yeah, so you're a pretty good distance from these units. Was the concern noise, or was the concern more -- I guess I'm trying to understand why the board turned this down. Was it a concern that this affordable housing was in some way detrimental to the area? This is across the six-lane highway.

MR. ANDERSON: No, I think it was primarily a visual impact issue. One of the units in Country Haven is directly across the street, so that's probably the closest unit, and although there are some -- there is some tree screening to some extent, but it's going to be definitely noticeable. Right now it's the -- the buildings are all low profile. Even the EMS station and the school are fairly low-profile buildings. Now, this is going to be dramatically higher. So it's really more of a visual concern.

COMMISSIONER SCHMITT: So in a follow-up with the board, the board voted, but did the board get a lot of pushback from the community? I mean, I didn't see any significant -- well, I don't know if we got a lot of emails or any concerns, and I don't know of anything from the staff.

MR. ANDERSON: No, nothing to that degree. Yeah, nothing -- not really overwhelming concern, no.

COMMISSIONER SCHMITT: Okay. Thanks.

MR. ANDERSON: But it was a unanimous vote.

COMMISSIONER SCHMITT: Unanimous vote from the board, yeah.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Sir, you mentioned a couple of your buildings, and they're -- the number of stories. Country Haven is directly across the street?

MR. ANDERSON: Yes.

COMMISSIONER FRY: Was that the two-story or the three-story?

MR. ANDERSON: That's three-story.

COMMISSIONER FRY: That's three stories. Thank you.

CHAIRMAN FRYER: Anything further for the witness?

(No response.)

CHAIRMAN FRYER: If not, thank you, sir.

Ms. Harrelson, would you care to reply?

MS. HARRELSON: For the record, Jessica Harrelson, Davidson Engineering.

I did have the opportunity to look into Roy Anderson's concerns about a NIM being held January 30th, I believe. And I did some research, and found -- so he's confusing that with the Santa Barbara Landings. There's a PDI that's currently -- I think it's still in review, maybe a hearing process -- and they did have a NIM on January 30th regarding Tract B, which is directly north of the subject property within Bembridge. They -- it's a 6.3-acre property, proposed maximum of 43 multifamily units, which 10 percent of those will be reserved for individuals earning 140 percent or less of the county AMI. And they are proposed at two stories. So that was, I think, a little confusion on Countryside's part. We had one NIM.

CHAIRMAN FRYER: Thank you.

MS. HARRELSON: Yep.

CHAIRMAN FRYER: Any questions?

(No response.)

CHAIRMAN FRYER: Okay. Thank you. Anything further from the public?

(No response.)

CHAIRMAN FRYER: Okay. Then without objection, we will close the public comments section of this application and begin our deliberation.

Would anyone like to make a comment on this? I think we have three conditions, and we may need some clarification, and we may have to reopen public comment.

COMMISSIONER FRY: Would you please review those?

CHAIRMAN FRYER: I'll do my best, yeah. The first one was the actual height of 44 feet to go along with the zoned height of 40. The second one -- and this is one that may need -- I may need to be clarified -- 67-foot setback, was that from the turn lane or from Santa Barbara?

MS. HARRELSON: From the property line.

CHAIRMAN FRYER: Property line.

MS. HARRELSON: It was actually 66.9.

CHAIRMAN FRYER: 66.9 from the western property line?

MS. HARRELSON: Yes.

CHAIRMAN FRYER: Thank you. And the last one is that the applicant will work in good faith school district with respect to locating an interconnect but that some kind of an interconnect be required unless the requirement is waived by the school district. I think I got that right. Are there any other conditions that I missed?

COMMISSIONER FRY: I'd like to inquire about one. There have been times when -- and in something like this, I would assume there's a -- you know, the budgetary restraints. It's affordable housing. I don't know what those are. But at some times we have looked at the aesthetics, the renderings of the property, and we have required as-builts reflect the renderings that we've been shown at this. I'm not sure -- I'd like input from other commissioners whether that's a condition we'd like to add just to make sure that this has an appealing aesthetic that matches what we've been promised.

CHAIRMAN FRYER: Commissioner Schmitt.

MS. HARRELSON: So --

COMMISSIONER SCHMITT: I mean, typically -- are you talking about the architectural?

COMMISSIONER FRY: Yes. We have -- we have on a limited number of occasions added a condition that the final site plan resembles the architectural renderings because we found that they were attractive.

COMMISSIONER SCHMITT: Oh, okay. You're correct, and I misunderstood. We would hold them accountable to what was shown in the presentation is what you're saying, and we've done that in the past, yes. My concern was the county does review architectural review. We typically don't get into the architectural review, but we certainly can stipulate that based on what's shown in the public hearing today and this drawing, that the actual final design closely resembled what was presented to the public. Is that what you're asking?

COMMISSIONER FRY: It is.

COMMISSIONER SCHMITT: I agree.

CHAIRMAN FRYER: Would there be any objection, Ms. Harrelson?

MS. HARRELSON: No. These are actually what's been submitted with the Site Development Plan, so we're fine with that.

CHAIRMAN FRYER: Thank you.

COMMISSIONER FRY: I have one more comment which is -- and I -- to you, sir, representing Countryside, you know, I think we all try to be sensitive to neighbor concerns, and there are issues where this room is filled with objections. And you've expressed your board voted

in opposition. I think that argument is deluded somewhat by the fact that you have a three-story building across the street, and they're providing -- they're proposing a three-story building. So, you know, can you say we should have a three-story building but we should not have a publicly serving project across the street that has a similar height? I don't think I could stand in the way of this for that reason alone. So I just wanted to be open about that.

CHAIRMAN FRYER: Thank you.

MS. HARRELSON: I would like to note also that we're not requesting an increase in the maximum height in the PUD amendment. Like three stories, 40 feet, that's what's existing in the PUD.

CHAIRMAN FRYER: Yeah. And, personally, I think a four-foot differential between actual and zoned is reasonable.

Mr. Bellows, did you want to be heard, sir?

MR. BELLOWS: I just wanted to clarify the setback. Can it be 66 feet, a round number instead of a point something?

CHAIRMAN FRYER: Ms. Harrelson?

MS. HARRELSON: Yeah, that's fine.

CHAIRMAN FRYER: Sixty-six it is.

I think I closed the public comment a little prematurely; 66.

All right. No one else is signaling at this time. We are actually in deliberation at this point.

COMMISSIONER FRY: I'd like to make a motion for approval based on those four conditions.

CHAIRMAN FRYER: All right. Why don't I read them again just to -- or I'll just read Condition 4 again unless people want to hear all three -- or all four. But Condition 4 would be that the final design closely resemble the publicly displayed images at this hearing.

Okay. So your motion, sir?

COMMISSIONER FRY: My motion is for approval of this item based on those four conditions.

CHAIRMAN FRYER: Is there a second?

COMMISSIONER SHEA: Second.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, sir.

COMMISSIONER KLUCIK: What's the method by which we preserve that imagery so that -- so that it can be referenced in the future if someone wanted to make an issue of it?

CHAIRMAN FRYER: A good point -- good question. That's part of the formal official record of the meeting. So it will be publicly available to anyone who would inquire. It's not quite as easy as clicking on the county website. I think you probably have to go someplace to get it, but it's an official record publicly available.

COMMISSIONER SCHMITT: Well, staff is obligated to review the final plans based on the stipulation in the zoning. So it would -- this is now a matter of zoning record, and it would be incumbent upon the county staff to verify that it meets the requirements.

CHAIRMAN FRYER: Ms. Ashton, did you wish to be heard?

MS. ASHTON-CICKO: Yes. My recommendation would be that we attach the exhibit and say it will be in substantially that form so that staff doesn't have to search for the record.

CHAIRMAN FRYER: That's a good solution. Thank you. It's a good question, too.

COMMISSIONER FRY: I would amend my motion to include that.

CHAIRMAN FRYER: Thank you. And the second, whoever seconded --

COMMISSIONER SHEA: Second.

CHAIRMAN FRYER: -- would accept the amendment. Thank you.

Any further discussion?

(No response.)

CHAIRMAN FRYER: If not, all those in favor, please say aye.

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously. Thank you very much.

MS. HARRELSON: Thank you.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Sir?

COMMISSIONER KLUCIK: When you think it's an appropriate time, I do have something that I'd like to bring up for one of our upcoming items that we'll be looking at.

MR. BELLOWS: Mr. Chairman.

CHAIRMAN FRYER: Yes, sir. I know you've got --

MR. BELLOWS: Mr. Chairman?

CHAIRMAN FRYER: I know you have something.

MR. BELLOWS: The affordable housing agreement, did you vote on that as well?

CHAIRMAN FRYER: Oh, no, no, no. Thank you very much. Okay. Would you state that for us, sir, so that we can vote on it.

MR. BELLOWS: As an attachment to your packet, I believe it's Attachment C, it's the affordable housing agreement. I would appreciate if you would vote on that.

CHAIRMAN FRYER: All right. Is there a motion to that effect?

COMMISSIONER SCHMITT: I make a motion that we forward the affordable housing agreement associated with this petition to the Board of County Commissioners for their final approval.

COMMISSIONER VERNON: Vernon seconds.

CHAIRMAN FRYER: Any further discussion?

(No response.)

CHAIRMAN FRYER: If not, all those in favor, please say aye.

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously. Thank you. Thank you for bringing that to my attention.

MR. BELLOWS: Thank you.

COMMISSIONER SCHMITT: Roy, thanks for coming.

CHAIRMAN FRYER: Yeah, thank you, Mr. Anderson. We appreciate it, sir.

And, Commissioner Klucik, I've got one item of new business, and let's put your question or comment under new business, which is the next item to come up.

COMMISSIONER KLUCIK: Great.

CHAIRMAN FRYER: All right. The first and -- Mr. Bellows, is this going to be you or -- oh, okay, fine.

MR. BELLOWS: (Indicating.)

CHAIRMAN FRYER: Fine. The 2021 meeting schedule. Jeremy. Mr. Frantz.

MR. FRANTZ: Good morning, still. Jeremy Frantz with the zoning division.

Not a lot to add here to the memo. It's going to be your typical first and third Thursdays throughout 2021 with the exception of one canceled meeting June due to a conflict here in the boardroom.

CHAIRMAN FRYER: All right. My question is -- certainly, I don't have any way of knowing, you know, what our workload is going to be in June, but would it make sense to keep this date open, and we could meet over on Horseshoe as we've done from time to time so that we don't wind up with 10 items on the subsequent meeting? Does that make sense or not?

MR. FRANTZ: We can certainly look into that, and rather than going ahead and canceling this --

MR. KLATZKOW: I view this as reserving this room --

CHAIRMAN FRYER: Oh.

MR. KLATZKOW: -- those dates.

CHAIRMAN FRYER: I see.

MR. KLATZKOW: And depending upon the workload, if the Planning Commission at any time, you know, wanted to meet on a particular item, you know, you can do that, certainly. But I would just view that as we're reserving this room for those dates.

CHAIRMAN FRYER: Understood. And with that clarification, any further comments on this schedule?

COMMISSIONER SCHMITT: I have a question.

CHAIRMAN FRYER: Please go ahead.

COMMISSIONER SCHMITT: The -- have you done any forward thinking as far as any LDC amendment hearings for after 5:00? Because we've had those in the past. And will we not soon be facing amendments to the rural land -- or the rural fringe amendments? And those typically are going to take some time.

MR. FRANTZ: I do anticipate some LDC amendments in the next year that will require a night hearing.

COMMISSIONER SCHMITT: Well, we'll have the LDC amendments for the Rural Lands Stewardship eventually. Hopefully they're coming forward. Then we're going to be looking at the rural fringe amendments, GMP amendments. I believe, I thought -- I thought maybe those were -- I just was asking that we look at the schedule and try and at least forecast when you think those kind of things are going to happen as well as any nightly meetings.

MR. FRANTZ: Yeah. We can do that.

COMMISSIONER SCHMITT: Okay.

MR. FRANTZ: I know that we've, in the past, scheduled night hearings for LDC amendments --

COMMISSIONER SCHMITT: Oh, you have to.

MR. FRANTZ: -- in a couple of different ways. We've reached out to you for separate meeting dates. We also recently just attached those to the end of an existing meeting. So, you know, whatever your, as a group, preference is for how those meetings get scheduled, we're happy to carry that out.

CHAIRMAN FRYER: Okay. Do give us early warning, as early as you can, so that we

can be planning for those evening meetings well in advance if possible. And also -- so I would suggest that you change the wording of that June 17th from "canceled" to "at Horseshoe if meeting necessary," something to that effect.

MR. FRANTZ: We'll do that.

CHAIRMAN FRYER: Okay. And then the other thing -- and maybe Ms. Jenkins will need to weigh in on this. She and I have had conversations about possibly a workshop. And is staff in a position to react to that or make any specific suggestions whether we would want to have one and, if so, when?

MR. FRANTZ: I'll let Anita respond.

CHAIRMAN FRYER: Ms. Jenkins.

MS. JENKINS: Good morning. Anita Jenkins for the record.

Commissioner, your request was a workshop on the Rural Fringe Mixed-Use District or just workshop in general?

CHAIRMAN FRYER: My recollection was a little vague. But I know that you and I had spoken about perhaps a workshop, and now that you mention it, it maybe did have to do with RFMUD to prepare us. But there may be other issues that might be worthwhile us considering. Possibly such things as -- I mean, now we've got a fair number of new Planning Commissioners. It might be useful for us to hear from someone in the County Attorney's Office on the Sunshine law just as a refresher, things like that. And I'm just sort of speaking off the top of my head. But it might be useful for us to do that in the format of a workshop so that we're not taking up time that we'd otherwise have scheduled for an application to be heard.

MS. JENKINS: Sure. We'll be happy to work in those dates for you for workshops and invite everyone to email us any topics that you would like to address in a workshop forum for education purposes.

CHAIRMAN FRYER: Good.

MS. JENKINS: Sure.

CHAIRMAN FRYER: Thank you. Other planning commissioners have any thoughts on the idea of a workshop?

COMMISSIONER VERNON: Yeah. It's fine with me. I'll just say, throw in quasi-judicial and exactly what that is.

CHAIRMAN FRYER: Good. Good add. Yeah. And legislative, because they're quasi-legislative, quasi-judicial. Good. Thank you.

Any other -- Commissioner Shea, nothing?

COMMISSIONER FRY: I would -- oh, I'm sorry.

COMMISSIONER SHEA: No, I had a question for -- not this, for Jeremy.

COMMISSIONER SCHMITT: Question for the staff. I'll use this one. As far as the item that was continued indefinitely, which had to do with the mulching facility, is that pending withdrawal or is it -- did we expect to have that come back sometime in the future? Because "suspended indefinitely" has a lot of meaning. Is it being reworked, or you don't know?

MR. FRANTZ: Our typical staff process is after six months we reach out to the applicant and find out if they would like to -- if they have something that's going to be resubmitted or if they're withdrawing the application.

I'd probably let Ray speak to exactly what's going on with that petition, but I believe that the applicant is continuing to explore some different issues before they want to bring it back, if they're going to bring it back at all.

COMMISSIONER SCHMITT: Yeah, I -- let me ask Ray a question, because I do have a question on that.

CHAIRMAN FRYER: Before -- if I may, do we have anything further on the concept of workshops while Ms. Jenkins is here?

COMMISSIONER SHEA: I think it's a great idea.

CHAIRMAN FRYER: Other --

COMMISSIONER SCHMITT: I'm fine.

COMMISSIONER FRY: I would welcome it.

CHAIRMAN FRYER: Thank you, ma'am.

Okay. Mr. Bellows.

COMMISSIONER SCHMITT: Ray, the -- when that petition was presented, it was presented that it -- that the use, and that was a nursery --

MR. BELLOWS: It's --

COMMISSIONER SCHMITT: -- with an accessory use of mulching?

MR. BELLOWS: Yes.

COMMISSIONER SCHMITT: Are there any open code cases on that place right now?

MR. BELLOWS: There have been numerous code cases over the years, and I don't know the current status of any current open applications [sic]. I can check on that. My understanding is that they do have approval to be a wholesale nursery at this location.

CHAIRMAN FRYER: Excuse me. I just want to get clarification from the County Attorney. Having continued this, can we have this conversation? Is this appropriate?

MR. KLATZKOW: Yeah, sure.

CHAIRMAN FRYER: Okay. Sorry to interrupt. Go ahead.

COMMISSIONER SCHMITT: Good question.

MR. BELLOWS: This is a continued item. It hasn't been withdrawn yet.

COMMISSIONER SCHMITT: My only concern was what was presented showed three rows of trees and about 80 percent of the land being mulching, and that doesn't appear to be an accessory use. I would just hope that Zoning would review this with the petitioner to make sure that when it comes back, it comes back with some factual basis, because I was certainly challenging what was presented as a nursery.

MR. BELLOWS: I'm glad you asked that question, because Zoning staff does work with Code Enforcement in trying to convey what the Land Development Code allows. And one of the things that I've found is that many businesses start off complying as a use, but as the market changes, they start modifying what they do on site, and it becomes something else.

COMMISSIONER SCHMITT: Yeah.

MR. BELLOWS: And that's why they were Code Enforcement actions, and it really resulted in them having to submit this application, because they really became a resource recycling facility.

CHAIRMAN FRYER: Would you please reach out to Mr. Mulhere and either explain to him Commissioner Schmitt's issues and questions, or ask him to just review this part of the transcript?

MR. BELLOWS: Definitely.

COMMISSIONER SHEA: Question on that same lines.

CHAIRMAN FRYER: Go ahead, Commissioner Shea.

COMMISSIONER SHEA: I'm assuming they're not approved for mulching on the existing site.

MR. BELLOWS: Well, they're allowed to have accessory mulching to supplement the wholesale nursery but, as Mr. Schmitt says, you know, the piles of mulching are bigger than the areas designated for the primary use or the permitted use, which is the wholesale nursery. So this is an instance where the accessory activity becomes the predominant activity, and that's where Code Enforcement came in, and we took a similar site to the Code Enforcement Board for -- because their accessory activities become the primary activities.

COMMISSIONER SCHMITT: Well, that's my concern. We now have this continued

indefinitely, and it sort of indicates we're going to continue to do what we've been doing, and sort a wink and a nod, we're growing 20 trees, and we're now operating a transfer site and allowing for mulching on site.

I would ask that the staff look at that, contact the petitioner and, in fact, someone go out there and evaluate what is being done out there is in conformity with the existing zoning.

MR. BELLOWS: I'll be glad to coordinate a meeting with Mike Ossorio and his staff along with Mr. Mulhere to see how we can operate in compliance until this comes back.

COMMISSIONER SCHMITT: Thank you.

COMMISSIONER SHEA: And I went to the site, and I would support what -- they're doing above and beyond what I think they're entitled to do.

MR. BELLOWS: I made several site visits myself, and you're right, it's clearly the reason they're here for the conditional use.

CHAIRMAN FRYER: Commissioner Vernon.

COMMISSIONER VERNON: I totally agree with what Joe said, and 100 percent. But I will say, given what was presented to me, I went to the street as well, and I looked at the site and went down the street and there was actually, in my opinion, a little bit more of a farming operation than sort of we were led to believe. I'm not saying -- I'm not disagreeing with Joe. I'm just saying my impression is I was going to see one palm tree and a huge mulch pile. It was a little bit more 50/50.

But also I'd add -- I don't know that you drove down the street, Paul, but I drove down the street, and I would say my impression of driving down the street was different than what I was led to believe. It's a little less residential. And I'm not using a technical term. But it was -- it was not what I expected to see. I thought I'd see a bunch of homes, and I saw what appeared to be some other commercial operations and other things going on on that particular street. I think it's Rigg Street or -- right?

COMMISSIONER SCHMITT: Don't confuse homes out there as residential. It is ag. So it's --

COMMISSIONER VERNON: Right.

COMMISSIONER SCHMITT: -- designated ag, and it's just a matter that people have built homes out there on what is zoned as ag land.

COMMISSIONER VERNON: Yeah. I'm not using a technical -- I'm not technically right. I'm just saying my impression of both sides was different than what I was getting from the meeting.

MR. BELLOWS: I just wanted to follow up that single-family residential is a permitted use in ag on a minimum five acres, though there might be some lots that are smaller if they're preexisting nonconforming. But primarily they're five acres and greater out in that area.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SCHMITT: Thanks.

CHAIRMAN FRYER: Would it be appropriate for us to ask that staff report back to us as a result of those conversations with the mission creep, if you will?

MR. BELLOWS: Would you like an email?

CHAIRMAN FRYER: Yes. The only thing I want to be careful about, I want to give Mr. Mulhere an opportunity to weight in if you're going to be reporting back. The County Attorney is looking at me. Bad idea?

MR. KLATZKOW: No, that's fine.

CHAIRMAN FRYER: Okay. Yeah, I think there just seems to be concern widely held up here, and I think we would ask staff to report back perhaps at the next meeting what the result of those conversations were and to invite Mr. Mulhere to be present and participate if he sees things differently. He may not wish to. I mean, the matter's been continued indefinitely, but we're

asking for a report back, and I think in fairness he should --

MR. BELLOWS: I can't guarantee the applicant can attend that type of deadline, but I'd certainly be willing to report back to you. I'll send you an email based on what I find out.

CHAIRMAN FRYER: I just want to be sure that he's been invited to it.

MR. BELLOWS: Definitely.

CHAIRMAN FRYER: Okay. Thank you.

Does anybody object to that? Does that seem like an appropriate -- okay. Thank you very much.

Anything else?

COMMISSIONER SHEA: Question for Jeremy.

CHAIRMAN FRYER: Go ahead, Commissioner.

COMMISSIONER SHEA: Are you going to send those to us? Where can I get those dates other than picking the first and third Tuesday [sic]? Does that get published to us somewhere?

MR. FRANTZ: That was in your packet for today.

COMMISSIONER HOMIAK: It's in the packet.

COMMISSIONER KLUCIK: It's on the agenda.

MR. KLATZKOW: Why don't you send a separate email, Jeremy. You can copy me as well.

MR. FRANTZ: I can do that.

COMMISSIONER SHEA: I got the packet. I didn't see it.

COMMISSIONER HOMIAK: I printed it out from the packet.

MR. FRANTZ: And I would also note that if we do hold a meeting in the -- or in the -- yeah, in the Growth Management Plan building, that would be a smaller space. We don't have as many overflow rooms available there, so that would be a more limited agenda if we do hold that meeting.

CHAIRMAN FRYER: Thank you.

I've got something -- did you have something else, Commissioner?

COMMISSIONER KLUCIK: No, this -- I have my other item that I already mentioned before.

CHAIRMAN FRYER: So you're covered?

COMMISSIONER KLUCIK: No. The item that -- I still have the item that I --

CHAIRMAN FRYER: Go ahead with it.

COMMISSIONER KLUCIK: Okay. Great.

So this is for Raymond, I guess, Mr. Bellows. I didn't mention it to him. What I wanted to suggest -- and it happens to be precipitated by the upcoming Ave Maria SRA application. I just noticed that it's very difficult -- as you know, obviously I'm interested in that because I live in Ave Maria -- to find the SRA, you know, in a usable way as a consumer, even as a lawyer who is probably way more familiar just from my experience on trying to find things.

That's a portion of the Land Development Code that is very hard for someone to find if they wanted to look at it. And especially since it's coming up on the agenda -- I think it's on our December -- it's published as a December 17th item. I'm not sure when we'll actually see it -- my suggestion to us, you know, as a commission, Planning Commission, is to ask the county staff to make sure something like that, especially if it's coming before everybody, that it be available and accessible to the public in a searchable format.

And when I talked to Mr. Bellows, he mentioned that, you know, well, there's like 300 PUDs, which would be a similar classification for the Ave Maria SRA and that they don't have those, you know, available online for people to look at. And my thought is that it's the Land Development Code that applies to people where they live. It seems as though that ought to be

easily available to people. And I don't think there's a cost or a technology prevention. And so I'm just trying to see if rather than, you know, make it become a bigger issue, that we can just get the staff to make that a priority, and certainly on items that are coming before the Board.

CHAIRMAN FRYER: Mr. Bellows?

MR. BELLOWS: For the record, Ray Bellows.

The county is exploring many options to getting all the PUDs available from a central link, so to speak. Right now, all PUDs are recorded with the Clerk's Office and can be viewed online through the Clerk's Office. We have a county records department that provides --

COMMISSIONER KLUCIK: I'm just going to interrupt you. For instance, if you wanted to go see the SRA for Ave Maria, you can -- it would be very hard for someone to know how to find it on the Clerk's website. But even if they did, it's not searchable. So for it to be meaningful for usage -- and many of the pages are gray. You can't even see what -- you know, what the exhibits are.

So, I just -- you know, I interrupt there because I think -- I agree, it is available. It's available, but it's not available in a very useful way, and I think it's easy for us -- it ought to be easy for our staff, as a government, you know, and certainly the Planning Commission would have an interest in making sure or encouraging that, that it would be available in a usable, user-friendly way.

CHAIRMAN FRYER: Is your concern with respect to Planning Commission's access or public access?

COMMISSIONER KLUCIK: Both. It would be -- you know, I think for us, we can end up getting it because we can ask for it but, you know, someone who, you know, just happens to be concerned or wants to even look and say, wait a second, this doesn't seem right or, you know, why aren't there any trees on this street but there's trees, you know, everywhere on this street. It would be very difficult for a resident to just find out what is the Land Development Code for where I live.

CHAIRMAN FRYER: I understand. I would suggest this, and I take a look to the procedures used in the City of Naples as an example of a potential solution to this problem. When they publish their agenda packet, they will have links in the agenda packet that any member of the public who wishes -- who sees the agenda can click on the link, and it will take them to the specific item in question.

MR. BELLOWS: We have that as well.

CHAIRMAN FRYER: We do. Wouldn't that be -- wouldn't that fully address the commissioner's concern?

MR. BELLOWS: On items before -- coming before the Planning Commission or Board --

CHAIRMAN FRYER: Yeah.

MR. BELLOWS: -- we do that, but I think he's referring to just general research into any project in the county, any PUD.

CHAIRMAN FRYER: Well, I think what I heard him say, and he can speak for himself, but it's most important with respect to matters that are coming before us.

COMMISSIONER KLUCIK: Right. But in the long term, I would think it would be easy for us to have, you know, a page on the website -- on the county website where people can look up their -- you know, their local version of the Land Development Code that applies to their neighborhood.

CHAIRMAN FRYER: Could you look --

COMMISSIONER KLUCIK: And I agree with you, what we have now, it seems as though people ought to be able to look at the agenda, although I would say it takes, you know, 10 minutes to download that, and I think -- I don't -- I certainly don't think we've put a barrier up if someone's really interested, but we certainly aren't making it easy even if we're saying that we're already doing it. I certainly won't say that we're not making it somewhat available, but for me

that's not on the agenda yet, and I was looking into it a few weeks ago or a month ago, and I couldn't -- and I knew I had a copy of it somewhere on my computer from a prior SRA amendment, you know, issue. But I don't even know if I have the current version. I don't know if I have the old version before the amendment. And all I can say is, I find that very frustrating because I'm, you know, an attorney who has dealt with these issues, and I don't even know if I'm looking at the right document.

And I think we -- we can make this easy for residents who are interested enough to be able to look. And I think that it would make sense that they ought to be able to look at things prior to these amendments coming before our board just as a matter of, you know, wanting to know what the rules are.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Ray, the Clerk's website has all the minutes and records.

MR. BELLOWS: Correct.

COMMISSIONER SCHMITT: All the minutes and records of the Planning Commission, all the minutes and records of the Board of County Commissioners. And it's -- the public probably isn't familiar with how to search but, typically, you would search through a resolution. You have a resolution number, and you should -- and it comes right up and -- through the minutes and records.

MR. BELLOWS: GIS. The county has a GIS system that any resident can go online from their house, look up their property on the GIS. You click on it, and it pulls up all the approved ordinance or resolutions, variances. Anything the county has approved it's -- those numbers are accessible.

COMMISSIONER KLUCIK: Right.

MR. BELLOWS: It just doesn't open the document.

COMMISSIONER KLUCIK: Right. And it also, though, is not in a searchable format. So you have a thousand-page document, and you want to find out, you know, how wide the sidewalk has to be, and you wouldn't -- you know, you're going to spend hours trying to figure that out.

COMMISSIONER SCHMITT: Some of those records were scanned PDFs. Some of them didn't go digital till probably eight, 10 years ago. But prior to that, a lot of those were just scanned PDFs.

COMMISSIONER KLUCIK: And, for instance, for this, when this first SRA amendment was, you know, coming up, I personally used my, you know, software, my PDF, you know, software that I have, and I turned it into a searchable document. And I'm thinking if I can do that, you know -- and I'm not high tech -- that our county can do that for the people to the extent, you know, it's possible. I'm not asking for a miracle, and I don't think that what I'm asking is controversial here.

COMMISSIONER SCHMITT: Well, my concern is the legitimate keeper of the keys, so to speak, is the Clerk's Office. Anything done by the staff would not really be an official record. I'm going to turn to the County Attorney. It's -- the Clerk's responsible for capturing all of the -- all of the ordinances and minutes and records; is that correct?

MR. KLATZKOW: There's a lot here to unpack, because I've heard a number of concerns. If the concern is that on any particular item the codes that are referenced should be attached, I think that part is easy, all right.

MR. BELLOWS: That's correct. We could -- and usually it is part of our backup.

MR. KLATZKOW: Yes. That part is easy.

So if staff was amending a PUD document, you know, this is the old PUD and what have you. But for a resident to be able to curiously say, boy, I wonder what my stuff is, the easiest thing is actually to call staff, and staff would be happy to answer their questions and send them any documents.

But Commissioner Schmitt's right, I mean, the keeper of the Board's minutes and records is the Clerk. And --

COMMISSIONER KLUCIK: Yeah. Well, I can just say, then, like, I don't think this should be necessary, but what I will do as a leader in my community, I will create a website, a private website and post it, and I just think that's silly that that would be something that a citizen who wants to, you know, help his neighbors understand their own neighborhood, I don't think that that's a --

CHAIRMAN FRYER: May we --

COMMISSIONER KLUCIK: I think it's odd that that's -- that would be the only way to make sure that it's readily accessible to Joe Shmoe. And Joe Shmoe ought to have this information really easily available to him.

MR. KLATZKOW: But it is, because --

COMMISSIONER KLUCIK: He doesn't even know -- he doesn't even know who to call or what to ask for. He doesn't even know what an SRA is. And those are -- that's just how it is.

And, again, I say that as someone who does know all these terms, and I find myself very frustrated trying to find this information, as someone who's very well informed, very skilled at searching things, and I -- and I guess I've already said -- you know, I've said a lot, but there's other ways to go about making this happen. I thought, you know, bringing it here could be a way to easily make sure -- you know, I brought it up with Mr. Bellows, you know, prior to this meeting, you know, so -- but I just think it's an easy fix.

CHAIRMAN FRYER: I think it's -- I'm glad you brought it up. And I'm going to suggest this: That staff, Mr. Bellows or whoever else in Growth Management staff, confer with the Clerk's Office and find out if there is a reasonably cost-effective, easy-to-implement solution to make access a little more user friendly to the common user. And we may not get an answer we want, but at least I think we should make the ask of the Clerk. Would that be all right?

MR. BELLOWS: Yeah. We'll do our best to look into this --

CHAIRMAN FRYER: Okay.

MR. BELLOWS: -- and report back with our findings.

I just want to point out that we have a team of individuals that deal with questions the public has about their community, what they can do with their property, what's happening next door. We have a team of individuals that look it up. They provide their response back. We do it verbally, or we do it through a process called a zoning verification letter application where we put it in writing what their property's zoned, what are the eligible uses, what are the setbacks. Those are all things that we do on a daily basis. I get about 40 of these letters in a week. And we review them, we check them, we verify, and then we submit them. So there is a way for people to understand what is happening in their community.

CHAIRMAN FRYER: I think --

COMMISSIONER KLUCIK: And I certainly -- Mr. Chairman, I don't want there to be any indication -- Mr. Bellows and I, our discussion was very, you know, cordial and fruitful, and I just thought it was appropriate to bring it up, you know, in a fairly benign way --

CHAIRMAN FRYER: Indeed.

COMMISSIONER KLUCIK: -- today.

CHAIRMAN FRYER: And we're asking Mr. Bellows to have a conversation with a counterpart in the Clerk's Office and see if we can make it even more user friendly without spending a lot of money. Thank you.

MR. BELLOWS: We'll reach out.

CHAIRMAN FRYER: Perfect. Thank you. Great.

I've got one that I want to raise, and with apologies to the County Attorney because I didn't know that I was going to raise this, or I would have mentioned it in advance.

And it may be appropriate, if the answer is not easily off the top of your head, sir, maybe this would be part of the workshop that we were talking about along the lines of quasi-judicial, and I'm referring to Florida Statutes 286.0115 that is captioned "access to local public officials, quasi-judicial proceedings on local government land-use matters." And in particular, and the reason that this came to my -- came to the forefront of my thought was I heard a number of my colleagues indicate that they've made site visits. And I, from time to time, make site visits as well, and in this case today I think it was fruitful that Commissioner Shea had made a site visit.

There is a provision in this statute -- and, County Attorney, I know you're familiar with it -- but it says, local public officials, and we're defined to include -- we're defined within the group of people who are called public officials. It says, local public officials may conduct investigations and site visits. Such activity shall not be presumed prejudicial to the action if the existence of the investigation, site visit, or expert opinion is made a part of the record before final action on the matter. But it seems to indicate -- and this is where I'm confused -- that in order to take advantage of this statute, the County Commission needs to adopt an ordinance that essentially repeats it.

MR. KLATZKOW: No. Look, I do site visits myself. I won't take on a Code Enforcement matter of any substance without going to the place and -- for myself.

The only time this becomes an issue is if you get two Planning Commissioners go into a car and drive to a place --

CHAIRMAN FRYER: Okay.

MR. KLATZKOW: -- or there's -- there's been cases where -- in this county, too, actually, we did it once upon a time, you rent a bus and you throw everybody on the bus, and you take a drive, and then you view the subject property.

But there's -- there's nothing wrong and, in fact, I would encourage you to, on any application before you that you deem material to visit the site, because there is no replication of actually boots on the ground and looking at it. And I cannot begin to tell you how many times my opinion has changed by actually being on a site other than from what staff's told me or an aerial or what have you. It's fine. We can include that as part of the workshop, if you'd like. But I would, in fact, encourage you to visit.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, sir.

COMMISSIONER KLUCIK: Just to be specific about what you said, Mr. Chairman. And I -- maybe you can clarify or reread it. You mentioned the visit being a matter of -- or entered into the record. So my question would simply be, when Mr. Shea says, I went out there and it was dusty and it, you know -- and you said something, you know, it was like, it would be shut down. Okay, well, is that now in the record and in a way that somehow violates? And I'm certainly not meaning to question, you know, that particular incident. I'm just citing that as an example. If this is an issue that we need to worry about, then, is it a question of we go make our site visit, I can then process that for me, but then I have to be careful about what I -- you know, how I reference that site visit? Because it then calls into question whether or not it's somehow evidence that is inappropriate. And I'm asking the question. I don't know.

CHAIRMAN FRYER: Before I get to you, Commissioner Vernon, if I may, and that was going to be the very next thing. And I don't want to pour salt in an old wound or bring up another matter that has been disposed of. But in the case -- well, first of all, I want to say that whenever I do a site visit, I disclose it up front, and I will continue to do that.

But let's say that I go make a site visit and I prepare notes about what I saw, do I then subject myself to the possibility of cross-examination?

MR. KLATZKOW: No. Your notes might be subject to a public records request which is why you never see me take notes anytime, anywhere. But, no, it's -- look, let's do it this way: These are good questions. Rather than off-the-cuff responses -- because these questions are

important, and I know we'll be having a workshop -- we'll include this in the workshop.

CHAIRMAN FRYER: Perfect.

MR. KLATZKOW: But, again, I encourage anyone who's going to make a decision on anything to actually look at it. It will change your perspective on it.

CHAIRMAN FRYER: Thank you. Thank you.

COMMISSIONER VERNON: I just have one quick comment. I've never read the statute. I did listen to what you said, and I'd certainly defer to Jeff. But it just seems like a literal reading of it is what you and Joe do is what we should do, and that is simply disclose that we visited the site. I don't think the statute requires more than that -- requires any more than that. So it's just simple. That's my interpretation of just what you read is just I visited the site, boom. And if you want to talk about it, you can talk about it. No obligation to talk about it.

CHAIRMAN FRYER: Thank you. And I --

COMMISSIONER VERNON: Does that make sense, Jeff?

MR. KLATZKOW: Yeah, we'll include this in the workshop.

COMMISSIONER SCHMITT: Just to clarify, though, it's certainly -- the violation would be a Sunshine if two of us visit --

MR. KLATZKOW: Yes.

COMMISSIONER SCHMITT: -- but there is, typically, in my recollection in the past, no problem if the petitioner is on site when you visit.

MR. KLATZKOW: No, no problem. Because you do ex parte communications.

COMMISSIONER SCHMITT: Ex parte communication. Or even if you say to staff, I'm going out to the site, and staff says I'll accompany you, there's --

MR. KLATZKOW: That's not an issue, either.

COMMISSIONER SCHMITT: Not an issue.

MR. KLATZKOW: In fact, getting a tour of the site from the owner can be quite helpful in a complicated matter.

COMMISSIONER SCHMITT: Correct, correct.

COMMISSIONER KLUCIK: And what was the official document you referenced, that you read from?

COMMISSIONER SCHMITT: Florida Statute.

CHAIRMAN FRYER: Oh, let me give you the cite again. It's 286.0115. And, I mean, it's a pretty long statute, and I just focused in on the one point of interest today. But it also goes part of the way toward answering what a quasi-judicial matter is. But the County Attorney will be schooling us on that at the -- so that's good.

Okay. Thank you very much.

COMMISSIONER FRY: Ned?

CHAIRMAN FRYER: Yes, Commissioner Fry.

COMMISSIONER FRY: May I just say how wonderful it is to have so many attorneys on the Planning Commission?

COMMISSIONER HOMIAK: I was just thinking that --

COMMISSIONER VERNON: Can I get that in writing?

COMMISSIONER SCHMITT: You know, engineers used to -- were the predominant group here. Now we're being wiped out, you know.

MR. KLATZKOW: It's easier for me with the engineers, frankly.

COMMISSIONER KLUCIK: I'm trying to figure out how I can bill for a workshop.

CHAIRMAN FRYER: Is there any other new business to come before us?

(No response.)

CHAIRMAN FRYER: Thank you. Any old business?

(No response.)

CHAIRMAN FRYER: Any member of the public wish to be heard on anything that has not been covered today?

(No response.)

CHAIRMAN FRYER: Seeing none and without objection, we are adjourned.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 11:40 a.m.

COLLIER COUNTY PLANNING COMMISSION



EDWIN FRYER, CHAIRMAN

These minutes approved by the Board on _____, as presented _____ or as corrected _____.

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