

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida,
January 7, 2021

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. (attended remotely)
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: Good morning. Happy New Year to everyone, and welcome to the January 7, 2021, meeting of the Collier County Planning Commission.

Will everyone please rise for the Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

Before I ask the secretary to call the roll, we must take action on a preliminary matter.

Commissioner Klucik has requested leave to participate remotely in this meeting, and his request requires, first of all, the presence of a physical quorum, which I observe preliminarily that we have, and our favorable action.

Now, from my point of view, I have absolutely no problem allowing remote participation during the pandemic time because I think it's just a wise thing to do. It's my own personal opinion. And so is there any further discussion, or is there a motion to permit Commissioner Klucik?

COMMISSIONER HOMIAK: I make a motion to permit.

COMMISSIONER VERNON: Vernon seconds.

CHAIRMAN FRYER: And any further discussion?

(No response.)

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

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously.

Commissioner Klucik, are you on, sir?

(No response.)

CHAIRMAN FRYER: Well, while we're continuing to get him hooked in, I'll ask the secretary now to please call the roll.

COMMISSIONER FRY: Point of clarification, Mr. Chairman. The gentleman in the beard over on the side. I'm wondering who that gentlemen is and what happened to Commissioner Vernon.

CHAIRMAN FRYER: We heard that --

COMMISSIONER VERNON: It's my winter coat for this brutal winter.

COMMISSIONER FRY: Thank you, Mr. Chairman.

Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER FRY: Mr. Shea?

COMMISSIONER SHEA: Here.

COMMISSIONER FRY: I'm here.

Chairman Fryer?

CHAIRMAN FRYER: Here.

COMMISSIONER FRY: Vice Chair Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER FRY: Mr. Schmitt?

(No response.)

COMMISSIONER FRY: Mr. Vernon?

COMMISSIONER VERNON: Here.

COMMISSIONER FRY: Mr. Klucik? I believe -- isn't he here?

CHAIRMAN FRYER: He's not connected in yet, but he intends to be.

COMMISSIONER FRY: Well, we have a physical -- oh, I'm sorry.

MR. SUMMERS: He is online. We just can't get his sound in right now.

CHAIRMAN FRYER: Oh, okay.

COMMISSIONER FRY: So I can count him?

CHAIRMAN FRYER: Yes. Please do.

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

CHAIRMAN FRYER: Thank you, Mr. Secretary.

Addenda to the agenda. Mr. Bellows.

MR. BELLOWS: I have no changes.

CHAIRMAN FRYER: Okay. Planning Commission absences. Our next meeting is on January 21, 2021. Does anyone know if he or she will not be able to attend?

(No response.)

CHAIRMAN FRYER: If not, that's great. It looks like we'll have a quorum.

We have no minutes before us to take action on, and Mr. Bellows has informed me that we do not have a BCC report for this morning. And I'll cap onto that by saying I don't have a Chairman's report either, and we don't have consent agenda before us either.

***So that takes us right to the public hearings and the advertised one. The first and only one today is PL2020000191. It's the Heritage Bay PUDA. 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 with Mr. Eastman.

MR. EASTMAN: Just email correspondence that is part of the public record.

CHAIRMAN FRYER: Thank you.

Commissioner Shea.

COMMISSIONER SHEA: Staff materials and email correspondence as well.

CHAIRMAN FRYER: Thank you.

(Commissioner Schmitt entered the boardroom.)

COMMISSIONER FRY: Same as Mr. Shea and Mr. Eastman and, plus, I did have a telephone phone call with three members of the applicant's team.

CHAIRMAN FRYER: Thank you.

In my case, I made a site visit. I received the materials from staff. It's a matter of public record. I had a meeting with staff, numerous emails from members of the public, and a meeting with counsel and other -- telephonic meeting with counsel and other agents of the applicant.

COMMISSIONER SHEA: Is staff -- site visits something we should disclose? Because I visited it twice.

MR. KLATZKOW: Yes.

CHAIRMAN FRYER: Yes.

COMMISSIONER SHEA: I should disclose that?

MR. KLATZKOW: You just have.

CHAIRMAN FRYER: Does anyone else -- well, we'll continue down with the vice chair.

COMMISSIONER HOMIAK: Just emails.

COMMISSIONER SCHMITT: I talked to Attorney Tony Pires, his representative Chris, I believe it was, from the -- transportation was on the phone and the representative from the community were all on the phone. So that's who I spoke with.

CHAIRMAN FRYER: Thank you, Commissioner Schmitt.

Commissioner Vernon.

COMMISSIONER VERNON: No disclosures.

CHAIRMAN FRYER: Thank you, sir.

The applicant?

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, sir. Oh, good. You're here.

COMMISSIONER KLUCIK: Oh, good. You can hear me.

CHAIRMAN FRYER: Yes, we can, Commissioner. Do you have any disclosures?

COMMISSIONER KLUCIK: Yes. I spoke with staff, and I spoke with Bill McDaniel.

CHAIRMAN FRYER: Thank you, Commissioner Klucik.

We'll now begin with the applicant's presentation. Mr. Pires, you may proceed, sir.

MR. PIRES: Thank you very much, Mr. Chairman. And I don't mean to take any role with the Planning Commission, but I don't know if the record reflected Mr. Schmitt's appearance and the time he arrived.

CHAIRMAN FRYER: Thank you. Thank you. That will be so noted for the record.

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

CHAIRMAN FRYER: Thank you, Mr. Secretary.

MR. PIRES: I didn't mean to take Mr. Fry's position, the highly paid voluntary position.

COMMISSIONER SCHMITT: I just didn't want Karen to be last today, so I --

CHAIRMAN FRYER: That was very thoughtful, as always. It's in the holiday spirit. And I don't think we need to time stamp his exact arrival, simply to say that he arrived before we began the application.

MR. PIRES: And I see Mr. Klucik on the screen. Good morning, Mr. Klucik.

COMMISSIONER KLUCIK: Good morning.

MR. PIRES: I will try to find the PowerPoint, if I may; Mr. Chairman and Planning Commission, indulge me for a moment. This is a PowerPoint.

My name is Tony Pires with the law firm of Woodward, Pires, and Lombardo representing The Quarry Community Association, the applicant in this matter.

Today we have with us as part of this team -- and I'll ask -- I'll also have some preliminary matters I will ask for some approvals and actions by the Planning Commission. But initially I want to introduce the team: Myself, as counsel; Chris Mears, professional engineer, civil engineering; Vicki Castro, professional engineer, Palm Traffic, transportation planner, traffic expert; Michael Yates from Palm Traffic, transportation planner, traffic expert; Greg Stuart who you're very familiar with. Greg spent three days living with you-all, I think, the last couple months, as our planner; and Cheryl Ollila. And I always mispronounce her name. So I'm sure she will correct me. My name gets mispronounced. It's all the vowels, I guess, that we have. She's the president of the applicant, The Quarry Community Association, Inc.

Mr. Chairman, as a preliminary matter, and members of the Commission, a couple of items. We have two individuals, our transportation planners, that we would request that the Planning Commission allow them to appear remotely and waive their physical presence. Mr. Yates has a conflict with a Board of County Commissioners hearing in Manatee County that was found out last week. Ms. Castro has been in North Carolina since March. She's out of the Tampa area but, because of COVID and other situations, she's been at her place in Boone, North Carolina, and we'd request the ability for them to participate remotely, and they have preregistered.

CHAIRMAN FRYER: Okay. Initially I'd ask the County Attorney if we have it within our authority to do that.

MR. KLATZKOW: You do, sir.

CHAIRMAN FRYER: Thank you very much.

From my point of view, under the circumstances of the pandemic, particularly, I have absolutely no problem with this and defer to other members of the Planning Commission if there -- if anyone objects.

COMMISSIONER FRY: Do you need a motion?

COMMISSIONER SCHMITT: No objection.

CHAIRMAN FRYER: Yeah, let's do a motion, if we may.

COMMISSIONER FRY: I move to approve that.

CHAIRMAN FRYER: Is there a second to approve the appearances of expert witnesses telephonically?

COMMISSIONER SCHMITT: 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: It passes unanimously.

Continue, please, sir.

MR. PIRES: Thank you very kindly.

With regards to the experts, and I just -- I'll defer to the Chair and to the Commission as to how they wish to proceed, if we wish to have them qualified as they come up and they can explain their qualifications and then ask that they be qualified as experts or we can go through their CVs/resumés now.

CHAIRMAN FRYER: I believe I saw some material that you submitted --

MR. PIRES: Yes, sir.

CHAIRMAN FRYER: -- to staff, and it -- CVs and the like and experience. So unless staff raises an objection of some kind, I believe it is appropriate for us to take that as acceptable for them to appear. But I defer to other Planning Commissioners. Is anyone concerned about the credentials of the experts?

(No response.)

CHAIRMAN FRYER: It appears not, so we'll --

MR. PIRES: Thank you.

COMMISSIONER VERNON: I just like the 30 seconds.

CHAIRMAN FRYER: Please.

COMMISSIONER VERNON: Thirty seconds of their background before they get into the substance, Tony, if that's okay with the fellow members.

CHAIRMAN FRYER: Absolutely.

MR. PIRES: If you would like the experts to do that or --

COMMISSIONER VERNON: Yeah. Just when they come up, literally, 30 seconds of some background.

MR. PIRES: Vicki, Michael, do you hear that? You're on the clock when you come up. Thank you.

CHAIRMAN FRYER: Okay.

MR. PIRES: And I think, as to Mr. Stuart, he's already been qualified as an expert before the Planning Commission. Can we make an exception for him and consider him an expert?

CHAIRMAN FRYER: Yeah. Anybody who is -- who is established as an expert for the county we don't need to re-establish.

MR. PIRES: Correct. Thank you very much.

Again, my name is Tony Pires. I'm called Anthony Pires. When people call me Anthony, I know I'm in trouble. Woodward, Pires, and Lombardo representing the applicant.

The Heritage Bay PUD, which is the subject matter of this application, it's comprised of two residential communities and a commercial activity center. It's the Heritage Bay residential community in the eastern portion and The Quarry community in the western portion with a commercial activity center in the southwest corner. And what's important is that commercial

activity center is the only portion of the Heritage Bay PUD within the Activity Center No. 3 outlined in the Growth Management Plan. The Limestone Trail, we'll hear a lot of discussion about that, that's at issue in this application, is not in an activity center. The activity center has commercial uses and they're, again, in the far western southwest corner.

The Heritage Bay PUD was designed as an integrated, interconnected mixed-use development. And bear with me as I go through the slides.

And from this graphic and aerial photograph, you can see the Heritage Bay PUD and Heritage Bay neighborhood. That yellow line on the right-hand side is not a roadway. It's just a demarcation line between the two residential communities; Heritage Bay neighborhood on the east and the Heritage Bay -- The Quarry neighborhood on the west, and the far southwest quadrant -- corner is the Heritage Bay Commercial Center in orange.

The Heritage Bay PUD was --

COMMISSIONER SCHMITT: Tony, can I interrupt you? I'm sorry I interrupted you, but I did. Can you put that in presentation mode so it fills the entire screen.

MR. PIRES: Oh, I'm sorry. You are dealing with the most technically challenged person on this team.

COMMISSIONER SCHMITT: Ray can show you, or somebody can show you.

COMMISSIONER SHEA: Bottom right.

COMMISSIONER SCHMITT: Either that or down on the bottom left -- right corner.

MR. PIRES: Thank you. Sorry, Joe.

COMMISSIONER SCHMITT: Yeah. There you are. That's the button. And I believe now all you have to do is press the mouse and it should advance.

MR. PIRES: There we go. We'll roll it.

COMMISSIONER SCHMITT: Excellent. Thank you.

MR. PIRES: No, thank you.

COMMISSIONER SCHMITT: I think that's good for the viewers as well if they're viewing from home.

MR. PIRES: Yes, sir.

And with regards to the Heritage Bay, again, the neighborhoods, Collier County approved the original DRI PUD in 2003, and over the years the County Commission and the county staff approved the developments, including the two residential communities, different platting for them. They have different distinct master homeowners associations, and the development pattern was one approved by Collier County.

Interestingly enough, although not a part of this application, there are two community development districts in this PUD. There's The Quarry Community Development District and the Heritage Bay Community Development District which pretty much encompassed those residential areas. Again, actions by the County Commission in 2004 and 2005.

Going to the next slide, this shows the road network within the Heritage Bay PUD. Again, the yellow line is merely for purposes of distinguishing the two residential neighborhoods and communities.

Bellaire Bay Drive, Goodland Bay Drive, and this segment here, they're all public roads. The rest of the roads are private roads except for a portion that comes up to here for exit. Otherwise, the road network consists of private roads.

The -- Limestone is not in Activity Center No. 3, as I mentioned earlier. The Heritage Bay road network, Limestone Trail. As to Limestone Trail, I think you've seen from our materials, it's platted as a private two-lane roadway; a private street. It's in the plat approved by the County Commission in November of 2004 and recorded January 2005. It is owned and maintained by the applicant, The Quarry Community Association, Inc. They -- it's always been a part of the common area of The Quarry Community Association and it was, in fact, deeded to them by the developer in 2005, so it always has been part of the association.

Yes, sir.

COMMISSIONER FRY: Mr. Pires, may I just ask for a clarification. So does that mean that the maintenance and liability for Limestone Trail rests solely with The Quarry and in no way with Heritage Bay?

MR. PIRES: Absolutely correct. The Quarry Community Association carries liability insurance, maintains the landscaping, maintains the roadway and, again, has exposure for any utilization of that roadway, and Heritage Bay does not.

CHAIRMAN FRYER: Excuse me. Commissioner Shea has a question.

COMMISSIONER SHEA: Another clarification question. You said the road, like Bellaire Road is public.

MR. PIRES: That's correct.

COMMISSIONER SHEA: That means that the county maintains it all the way up when it goes -- heads north and ties into the north -- the west entrance of Quarry, that whole section of road is maintained by the county?

MR. PIRES: That's my understanding, yes, sir.

COMMISSIONER SHEA: And everything inside the commercial roads inside the commercial area is taken care of by the county?

MR. PIRES: Well, one road is --

COMMISSIONER SHEA: Well, you've got --

MR. PIRES: -- Goodland Bay Drive and Bellaire Bay, there's an east/west minor street called Sage Drive. It's hard to see here. Sage Drive is maintained by the association for the commercial area. That's internal. It's hard to see from this graphic, but --

COMMISSIONER SHEA: Bellaire Road is not maintained by the association --

MR. PIRES: That's correct.

COMMISSIONER SHEA: -- or the commercial area. The county maintains it.

MR. PIRES: That's correct. Well, the county owns it. The county owns Woodcrest and the county owns Tree Farm, and we'll talk about that in a bit, too.

The privately owned Limestone Trail is used by both The Quarry and Heritage Bay communities within the --

COMMISSIONER KLUCIK: Excuse me. Mr. Pires? Mr. Pires?

MR. PIRES: Yes, Mr. Klucik.

COMMISSIONER KLUCIK: Could you please, when someone's referring to the map or a graphic, can you just make sure that that's up?

MR. PIRES: Yes, sir. I apologize. My finger --

COMMISSIONER KLUCIK: Could you repeat the streets that you were talking about just now when -- the questions regarding the different streets.

MR. PIRES: Bellaire Bay Drive is owned by the county and platted as a public road. Goodland Bay Drive is owned by the county, platted as a public road, and it goes all the way up to the westernmost portion of the Weathered Stone Drive and --

COMMISSIONER KLUCIK: That's where all the commercial businesses are. And the issue or the question from the fellow commissioners were whether or not the maintenance and operating costs were borne by the county?

MR. PIRES: Yes, and that -- my understanding is yes.

COMMISSIONER KLUCIK: All right. Okay. Thank you.

MR. PIRES: Yes, sir. I apologize for my scrolling to the different slides.

COMMISSIONER SHEA: Another point of clarification. I apologize.

MR. PIRES: No, sir.

COMMISSIONER SHEA: But I want to make sure we get the details right. On the north side of Bellaire, you have some apartments type. Are those part of The Quarry, or are they part of the commercial? What are they; independent HOAs?

MR. PIRES: That apartment complex is part -- is within the activity center. It is not within The Quarry development nor the Heritage Bay residential development.

COMMISSIONER SHEA: So it's part of the activity center?

MR. PIRES: It's part of the activity center, yes, sir.

COMMISSIONER SHEA: There's an HOA? There's some kind of organization that governs that?

MR. PIRES: I believe the condo association, if I'm not mistaken, is part of that, too.

COMMISSIONER SCHMITT: Commissioner, if I could -- I'll give some insight on that, because I'm well aware when the PUD went through its original petition. That was the -- an affordable housing complex that was mandated or I would say agreed to by the developer when it went before the Board of County Commissioners as a -- I'll call it not a -- I guess I'll say it, as a condition of the development, and that was the affordable housing where the affordable housing was designated. That was back in the throes of when they were talking about inclusionary zoning and other type of programs to promote affordable housing, but this was offered as an area -- as an affordable housing type project. I believe it still is designated as affordable housing.

MR. PIRES: I can't recall, Mr. Schmitt, but --

COMMISSIONER SCHMITT: Cormac or Ray, you may -- you may recall, but it is a -- it was originally affordable housing, but that's, what, 15 years ago, I think, when that was built.

MR. BELLOWS: Yeah. For the record, Ray Bellows.

I was the planner for Heritage Bay back at the time, and it was also a Development of Regional Impact, and the Development of Regional Impact process had some affordable housing mandates, and this satisfied those. But over the 15 or so years, I don't know if the turnover still was required and maybe if we can follow up with Cormac, we'll maybe have an answer before the end of the meeting -- this item.

CHAIRMAN FRYER: I have a question also, if I may, Commissioner Shea.

COMMISSIONER SHEA: Oh, absolutely.

CHAIRMAN FRYER: I was going to hold it, but now we're talking about the subject; I think it makes most sense for me to ask this particular question now.

The roads that run roughly north of the Heritage Bay lake, and by that I mean Siesta Bay, Quarry Drive, then continuing west they connect to Weathered Stone Road and ultimately to Bellaire. Am I correct, first of all, that Siesta Bay and Quarry are privately owned and maintained?

MR. PIRES: That is correct, and those two roads are owned by The Quarry Community Association.

CHAIRMAN FRYER: Okay. And am I also correct that when they connect to Weathered Stone, which is a county road, there is no barrier, no gate?

MR. PIRES: There is a gate at the western end of Weathered Stone before you get to a county -- short county segment, I believe.

CHAIRMAN FRYER: Okay. So in order to go from Quarry Drive to Weathered Stone, you need to have a pass?

MR. PIRES: If you're internal, I don't think you need to exit. You mean as far as exiting?

CHAIRMAN FRYER: Entering or exiting.

MR. PIRES: I believe entering you would.

CHAIRMAN FRYER: Okay. Do -- are those passes possessed by both the residents of Heritage Bay and of Quarry?

MR. PIRES: To my knowledge, just The Quarry Community Association.

CHAIRMAN FRYER: Okay. That -- we're going to need to talk some more about that, then.

All right. Thank you. Sorry to interrupt.

MR. PIRES: Yes, sir. Oh, no, no.

COMMISSIONER SHEA: One last question.

CHAIRMAN FRYER: Commissioner Shea, and then Commissioner Schmitt.

COMMISSIONER SHEA: Siesta Bay, you said was -- Quarry maintains it?

MR. PIRES: Yes, owned and maintained by The Quarry.

COMMISSIONER SHEA: So the homes along Siesta Bay from Quarry going east are part of Quarry, not part of --

MR. PIRES: I stand corrected. It's Heritage Bay. That portion -- that eastern portion of Siesta Bay Drive is maintained by Heritage Bay. Apologies.

COMMISSIONER SHEA: Well, when you say "the whole drive," it starts -- it starts on Quarry and then just goes east along the north side of the bay there. That's all Heritage Bay.

MR. PIRES: That's Heritage Bay. I stand corrected. Yes, sir.

CHAIRMAN FRYER: There's no gate at that point?

COMMISSIONER SHEA: No.

MR. PIRES: That's correct.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. Tony, I think it's very important as well, as you discuss each of these roads, you distinguish or delineate whether they were funded by municipal bonds as part of the CDD or were they -- were they constructed as part of the community under the foundation? Because there is a significant legal difference. I know you understand it. My fellow commissioners may not, but the CDD -- typically a CDD being a -- funded with municipal bonds could legally be deemed public roads. Even though they could be controlled, a CDD and all -- all intent and purposes could be deemed public because they're funded with the municipal bonds, which is publicly funded.

If the roads are constructed by the foundation, it's strictly private. So I just would ask that you make it clear which roads were CDD constructed and which roads were actually funded by the foundation.

MR. PIRES: To my knowledge, none of the private roads were funded -- internal roads were funded by any of the two community development districts. Their function is focused on the stormwater management and other aspects but not the road construction, although the community development districts do have the ability to acquire or construct roads. Quarry Drive, Weathered Stone Drive, all those streets internal, and Heritage Bay Boulevard, those are --

MR. BELLOWS: Do you want me to put this on?

MR. PIRES: Okay -- those are owned and controlled by two different associations. The community development districts do not own any of the roads.

COMMISSIONER KLUCIK: Including Limestone?

MR. PIRES: Correct. Limestone is owned by The Quarry Community Association, Inc., correct. Limestone was deeded to The Quarry Community Association by the developer in 2015. It was platted as a private street right-of-way and was included in the initial declaration for the master association documents for The Quarry as part of their common area.

COMMISSIONER SCHMITT: So they --

COMMISSIONER KLUCIK: But it wasn't constructed with funding from the bonds?

MR. PIRES: No. To my knowledge, no. The developer constructed Limestone Trail.

COMMISSIONER KLUCIK: Well, no, no. The developer often constructs things that are funded with bonds and then later on turns it over to a district. At least that's how it works in the district that I'm in.

MR. PIRES: I represent six community developments districts.

COMMISSIONER KLUCIK: No, and I -- right. I understand that, but it's very important to know precisely the question that, you know, at least two of the commissioners are, you know, telling you is very important. So I would figure that out and get us a definitive answer.

MR. PIRES: No. To my knowledge, the roads were not funded, paid for --

COMMISSIONER KLUCIK: To your knowledge isn't -- to your knowledge isn't really a good enough answer. I need to know for sure. And I understand. I know I'm putting you on the spot, but that's a question that I think is important for the Commission to know the answer to. And

if I'm out of line, I apologize.

MR. PIRES: Oh, no, no, sir. I appreciate the question. And if the -- if district -- if the district floated a bond issue and paid for the construction or the acquisition of the road, that road would have to be in the name of the district. The district --

COMMISSIONER KLUCIK: No.

CHAIRMAN FRYER: We will ask staff to have an answer to that question when they make their presentation, because that would be the authority.

MR. PIRES: Well, fortunately, Mr. Bellows has --

COMMISSIONER SCHMITT: I would doubt that staff would have that information, because that information -- but they may have it, but I would doubt --

MR. PIRES: Ray has a map, and the visualizer will show that.

CHAIRMAN FRYER: Okay.

COMMISSIONER SCHMITT: Tony, as far as maintaining those streets, so the Board of Supervisors is a CDD as far as their annual funding or operation and maintenance? It does not fall on the Board of Supervisors of the CDD? It falls under the foundation?

MR. PIRES: It falls under -- and Cheryl, the president, will address the issue that the CDD does not pay for any of the maintenance liability or cost of operating or maintaining Limestone Road [sic], Quarry Drive, Weathered Stone within the gates; that's correct?

MS. OLLILA: That's correct.

MR. PIRES: And she will testify as to that. There's none of the -- no funding for those roads is made by the district, CDDs.

Ray has put up on the visualizer -- I hope that you can see. He has a key with regards to the roadway. And at the bottom, if you note, none of the roads are owned by any of the community development districts, by either one.

COMMISSIONER SCHMITT: In regards to the other -- I'll follow up again. But in regards to other community development districts that you represent --

MR. PIRES: Yes, sir.

COMMISSIONER SCHMITT: -- is this unique? Because in many cases the CDDs typically are responsible for their road networks.

MR. PIRES: No, sir. I've seen -- there are a number of community development districts where -- to maintain the roads as to be utilized by the residents, that the roadways are, in fact, private and not community development districts roads. That's not unusual.

The developer, at the outset, when it establishes a district, will ask the board of supervisors to either take over or pay for the roads or pay for the roads and not turn them over or give them to the CDDs or not use any bond proceeds for the purposes of maintaining access control -- greater access control. And so that is not unusual. There are a number of communities where the roads -- where there is a community development districts, the community development districts does not own the roadways.

COMMISSIONER SCHMITT: Okay.

MR. PIRES: That's not unusual.

CHAIRMAN FRYER: Before I call on Commissioner Fry, I want to be sure that Commissioner Klucik is able to see what is on the visualizer. Are you, sir?

COMMISSIONER KLUCIK: Yes. Thanks for asking. I actually have the best view ever.

CHAIRMAN FRYER: Good. Perfect. All right. Excellent.
Commissioner Fry.

COMMISSIONER FRY: If not the maintenance of these roads, what is the role of the CDD, and what part of the DRI -- what role did it play in the DRI? And just please clarify that it is or is not related to this application in any way.

MR. PIRES: The community development districts have no relation to this application, and I think staff will concur with that. I think Ray's shaking his head up and down, for the record

for the court reporter, that the community development districts have no role or application or any relevance to this application. They maintain and operate the stormwater management system. That I do know, which is all -- they operate that backbone system which is not unusual. In fact, very, very typical of community development districts.

COMMISSIONER FRY: Thank you.

MR. PIRES: Yes, sir.

Next slide, if I may. The Heritage Bay road network, as we talked about -- and I'll go to the next one. The amendment and why we are here. The PUD text amendment to the Heritage Bay PUD, we're requesting it to construct a permitted PUD use right, a guardhouse traffic control facility. And as we go through the slides, you'll hear the testimony and see the excerpt from the PUD where one of the permitted uses are guardhouses, gatehouses anywhere within the development.

And it's consistent with the PUD. You'll hear testimony, we believe, to that extent, to install two gates on Limestone Trail, to clarify the ability to install gates on Limestone Trail and other Heritage Bay PUD privately owned roads.

In our opinion -- and you'll hear testimony -- the text amendment will not affect the use of the privately owned Limestone Trail by Heritage Bay and The Quarry residents that have enjoyed that use for approximately 15 years. The Heritage Bay residents -- and you'll hear that testimony -- their manner of Heritage Bay residents using Limestone Trail will not change by this. They have the same as they do now.

Next I'd like to introduce Chris Mears, professional engineer, and he will continue on with the program.

And, Chris, if you can give, as Mr. Vernon mentioned, a 30-second --

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, sir. Go ahead, Commissioner Klucik.

COMMISSIONER KLUCIK: Yes, okay. So just for clarification, Mr. Pires, I think -- you know, one of the issues, of course, is whether or not currently the district has been involved in these roads. My question -- and I think, you know, the answer probably is no, but I would like a definitive answer, and that would be on the funding.

Now, in Ave Maria, for instance, it's a different kind of district very similar to a CDD. Some of the HOAs -- some of the builders build their community roads with their own funds and don't turn them over to the district. Some of the builders do use bond-related funds for that infrastructure, and then they own them in the beginning, and they eventually turn them over to the district. It appears as though -- and that's why I want confirmation on. I don't -- I don't really think the answer is yes, but it appears as though the answer is no, that the funding was never bonds for the roads that are in question.

MR. PIRES: That's my understanding.

COMMISSIONER KLUCIK: I would like someone to confirm that.

MR. PIRES: My understanding is the answer is no, and I think Cheryl can also address that.

MS. OLLILA: I can't address --

CHAIRMAN FRYER: Ma'am, you're going to need to approach if you're going to speak.

MR. PIRES: I apologize for that, Mr. Chairman. In my review of the various documents, I did not see any documents where the CDD paid for the funding of the construction of Limestone Trail.

CHAIRMAN FRYER: Okay.

COMMISSIONER KLUCIK: Thank you.

MR. PIRES: Yes, sir.

MR. MEARS: Good morning. Chris Mears. I'm with Native Engineering out of Tampa area. I've got 23 years of experience in site development and permitting and design as well as transportation projects, roadway expansions, things of that nature. I've worked on hundreds of

different projects ranging from those site development type projects, commercial, multifamily residential, single-family residential design projects, the design and permitting end, as well as, again, on the transportation end, roadway improvement projects.

CHAIRMAN FRYER: Licensure and certification, sir?

MR. MEARS: Yes, sir.

CHAIRMAN FRYER: Would you elaborate, within the 30-second framework?

MR. MEARS: Yes. I've been licensed since 2004.

CHAIRMAN FRYER: As?

MR. MEARS: As a professional engineer.

CHAIRMAN FRYER: Thank you.

MR. MEARS: So I'll continue with --

CHAIRMAN FRYER: And that's in the state of Florida, correct?

MR. MEARS: That is in the state of Florida; sorry for that.

CHAIRMAN FRYER: Thank you.

MR. MEARS: I will continue with some of the discussion that Mr. Pires had talked about and provide some additional clarification. I think some of the discussion in regards to traffic circulation will help the understanding of how, you know, vehicles and residents move back and forth to and from the commercial activity center.

So as Mr. Pires had indicated, Siesta Bay Drive, which is controlled by Heritage Bay -- you can't see the entire PUD on this slide; however, you can identify Siesta Bay Drive here and then Quarry Drive just to the west. So I'll point out that Heritage Bay residents as well as Quarry residents can exit from any of the gates that are currently in place at Weathered Stone Drive, Quarry Drive as well as Heritage Bay Boulevard; however, not all the residents can re-enter through those same gates. Quarry residents, because they control and maintain and pay for their roadways, only Quarry residents can re-enter through Weathered Stone as well as Quarry Drive. Heritage Bay residents cannot re-enter into those gates. They can exit. They cannot re-enter. I just want to provide that clarification because there have been questions in regard to that.

On the same token, Quarry residents cannot re-enter in through the Heritage Bay gate. They can only exit if they feel they need to move in the eastbound direction from their community.

With that said, all residents currently have access to Limestone Trail, both Quarry and Heritage Bay residents. And it's full use both on the eastbound and westbound direction. And to access the commercial activity center, which is outlined here in the light blue color, both Quarry and Heritage Bay residents can either exit through Weathered Stone and run south on the county-owned and maintained roadway, which is Bellaire Bay Drive, or they can exit through Quarry Drive and go westbound on Limestone Trail to the commercial activity center.

I'll also point out that the residents that are in the commercial activity center, the multifamily community here, they cannot also enter in through any of the gates. They do not have access to either of the communities.

But I'll point out as far as the access goes from the commercial activity center back into the communities, specifically Heritage Bay, they have a number of different options to regain access back into their community. As I mentioned before, they cannot go through into the gates at Weathered Stone or Quarry Drive; however, the first option, which is highlighted here as little yellow arrows, they can go eastbound on Limestone Trail, they can make a U-turn, or I'm sorry, they can make a right turn onto Immokalee Road, and then make a U-turn at the first median opening. They could also make a U-turn at Bellaire Bay Drive.

I'll point out that Bellaire Bay Drive used to have a median opening here at Immokalee Road. That has recently been closed and directionalized. So the movement which previously existed, which was a southbound to eastbound movement, no longer exists. This was a county improvement. Along with that improvement, the county extended the turn lane at Goodland Bay Drive to accommodate additional stacking and deceleration lanes.

COMMISSIONER KLUCIK: Excuse me.

MR. MEARS: So one of the other options here that you can see is Option No. 2. Motorists leaving the commercial activity center can make a --

COMMISSIONER KLUCIK: Excuse me. Mr. Chairman?

CHAIRMAN FRYER: Yes, sir. Go ahead, Commissioner.

COMMISSIONER KLUCIK: Just on that last point, so the county made an improvement, and when the county made the improvement, obviously they made the improvement assuming Limestone Trail would continue to be open?

MR. MEARS: I can't speak to what the county's assumptions were.

COMMISSIONER KLUCIK: Well, had you submitted -- had you submitted this application when they made that improvement prior to the --

MR. MEARS: We had submitted the application prior to the improvement being made; however, the county did anticipate that these closures would exist at some point in time. With the Traffic Impact Statements that were done by the developers within the commercial activity center, there were a number of those TISs that made the assumptions that these median -- that the median closure would occur at Bellaire Bay Drive. So in those TI --

COMMISSIONER KLUCIK: And that --

MR. MEARS: I'm sorry. Go ahead.

COMMISSIONER KLUCIK: No, no. Carry on.

MR. MEARS: So in those TISs, I want to say out of the 14, 10 or so of them made those assumptions or anticipated with their distributions of their traffic that that median closure would exist.

CHAIRMAN FRYER: Excuse me, sir. I'm going to ask Commissioner Schmitt to speak.

COMMISSIONER SCHMITT: Yeah, to follow up on two questions, Chris. One is in answer to the question just asked by my colleague, and Mr. Pires may have to answer this. But was there not -- I believe there were public hearings or public meetings by both Deputy County Manager Nick Casalanguida and the County Commissioner briefing the residents on everything that was taking place and was planned to take place in this area, because this area's been discussed for years in regards to various phases of traffic improvements and intersection improvements. So there were public meetings, were there not, or at least meetings to advise the residents?

MR. MEARS: Yes, there were. And as I move through my portion of the presentation, I'll get into those details of how we came about where we're at today. You know, why did we file the application. And it was for some of those very reasons and some of those presentations that were given by the county during town hall meetings, et cetera.

COMMISSIONER SCHMITT: And the second question, then. You may have it on a following slide, which you probably do. But at Quarry Drive and Immokalee, that currently is a full opening but it's not signalized?

MR. MEARS: Currently, it is a full opening. It is not -- I don't believe the opening is -- I think there's traffic control devices that are keeping it closed; is that correct?

Pete or Cheryl, is it -- are there still barricades or traffic control devices that prevent that opening from allowing those full movements?

MS. OLLILA: (Nods head.)

COMMISSIONER SCHMITT: Your arrow shows, of course, heading south and then turning west, so I can make a right turn only. I cannot make a left turn out of that -- from Quarry Drive and go east?

MR. MEARS: That's correct. The signal is currently under construction. Once the signal will be constructed -- and, again, I'll get into that discussion. Once the signal's constructed, that will be a full opening; it will be signalized. So they will be able to make that movement.

CHAIRMAN FRYER: Commissioner Klucik, go ahead.

COMMISSIONER KLUCIK: Yeah. No. I drive by there frequently, and what has happened is it appears as though the traffic signal is fully installed, and there's barrels that prevent anyone from actually using that intersection. And so the main -- the median is actually -- you

know, it's as if there's a continuing -- continued median right through there. And so right now anybody can use that for any kind of access. So you have to use the traffic patterns that the current witness has -- sorry. Mr. Mears --

MR. MEARS: Yes, sir.

COMMISSIONER KLUCIK: -- that he has shown on his graphic in red and orange.

MR. MEARS: I appreciate that clarification.

COMMISSIONER KLUCIK: And from my understanding, talking to the county staff, that's -- you know, it's just a matter of time before that's going to open up as a traffic signal.

MR. MEARS: Thank you, Commissioner. I appreciate --

CHAIRMAN FRYER: Thank you. And before you proceed, sir, since you have testified with respect to gates, I do have a question, and it relates to a conversation I had -- a good conversation I had with Mr. Pires yesterday. And I will say, in a preliminary way, that I am leaning toward approval of this for reasons which I will elaborate upon later. Of course, I don't make decisions until all the evidence is in. But I want to flag something right now that is of concern that I did not speak with Mr. Pires about.

First of all, I am -- I am okay with the fact that the Heritage Bay people don't have a way in from Immokalee to Quarry Road, and I'm also okay -- and it's kind of a sense of parity, if you will, that The Quarry people don't have a right-of-way in from -- a right to enter from Immokalee to Heritage Bay. Those two things kind of cancel one another out from a fairness standpoint.

But what I am really not okay about, and I'm going to need to hear some good and sufficient reasons why this should be approved without a significant change, is the gate that I'm now finding out about between Quarry Drive and Weathered Stone Road. I think that's where it is. Is it not, or is it between Siesta and Quarry? In any event, wherever it is, it presents an internal -- yeah, out you can go, but in you can't. And so what I was looking for was an alternative for the Heritage Bay people to get from the commercial part of this PUD back into their neighborhood without having to go out on Immokalee. And I'm flagging that for you right now because it's really going to be a stumbling block for me when we get -- when we come time to vote.

And I would suggest that you consider granting the people in Heritage Bay an in/out access on that gate that's internal to the two adjoining subdivisions.

MR. MEARS: Understood. Appreciate your input.

CHAIRMAN FRYER: Okay.

MR. MEARS: I will chime in on that. And, no, you are correct, access is not permitted for Heritage Bay residents in the eastbound direction onto Weathered Stone, through Weathered Stone. Again, I'll point out that Weathered Stone Drive is owned and maintained by The Quarry, and they are separate communities. I'll let Cheryl Ollila talk about that when she comes up as well as Tony can recap in his conclusion.

But, currently, the traffic pattern is requiring that Heritage Bay residents use Immokalee Road to get back into their community.

CHAIRMAN FRYER: Thank you. I'm going to interrupt you again, with apologies.

Back in June 29 of 2003, the Board of County Commissioners' minutes of that date, which related to the approval of the Heritage Bay Development of Regional Impact and PUD, Mr. Bruce Anderson, who's a lawyer who was representing the developer at the time, said the following.

Quote: This project also features internal access to the activity center so that residents of Heritage Bay will not have to travel out on Immokalee Road to shop for their everyday needs. And that was the intention that the Board of County Commissioners acted upon back in 2003, and I've got a fundamental problem if this -- if that is not the case. Thank you.

MR. MEARS: Understood.

Again, I'm not going to speak to Mr. Anderson's, you know, intent with that statement. It did say, as you pointed out, residents of the communities to access the commercial activity center. They do have use of Limestone Trail and the internal roadways to access the activity center.

CHAIRMAN FRYER: But you don't think access implies being able to return back

home?

MR. MEARS: I'm not going to say that it doesn't have that interpretation. They do have access to Limestone Trail to return back home. Again, they don't have access using The Quarry owned and maintained roadways to return back home.

CHAIRMAN FRYER: I really do think that's a problem, and I think it is contrary, because at the time when Bruce Anderson made that statement, Heritage Bay was the entire area. It was Quarry, and it was what's now Heritage Bay, and also the commercial area. So he was talking about residents. So we're not, at this point, talking about giving the commercial owners access throughout here. But I really am repeating myself, with apologies. I think that the original intent of this, as it came before the BCC in 2003, had full ingress/egress for everybody who was in the PUD; every resident who was in the PUD.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, sir, Mr. Klucik.

COMMISSIONER KLUCIK: Yes. And I would just state, if you look at the plain common understanding of what Mr. Anderson, my former colleague at Roetzel & Andress, had to say, it seems as though -- and, again, I was not -- I said that just because I respect him, and he's a friend, a professional colleague. I didn't even work at the firm at the time in '03 -- that Heritage Bay will not have -- the people of -- residents of Heritage Bay will not have to travel out on Immokalee Road to shop for their everyday needs. I would think coming home is part of shopping. You know, it's a -- it's a very strained reading that really -- you know, you'd be better off if you just acknowledged that that says what it says, and it's hard to interpret that it only implies one way, because it really -- it doesn't make sense to suggest that one-way travel was at all implied by this.

MR. MEARS: I apologize. I'm not trying to imply that -- one point that I did want to make is that I believe you had indicated, Commissioner Fryer, that the CDDs were later development after that statement was made. The county approved those two separate developments. They approved them being owned and maintained the way they are today. The county's approved a number of other improvements along this -- within this community since that date. And I'll get into a little bit more detail with regard to that, and it might help you with that -- with your concern.

CHAIRMAN FRYER: It might. And before you continue, I'm going to call on Commissioner Schmitt.

COMMISSIONER SCHMITT: Thank you, Ned.

I vividly remember this petition as well, and you're absolutely correct, Mr. Anderson, Bruce Anderson, did make that commitment. Where on the map is that control at between Siesta Bay and Quarry? Show me the --

MR. MEARS: There is no controlled access from Siesta Bay to Quarry. Again, the communities may travel back and forth from one community to another without leaving the community itself, without leaving the -- through a gated entrance or exit. So Heritage Bay residents --

COMMISSIONER SCHMITT: What was just stated, there was a control that you can't get back. Is that correct, if I'm on The Quarry I cannot go into --

MR. MEARS: No. I'll go back and clarify. I apologize. I didn't realize there was that confusion, but I'll clarify once again.

COMMISSIONER SCHMITT: Other than I have to go through the gate. And I do not have -- if I live in the -- all right. I'm getting mixed up now. On the right is --

MR. MEARS: I'm going to scroll up to --

COMMISSIONER SCHMITT: Yeah.

MR. MEARS: -- to this network, internal network --

COMMISSIONER SCHMITT: Heritage Bay, I come in the main -- I can't go on Limestone and enter into The Quarry through that gate is what you're saying.

MR. MEARS: Correct. So residents from the Heritage Bay neighborhood or community can travel back and forth to The Quarry without going back out onto the public roadway network.

COMMISSIONER SCHMITT: So --

MR. MEARS: Quarry residents can also --

COMMISSIONER KLUCIK: Where is the activity center?

MR. MEARS: The activity center is here highlighted in red -- or outlined in red, sorry.

COMMISSIONER KLUCIK: Okay.

MR. MEARS: So The Quarry -- the Heritage Bay residents can travel on Siesta Bay Drive onto Quarry Drive and go south on Quarry Drive to Limestone Trail, exit through the gate, travel westbound on Limestone Trail to access the commercial activity center. They can also travel west on Siesta Bay Drive through The Quarry community through no gated feature, exit through the gate at Weathered Stone, go southbound either on Bellaire Bay Drive to the commercial activity center or southbound on Collier Boulevard, which has access points to the commercial activity center, whichever they prefer.

What they can't do -- the residents cannot do is go from the commercial activity center up Bellaire Bay Drive and enter back into The Quarry-owned gate at Weathered Stone, nor can they go west -- or eastbound on Limestone Trail and enter The Quarry-owned gate at Quarry Drive. They are required to go back out onto Immokalee Road and enter into their gated entrance at Heritage Bay Boulevard.

CHAIRMAN FRYER: If it weren't for the evidence that we have in the official record, I think your argument might be plausible. But the point is is we know now what was -- what was represented to the Board of County Commissioners when they approved this, and it has to do with interconnectivity, and it doesn't ring true to me to say that you've satisfied the statement of Mr. Anderson by allowing them to go out to shop but not to come back home again, and I -- so I've got a real problem with that, and nothing that you have said has helped me.

MR. MEARS: Understood. But, again, I will point out that the applicant -- a lot of this development had occurred, you know, undue from the applicant. It wasn't the applicant's choice to set the communities up the way they did. This traffic pattern has existed for many years.

CHAIRMAN FRYER: Well, as I said, I'm not objecting to the entrances off of Immokalee Road. They can -- because I think it's fair, and it's sort of a parity that the Heritage Bay people have their own gated entry that Quarry can't go through, and Quarry has its own gated entry that Heritage Bay can't go through from Immokalee. But interconnectivity to get over to the commercial center, to me, needs to be a two-way street.

COMMISSIONER KLUCIK: Chairman?

CHAIRMAN FRYER: Yes, Commissioner Klucik.

COMMISSIONER SCHMITT: On Weathered Stone, though, you're saying?

CHAIRMAN FRYER: Yes, on Weathered Stone.

COMMISSIONER SCHMITT: Because the -- and -- because the other question would be drivers' behavior. And let's say the two gates are put up on Limestone, that means a driver returning to get into the -- through The Quarry gate would go through two control arms and then a gate just to get back into Heritage Bay in lieu of just going down Immokalee and going in their main gate, which probably will not happen. But, I agree, Weathered Stone would be the preferred option. If they leave the commercial area, go through the Weathered Stone gate, and then they would have access. And that's what you're referring to?

CHAIRMAN FRYER: Yes, sir, it is, yeah.

And Limestone Trail, a two-way access there would require the Heritage Bay people to have access rights at Quarry, and I'm not asking for that. It doesn't need to happen in order to achieve interconnectivity and keep the cars off the public roads. What's needed is access north of the former Quarry.

MR. MEARS: Okay.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, sir.

COMMISSIONER KLUCIK: It seems like you could have access at either point, you know, I mean, but there has to be -- to honor -- to honor the commitment that the attorney, Mr. Anderson, represented in '03, it wouldn't matter where the access was, but there has to be one or the other. And what you're suggesting, Mr. Chairman, is one way that that could be satisfied without, you know -- and also being able to approve, you know, the application with an amendment that opens up that northern access, I think.

CHAIRMAN FRYER: Yes, Commissioner, that is -- I'm not telling them it has to be northern, but I think they would prefer it if they had to choose between the northern Limestone.

COMMISSIONER KLUCIK: Okay. And then my question to Mr. Mears is you mentioned that eventually this was split into two different -- the county ended up approving the two different communities. When that was approved, it was approved with Limestone as a public road, correct?

MR. MEARS: No, sir. Limestone has always been platted as a private road.

COMMISSIONER KLUCIK: Okay. So then when did it become a public road?

MR. MEARS: Limestone currently is not a public road. Limestone is currently a private road. I'm sorry for the confusion.

COMMISSIONER KLUCIK: Okay. The access. The access, I guess, is what I'm talking about. Was it approved with a -- with public access as part of the -- you know, mentioned in the approval?

MR. MEARS: I believe when Limestone was turned over to The Quarry association, it had always been a private road. The Quarry had installed a no trespassing sign -- private property, no trespassing sign alerting motorists that Limestone Trail is a private roadway. That sign has been there for a number of years now.

CHAIRMAN FRYER: It's been there ever since turnover, correct?

MR. MEARS: I believe so.

MS. OLLILA: Actually, before.

MR. MEARS: Actually, before. I'm being corrected.

CHAIRMAN FRYER: Okay. And I think that's -- I think the turnover was -- (Someone speaking in Zoom background.)

CHAIRMAN FRYER: I'm sorry. I'm unable to hear. Commissioner Klucik, are you speaking? I can't hear you, sir.

COMMISSIONER KLUCIK: No. What has been there since turnover? A sign?

CHAIRMAN FRYER: Yes, a no trespassing sign, possibly earlier. And leading up to that -- and let me speak to it a moment -- the developer had, as the developers always do prior to turnover, virtually all the rights, control of the HOAs and other things. I'm assuming, and without casting aspersions on a developer -- I don't even know who the developer was, and it doesn't matter. But it stands to reason that as more and more homes are sold, the developer is going to have less and less interest and perhaps less and less financial incentive to be erecting gates and the like. And so it got to the point of turnover, and the first thing that the homeowners association did was to erect a no trespassing sign, because it did matter a great deal to them.

COMMISSIONER KLUCIK: Now, is -- the no trespassing sign, Mr. Chairman, I think, it doesn't appear as though that was for the road, is that, but that was for the property surrounding the road? I mean, the reason I ask that is if you look right under where Mr. Anderson's comment is referenced in the staff report, Packet Page 14, Page 10 of a 16-page report, it mentions that, you know, historically, that there was a request to have a pedestrian walkway and there was -- you know, and it was going to be near, right there on Limestone Trail, and the response was that well, we don't want that because that's a road that, you know, is going to have -- has public access, you know, public use, and we don't want a sidewalk to come into the community from there, which is extremely reasonable, which seems to be as well why you would have a no trespassing sign there.

I don't know what the no trespassing sign -- you know, what it's designed to do, but it

seems as though that's a reasonable, you know, explanation for it. It's for the property there. You can use the street, but you can't walk around, you can't park on the side of the road, I don't know. But I don't think the fact that the no trespassing sign really dictates much to anybody on the decision or even is much of a factor, but...

CHAIRMAN FRYER: I -- we may disagree, Commissioner. It seems --

COMMISSIONER KLUCIK: What is -- what is the genesis of that no trespassing sign -- what are they trying to prevent? What sort of trespass is that trying to prevent? That would be a good thing to --

CHAIRMAN FRYER: I think when you're confronted with a no trespassing sign, it means no entering, whether you're in a motor vehicle or as a pedestrian or otherwise and --

COMMISSIONER KLUCIK: So you have a public access road in which the no trespassing sign is supposedly meaningful?

(Simultaneous crosstalk.)

CHAIRMAN FRYER: It was a public access road only by reason of the potential of it becoming [sic] through an easement by prescription, open, notorious, and under claim of right for 20 years, which potentially would run in 2025 in the face of a no trespassing sign, people who are complete strangers to this PUD like me. I live in Naples. I don't have any rights whatsoever to trespass on that property, and I'm forewarned by that no trespassing sign.

And I'm -- and I can fully understand why the residents want to bring this matter -- and I'm talking about Limestone Trail now, not the back way in. They want to bring this matter to a head now, because if they continue to allow the public to flout the no trespassing sign with impunity, they're going to wind up -- it's going to be an easement by prescription, and there won't even be the need for the payment of a taking, not --

COMMISSIONER KLUCIK: Well, Mr. Chairman, that doesn't square with what I thought the staff was explaining to me and the history and the genesis of, you know, the whole project here regarding Limestone Road -- or Limestone Trail. I always understood that this has been a street that was open to the public and there was never any question that anyone, you know, was not allowed to use it or didn't have permission to use it.

And I understand you can put up a sign that says, I'm not responsible for your hat or coat in your business. That doesn't necessarily mean you're not responsible for the hat or coat. You might be responsible for it. Same thing with this trespassing sign. I realize it's different. It's an analogy, and all analogies suffer a little bit.

But I just don't understand how you can have a road -- you know, could you then -- could the -- right now could the HOA, The Quarry association, have someone removed from the road? You know, could they call the sheriff and say, you know, this is private property, and we've told this car to not use the road and here they are again?

CHAIRMAN FRYER: Well, I think -- I think they proceeded in exactly the correct manner. Rather than making it a police issue -- which perhaps they could; maybe they couldn't -- they've noticed that the public is flouting the no trespassing sign in its admonition and has been ever since turnover when the developer had waning interest at best in providing benefits to the homeowners. So the earliest time they could, they mounted a no trespassing sign. It's private property. The extent to which there's been public access has been in contravention of that sign. And I feel -- well, it doesn't matter what I feel.

But we can get into this more as we proceed.

COMMISSIONER VERNON: Can I ask --

COMMISSIONER KLUCIK: Yeah. I'd be interested in hearing from staff about that just because it's that -- the idea that it wasn't actually designated for public use, you know, in its current situation, that is not at all how staff presented anything to me. So, you know, I guess staff could be wrong, or I misunderstood staff. But, yeah, we'll have a chance to talk to them.

CHAIRMAN FRYER: We will, and we'll have both Nancy Gundlach and Sue Faulkner here to address those questions, and that would be the proper time, you're correct. Please continue,

sir.

COMMISSIONER VERNON: Mr. Chairman, could I ask a question?

CHAIRMAN FRYER: Yes, please.

COMMISSIONER VERNON: And this is a big-picture question. Setting aside -- and setting aside the current petition, right now if somebody from Heritage Bay goes to the commercial activity center, they cannot get back without going to Immokalee. That's where we are right now.

MR. MEARS: (Nods head.)

COMMISSIONER VERNON: So where we are right now sans the petition is that Bruce Anderson's representation is not being carried out; is that accurate?

MR. MEARS: That is accurate.

COMMISSIONER VERNON: Okay.

CHAIRMAN FRYER: Now, I'm going to apologize to the applicant. And I've probably been the worst offender here interrupting your presentation. So, with apologies, please continue. We'll have a full opportunity up here to ask questions and make comments. And I didn't -- I didn't do a very good job as gatekeeper with that, so I apologize.

MR. MEARS: No apologies necessary. But I appreciate, you know, the opinions, and I appreciate the insight towards your concerns, and I will -- I hope that I'll address those as I move forward. I believe some of them I will. I can't guarantee that I'll address all of them. But I will address first the comment in regards to the sidewalk connectivity. And there was a question a number of years ago during the development process whether that sidewalk connectivity would occur.

There is a sidewalk along the south side of Limestone Trail. The -- I think at the time the engineer had responded back to the question in regards to having sidewalk connectivity across Limestone Trail and into the community, that they prefer that not happen because there may be -- there may be public traffic on Limestone Trail.

I want to emphasize the word "may." It doesn't mean that they said there wouldn't be; just there may. And with that being the case, they didn't want people going back and forth into a private community where there are no restrictions, specifically speaking about the sidewalk.

With that said, I will continue. I'm glad -- I believe everybody understands the traffic pattern that is current there today. It has been there for years. So we are not -- the community is not in compliance with Mr. Anderson's statement with regard to motorists from Heritage Bay having to go back out onto the public roadway. They do have to go back out on the public roadway. They've had to go back out on the public roadway. Whether there's a petition today or no petition today, they've had to do this for years. We're not proposing to change that.

Limestone Trail has always been a private road. I want to make sure I emphasize that. It will continue to be a private road as far as I know and as the applicant believes or intends.

I will go to the next slide which shows what will happen if this amendment is approved, and I will go back and forth between these two slides because this is important and this emphasizes the statement I had just made in regards to current traffic movement.

You can see the return movements back from the commercial activity center specifically for Heritage Bay residents. They'd have to make a number of different movements that they currently -- they currently make with the amendment in place and the signal in operation. Heritage Bay residents, the only additional movement that would provide another option for them is the one that's the heavy arrow in the southbound to eastbound direction.

So I'll go back and forth. As the gates are installed on Limestone Trail, Heritage Bay residents will continue to have access to Limestone Trail as they do today. They will continue to have access back onto Immokalee as they do today; however, they will have a signal to make a southbound-to-eastbound movement that they currently don't have today. So once the signal is installed, they will be able to make this movement southbound to eastbound into their -- into their gate.

So the condition of whether -- you know, who is able to come in and out of the different

gates, the three yellow gates that are shown on this slide, that won't change, or is not intended to change, but both Quarry and Heritage Bay residents will have transponders that they can access in both directions and use Limestone Trail in an eastbound and westbound direction.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Chris, just to --

MR. MEARS: Yes, sir.

COMMISSIONER FRY: -- nutshell that, what you're saying is that for the residents of Heritage Bay, the only difference it will really make is that Heritage Bay residents will now have a shorter trip home by taking Limestone Trail, making a left at the light, thereby relieving some congestion or some traffic burden at the light potentially at Collier Boulevard and also the two U-turns?

MR. MEARS: That's correct.

COMMISSIONER FRY: Would that be an --

MR. MEARS: That is an accurate --

COMMISSIONER FRY: -- accurate statement?

MR. MEARS: Yes.

COMMISSIONER FRY: Okay.

MR. MEARS: So as I had pointed out earlier -- and I think Tony had pointed out -- and, again, we'll go back through this. There is a bit of redundancy, and I'll apologize in advance for some of these slides. But it seems like we've gotten a lot of similar questions that I hope we can address as we progress.

But the county created this current traffic operation. As I go back up to this slide, there is a restriction here at Bellaire Bay. There is an extension of this turn lane. These were county improvements with the anticipation that Bellaire Bay would be a closure and traffic would have to exit onto Immokalee and make a U-turn at Goodland Bay Drive or go out to Limestone Trail and make a westbound movement and then a U-turn to get back to Heritage Bay or east of Heritage Bay. So that anticipation from the county was there, making those movements.

So we're maintaining that historic vehicular and pedestrian interconnectivity which is consistent with the Comp Plan.

COMMISSIONER KLUCIK: Mr. Mears?

MR. MEARS: The regulations and LDC. Yes.

CHAIRMAN FRYER: Commissioner Klucik?

COMMISSIONER KLUCIK: Thank you, Mr. Chairman.

You just -- I mean, what you just said is that -- you know, could you go back to that slide, the graphic?

MR. MEARS: Yes, sir.

COMMISSIONER KLUCIK: So you were talking about the changes being done in the county, you know, decided to do this. Again, when I've talked to the staff and Traffic, you know, Trinity and, you know, other staff, the idea that Limestone would be closed off for public use was not what they were anticipating when they decided to install the traffic signal there that's shown on your graphic.

Now, again, I might be misremembering or misunderstood what I thought, you know, staff explained to me. What is your -- so you're saying that when the staff decided -- or when the county decided to go ahead and put that traffic signal in, it fully understood that Limestone Trail would likely be cut off from public use?

MR. MEARS: I can't speak to what they understood when they were making these improvements, but they should have understood that Limestone Trail was a private roadway.

COMMISSIONER KLUCIK: Well, right.

MR. MEARS: Whether the county recognized Limestone being a private roadway, I can't speak to that, and whether they anticipated Limestone Trail being utilized by the public, I would say, yes, they probably did, because the traffic signal warrant for the signal at Quarry and

Woodcrest and Immokalee directed traffic onto Limestone Trail from the commercial activity center. So there was a volume of traffic that they directed onto Limestone Trail that would access the signal.

COMMISSIONER KLUCIK: Right. And so would you -- would you think the county, you know, would be prudent, you know, when they're doing their planning that they can rely on the fact that that -- that -- you know, that Limestone Trail is open and that once -- you know, if they make -- if the county makes its plans, assuming continued use based in accordance with an understanding of all of the Land Development Code and the goals, et cetera, you know, which actually require, you know, for instance, your client to bring this petition and get permission to close it off, that it makes sense that they were assuming -- or that they have a right -- the county has a right to go ahead and make its plans based on the situation as it is?

And also -- knowing that, from what I, you know, have been told, there's going to be a flyover there anyways, which also indicates that it's not going to be feasible, you know, to have access closer to the activity center, you know, a signal or something.

I mean, it just makes sense to me -- I don't understand your representation. You were trying to make it seem as though the county had proceeded, you know, and the county has, you know, kind of made this mess or understood what was going to happen. And you're kind of now trying to say that the county's actions somehow bolster your petition, and I'm trying to figure out how that could be the case, because I -- could you explain how -- is that what you meant to say, that the county's actions bolster -- you know, to some intent underscore the necessity to approve your petition?

MR. MEARS: As I move through the presentation, I'll try to address that question.

COMMISSIONER KLUCIK: Okay.

MR. MEARS: There are some slides in here that do speak to that and some progression of how we got to where we are. If you'll bear with me just a second here, I'll try to advance through these two slides and make it to the point where I can then answer the question in regards to whether the county anticipated Limestone Trail ever being closed and at what point in time was -- did the communities communicate back to the county when they understood that the signal was going to be in place at Immokalee Road and Quarry Drive.

It's important to understand, too, that without the signal being at that intersection and providing the full movement at that intersection, there's very little use of Limestone Trail by the public. There wouldn't be a reason for anyone to go from the commercial activity center eastbound. And let me go back to the previous slide, because I think this is important. There would be no reason for someone to travel from the commercial -- I'm going to speak to the public. There would be no reason for someone to travel eastbound on Limestone Trail, make a southbound movement, and then make a westbound movement to then make a U-turn to go eastbound.

COMMISSIONER KLUCIK: Well, can I just say that I -- I will disagree with you there only because I can just tell you what happened to me very recently. I was trapped. I was trying to find a way to get out. You know, I was in the activity center. And I live in Ave Maria, so I was trying to go east on Immokalee Road.

I somehow figured out that there was this Limestone Trail there that I didn't even realize existed, and I thought, well, the last time I was here, I got trapped and I couldn't make, you know, an eastbound turn onto Immokalee. So I actually wandered down Limestone Trail and then realized that I could have done what I wanted to do, which was to use that, you know, access to Immokalee Road to head east except they put barrels in front of the intersection because they were, you know, in the process of putting the turn signals up.

So I think, you know, like, six months ago or a year ago, I don't think those barrels were there, and I think you could have turned left there, or turned east there. And so if you were leaving the activity center to head towards Immokalee or Ave Maria, you would have actually use Limestone Trail. And like I said, that was my natural -- and this was -- by the way, this was two weeks before I even realized there was a petition, you know -- your petition was even -- you know,

existed. So I didn't know anything about the history. That was just what I personally went to do. I'm going to go ahead and be quiet, because I know you have a lot to say.

MR. MEARS: Yeah. I'll go down to -- well, I had hoped I had a -- whoops. I had hoped I had a different slide that actually showed that opening. It was a little more zoomed in. And I apologize for that. This one might do a better job. You can see this -- I don't recall the actual date of this slide or this aerial being taken. But I'm hovering my mouse over the directionalized opening at Quarry Drive. That median opening has been closed for a number of years. You had experienced a situation in which the county had opened up that median opening in anticipation of the signal construction.

So one of the first things they did with the signal construction was they cleared open that opening, and then they put barrels or barricades up to block that southbound-to-left-bound movement without the signal in operation.

So your experience was post median opening removal, pre-signal. So your expectation was at some point in time that median opening was a full opening. It hasn't been a full opening for, I don't recall how many years, but it's been well over five years or so.

So the movement that we're showing here on this particular slide, this is the current movement that's been in place for a number of years. So as I mentioned, there really isn't a reason for someone to travel eastbound on Limestone Trail just to go back westbound again just to be back eastbound. There wouldn't have been a reason for anyone to do that specifically if Bellaire Bay Drive was a full median opening. Why would you have gone down Limestone Trail? I understand that there could have been a lot of congestion. That's not The Quarry community association's problem that Limestone Trail may have been congested at that time.

But you may have experienced congestion, so you felt like, you know, making that movement out of Bellaire Bay Drive to make a U-turn wasn't in your best interest. So what you decided to do was utilize Limestone Trail as a cut-through, and that is the issue at hand. The public and the county staff is wanting to keep Limestone Trail available for public use, the private road, as a public cut-through. That is our problem today.

COMMISSIONER KLUCIK: Well, yeah. Well -- and by putting --

COMMISSIONER SCHMITT: Let him go through the rest of the presentation. I need to ask the Commissioner -- we need to go through the presentation.

MR. MEARS: Yes, sir.

COMMISSIONER SCHMITT: I realize there's a lot of talking and discussion, but we're going nowhere. I need you to go through the rest of the presentation, and then we as a commission can start asking questions. I know I interrupted as well, but we're getting nowhere.

CHAIRMAN FRYER: That's a point well taken. And everyone should make notes and save their comments and questions for the proper time. Thank you. Please proceed.

MR. MEARS: I apologize for getting hung up on these details but, you know, they are important, and we will address them. So as we move forward, the purpose of putting gates on Limestone Trail is to prevent that public access.

In the Heritage Bay PUD, it identifies Section 2.5, substitutions to design standards. I will go ahead and read this, because this is the amendment that we're proposing. The standards for roads shall be in compliance with the applicable provisions of the LDC regulating subdivisions unless otherwise modified, waived, or accepted by this PUD or approved during preliminary subdivision plat approval.

This sentence is important: The developer also retains the right to establish gates, guardhouses, other access controls, signs, and monuments as made deemed appropriate by the developer on all project roadways. Those project roadways would be inclusive of Limestone Trail.

This process should be a minor site plan modification. This is the proposed text amendment. The text amendment includes the underlying language, and the strikethrough language is removed.

So I'll go back through the last sentence that I emphasized in the previous slide. The developer and the property owners associations may establish, construct, and operate gates, guardhouses, other access controls, signs, and monuments, in parentheses, access controls, as desired on privately owned internal project roadways including, but not limited to Limestone Trail. Access controls on the road currently known as Limestone Trail owned by The Quarry Community Association, Incorporated, will be operated to allow areas designated R1, R2, R3, and R4, in parentheses, excluding the area designated AC/R3, full use of Limestone Trail.

I'll point out that the AC/R3 is the affordable housing multifamily complex within the AC. There's no reason to provide access for those residents across the Limestone Trail for them to have an internal connection to the commercial activity center. That's why that was included in there as an exclusion to those areas.

The areas R1, R2, R3, and R4 include The Quarry community, various areas within The Quarry Community, as well as Heritage Bay.

So The Quarry's concerned about the increased cut-through public traffic on the private Limestone Trail as the development continues around the community and from county modifications, including the new signal at the traffic -- at The Quarry, Immokalee Road, the new traffic light.

At the present time, there is a de minimis use by some members of the general public. The general public have no legal right to use this road. As we had pointed out, it is a private roadway. And as I pointed out, there really isn't a reason for the public to utilize the roadway today. There's no -- it doesn't provide a shorter access to eastbound Immokalee.

Going back through some of the history -- and this will help you understand why we're here. In June of 2019, we had -- the applicant requested an insubstantial change of the Site Development Plan. It was indicated by the county that the application should be filed under an insubstantial change to the construction plan. Still a very similar process. Applicant had no objection to going down that road with the ICP.

As we prepared plans for the ICP and were prepared to submit the application and we had requested some clarification on some specifics with the application, the county changed their requirement from an ICP to an insubstantial change to the PUD or a PDI due to perceived changes to traffic circulation.

The county staff didn't provide any factual quantitative evidence of impacts on public facilities and why they were making this decision. So as we prepared for a pre-application meeting and sat down with the county to discuss this approach, the county then again changed their requirement from a PDI to a PUD amendment advising that the proposed gates would result -- and these are in quotes -- and I'll emphasize this because this is important -- they'll result in a substantial increase in the impacts to the development which may include, but are not limited to, increases in traffic generation, changes in traffic circulation, or impacts on other public facilities under Section 10.02.13.E.1.E of the LDC. And they specifically cited anticipated changes to traffic circulation.

So that's why we went down this path of the PUD amendment; otherwise, we still feel like today it should have been an ICPE or an SDPI or more of an administrative approval process, less exhaustive than this PUD amendment. Again, the staff did not provide any factual quantitative evidence of traffic impacts on their public facilities for this decision, but we've gone through this process anyway.

Then as it currently is today, the county hasn't provided that evidence of the traffic impacts that are different than what currently exists. That would obviously merit a denial.

The president -- excuse me. The present alignment of Limestone Trail was approved administratively March 30th, 2003, by Collier County staff by a revision to the PUD master plan. It wasn't a PUD amendment. It was a revision to the PUD master plan. The Board of County Commissioners, by the approval of The Quarry Phase 1A plat in 2004, recorded this in 2005. The Heritage Bay PUD Ordinance 2.5, which I had read previously, allows the right of the installation

of traffic control facilities and gatehouses within the Limestone Trail right-of-way.

I'd point out in Section 2.11, Section C, fences and walls which are an integral part of the security and access control structure, such as gatehouses and control gates, shall be governed by the height limitations. So there was an understanding that these structures would exist, these controls would exist within the PUD.

Certain uses shall be considered general permitted uses throughout Heritage Bay PUD. Item 2.14.A.6, guardhouses, gatehouses, and access control features. These were anticipated improvements at some point in time throughout the PUD or allowed on any of the private roadways.

Shown here are the PUD master plan, the initial PUD master plan. They, then and now, provide and maintain internal access to the commercial activity center for both Quarry and Heritage Bay residents. It's difficult to see on this slide, but you'll see on a subsequent slide, that Limestone Trail and the initial PUD master plan was, we'll call it here -- I don't know if it was actually named Limestone Trail, but there was an internal connection from the commercial activity center to Quarry Drive, and there will be a better slide that shows it.

The commercial activity center with an internal access to neighborhoods so residents will not have to travel out on Immokalee Road to shop for their everyday needs; this is a statement from Bruce Anderson. So, yes, Heritage Bay residents could access the commercial activity center through Limestone Trail. And I understand the concern in regards to the return back to Heritage Bay.

Current county-approved access control facilities were at Limestone Trail -- or I'm sorry, Quarry Drive, Weathered Stone Drive, and Heritage Bay Boulevard. These were -- access controls were put in place, you know, at those locations, not shown here at Limestone Trail. Limestone Trail probably would have had an access control at this location had the road stayed there, but through the administrative approval, Limestone Trail was shifted to the south side of the PUD connecting Bellaire Bay Drive to Quarry Drive.

This is a better slide that shows that change. On March 30th, 2004, county staff administratively approved Master Plan Revision 2 which changed the internal roadway alignment of what is now Limestone Trail. So here's showing Limestone Trail from Bellaire Bay Drive into The Quarry community. It also shows a signal here which was anticipated and discussed in a number of meetings from the county in presentations by the county that there was an anticipated signal at Bellaire Bay Drive and Immokalee Road. That was removed from one of the county's intended improvements.

As I discussed, this was at a town hall presentation in 2018 which discussed history of this PUD, some zoning and improvements along Immokalee Road. At that point in time, there was some discussion about the flyover. I can't speak to whether that flyover is currently on the county's Comprehensive Plan or Long-Range Transportation Plan improvements, if it's funded, but I don't believe it is. But neither here nor there. Limestone Trail shifted from this north/south direction to an east/west direction. There wouldn't have been a reason for the county to -- or, I'm sorry, for The Quarry to put access controls on Limestone Trail at that time. And the reason why is because the signal at that time was not anticipated.

The master plan provides the internal connection or interconnected street system without any language or provision that restricts the placements of gates on private roads within the internal PUD. No public access requirements or conditions imposed on the placement or construction of the Weathered Stone Drive, Quarry Drive, or Heritage Bay Boulevard gates. The absence of exact gate locations on the master concept plan is common to most PUDs when the internal street systems are private and maintained by a homeowners association, and Greg will talk further on that.

The Heritage Bay PUD and master plan are silent as to any commitment or requirement that all development within the PUD will be provided access to all the depicted roadways and to the outside for the general public.

CHAIRMAN FRYER: Excuse me, sir. We usually take a break at 10:30. Would that work for you, or do you want to do it beforehand or a few minutes afterward?

MR. MEARS: If you can give me about 30 more seconds, that would be a perfect time.

CHAIRMAN FRYER: Perfect. Thank you.

MR. MEARS: I've got two more slides in my section and then another speaker.

CHAIRMAN FRYER: Perfect. Go right ahead. Sorry to interrupt you.

MR. MEARS: So on November 16th of 2004, the County Commission approved The Quarry Phase 1A plat and approved Limestone Trail as a private roadway. And it's pointed out here at the lower left corner which circles around -- or encapsulates a section that indicates that Limestone Trail would be considered a private street right-of-way, so that's important to note. And this just shows the platting of Limestone Trail Tract R.

And with that, this will be the speaking section for the presenter or the expert that is presenting virtually.

CHAIRMAN FRYER: Thank you very much. With that, it's 10:26 a.m. We will take a 12-minute [sic] break, which would put us at 10:40. Stand in recess until 10:40.

(A brief recess was had from 10:26 a.m. to 10:40 a.m.)

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

Mr. Pires.

MR. PIRES: Yes, Mr. Chairman. Thank you very much. We have on the phone remotely Michael Yates, and we'd like to have him qualified as a transportation planner, traffic expert.

Michael, if you can, as Mr. Vernon succinctly put it -- and I'm taking more time than that -- 30 seconds. Give us your backward so that the Planning Commission is knowledgeable of your expertise, how many times you've been qualified as an expert, and your area of expertise. Thank you.

CHAIRMAN FRYER: And your licensure and certification.

MR. YATES: Yes.

MR. PIRES: Did you hear that, Michael?

MR. YATES: Yes. This is Michael Yates. Can everyone hear me okay?

CHAIRMAN FRYER: Yes.

MR. PIRES: And licensure and certification.

MR. YATES: Yep, I understand.

So my backward is I have a Bachelor of Science in civil engineering, I have a certification as a professional transportation planner, and I have been doing this for 28 years and in the state of Florida with an expertise in traffic impact studies ranging from small to large. I've probably done in the neighborhood of 2,000 of them during that time period, so that is what my expertise is.

CHAIRMAN FRYER: Licensed civil engineer under Florida law?

MR. YATES: I am not a licensed civil engineer. I am a professional transportation planner.

CHAIRMAN FRYER: Okay.

MR. YATES: But I do have a bachelor in civil engineering.

CHAIRMAN FRYER: Okay.

MR. YATES: And also we have Vickie Castro who will possibly need to do some of the presentation, and I'd like to have her give her background as well.

CHAIRMAN FRYER: Is she physically present?

MS. CASTRO: No.

CHAIRMAN FRYER: Go ahead, Ms. Castro.

MS. CASTRO: So I have a bachelor and master's from USF in civil engineering. I'm a certified professional engineer in Florida since 1994. I've been in traffic operations, traffic planning, impact studies, things like that my entire career.

CHAIRMAN FRYER: Thank you.

Commissioner Vernon, are you satisfied with that?

COMMISSIONER VERNON: (Indicated with thumbs up.)

CHAIRMAN FRYER: Thank you. Please proceed.

MR. YATES: Okay. If we can have the slide presentation back up. There we go.

So as we were going through this process, we were asked to do a TIS for the potential impacts to the closure of Limestone or the gating of Limestone Trail, and so what we had done is we had looked at the TISs that were previously conducted for the parcels within the activity center. What you see before you is the 14 TISs that were done and then the 16 parcels. So there were two parcels that a TIS was not conducted for, one of which was the pump station which is county owned, which is No. 15, and No. 16, which is the government center just north of that. But we did pull the information for the government center for estimating the traffic from the plans that the county currently has.

And -- next slide, please. So what we found in these -- the review of these TISs is that none of the TISs, with the exception of one, assigned any trips to Limestone Trail. And, in fact, the majority of them were asked to evaluate the impacts of channelizing and restricting the left out at Bellaire Bay in their TIS.

So what would be the impact to the project with the closure of Bellaire Bay median opening? So you can no longer make a southbound left at that median opening. And still, with that assignment, only one assigned trip to Limestone Trail. And that was the Culvers which is, oddly, the parcel west of Goodland Bay. So it was an odd assignment anyway for them. It was AL. And so it was an odd assignment to send their trips down Limestone Trail, but they did. We had a few of the TISs that actually did internal trips that were on Limestone Trail as they could today.

But we wanted to kind of make sure that everyone understood that when all these TISs were done, they were conducted with the understanding that the median opening at Bellaire Bay and Immokalee Road will be closed and that this traffic would be potentially on Immokalee, and none of them were assigning them to Limestone Trail. And in all fairness, that was likely because that signal was never part of their consideration in that assignment. And none of them addressed that there would be a signal there. They just all assumed the closure of the median opening.

Next slide, please.

The traffic signal was done in 2018. A couple of interesting parts to this is that they, much like what we had done, was took all the TISs that were done and approved and reassigned them. And the assumption they made and the concerns that The Quarry had with the impacts to Limestone Trail is that the assumption that they made in doing the signal warrant analysis was that 35 percent of all exiting trips from the activity center. So everyone that was exiting the activity center and going east on Immokalee would use Limestone Trail to get to the signal. Now, what's interesting about the study is that they did the signal warrant but did no traffic counts to validate any of this information. The 35 percent was based on the original DRI assumption. And so that was the assumption they had.

And so the concern, obviously, that we had when we were reviewing this is that all that traffic would -- they were assigning to Limestone for that reason.

Next slide, please.

Again, let me go through this. The increased cut-through traffic of 35 percent is contrary to the LDC and Policy 9.5 of the Transportation Element. This increased cut-through traffic exposes The Quarry and all of the residents of The Quarry to additional costs and liability. This increased cut-through traffic and its intended noise is not anticipated by those who purchased homes in The Quarry just to the north of the privately owned road.

So when you look at the aerial, there are a good number of town homes that are right along the -- there you go. Thanks, Chris. You can see them right along the north side of Limestone Trail. And I think you will have in your packet some letters from those residents expressing their concern for the traffic that could potentially use Limestone Trail because of the signalization

without the gating. And I think you will find in those letters that they expressly concerned [sic] that they probably would not have bought their homes without -- with the understanding that that would be used as a public cut-through road.

And, again, these issues will be amplified and increased as development continues external to The Quarry and from continuing major modifications by Collier County to the roadway network.

Next slide, please.

Again, this is just showing some of the travel patterns. And what we wanted to emphasize on this one is the traffic from Woodcrest coming north and using Limestone as a cut-through. That is of concern to the neighborhood as well. It's not designed to be a local road. The -- Woodcrest could easily make a left on Immokalee and go right into the activity center without any issues, and that is -- would be logically the best path anyway. But what we're concerned with is that they're using the private road as a general public access.

Next slide, please.

Again, this is going through and just kind of recapping some of the stuff that Chris had gone through in his presentation. But this is showing the future signal there at The Quarry Drive and the potential of the gating of Limestone to prevent that traffic from cutting through Limestone.

Again, as it was mentioned, Bellaire Bay, Goodland Bay are all the public roads, and that is what is designed to carry the local traffic that is not part of The Quarry or Heritage Bay. And so it's -- Limestone Trail isn't really -- shouldn't have been intended to be used as a public road connecting to the signal for outside, particularly Woodcrest and all the development to the south of Immokalee.

Next slide, please.

Again, this is showing some of the traffic movements. I know Chris had gone through this in some great detail with the site circulation, but I wanted to bring everyone's attention. Again, when the TISs were done, they assumed that -- yeah, there we go. All the TISs assumed that they would make a right out of Bellaire Bay and make a U-turn at Goodland Bay. They had a few trips that also came out onto Collier and either made a U-turn or went north up Bellaire Bay to Weathered Stone and then made the left out, depending upon where they were in the activity center.

But, again, it's with the -- when these TISs were done, all these assumptions were part of those TISs. So all the parcels within the activity understood that Limestone Trail was private because they did not assign any trips to it. It was not a logical travel route for any of those trips, and the county has reviewed and approved all those TISs with those assumptions. So all those trips were planned to be on Immokalee Road.

And you can see that even in the county's improvements, that they are extending that westbound left-turn lane at Goodland Bay to provide additional storage for the U-turns.

Next slide, please.

And, again, this is showing the interconnection and relationship between Heritage Bay and The Quarry as you can see, and we already had great discussion on this is that Siesta Bay connects the two neighborhoods. Limestone Trail would be available to both neighborhoods. And so all those are private roads. There is a very good grid system for public roads within the activity center that provide great circulation to the external trips, the local traffic that would be in the activity center, and going to places outside of the activity center. So between Goodland Bay, Bellaire Bay, and the connection of Weathered Stone to Collier Boulevard, they have great circulation. They have great connectivity that would allow complete access to the roadway network.

And based on the TIS that we had prepared, Immokalee Boulevard [sic] operates at acceptable level of service with the full vested trips and all the planned trips that are within the county's level-of-service report.

Next slide, please.

Just to go through consistency, the Future Land Use 7.3, again, the important part here is

the interconnectivity is designed to connect local streets to the adjoining neighborhood. So it's designed to connect neighborhoods, not to add as cut-through traffic.

If you can go to the next slide.

And then Transportation Element 9.3, it specifically says facilitate convenient movement throughout the road network. That's the intent of interconnectivity. And so -- and I think it will get further clarified in the Land Development Code when we talk about -- if you want to go to the next slide -- how some of this interconnectivity is designed to take place.

So under LDC 4.04.02.B, during the development or redevelopment of commercial residential projects and all rezoning petitions, shared access and interconnections shall be required, and that is being provided.

So if you want to go to the next slide.

LDC 4.07.02.J.4, interconnection of local streets shall be designed to discourage through traffic and not adversely impact local streets in the neighborhood residential areas. That is exactly the intent we're trying to accomplish with the gates on Limestone Trail.

There's some further clarification -- if you want to go to the next slide -- in the Land Development Code Section 6.06. I'm going to -- the highlighted are the key points here. Every subdivision or development shall have legal and adequate access to the streets dedicated for public use. So you can see that Bellaire Bay, Goodland Bay, and the connection up to Weathered Stone to Collier Boulevard. That is the legal and adequate access to a street dedicated for public use. That is the access. Nothing in any development order shall vest a right of access in excess of a right-in, right-out condition at any access point.

So this section of the code specifically says the county has every right to modify the access to the local streets, just like they're doing at Bellaire Bay and Immokalee Road where they're taking away a full median opening and making it a left-in, right-in, right-out access.

The next point is access points shown on a PUD master plan are considered to be conceptual. Again, this is going back to the point that the county has the rights to modify this. I know the original approval considered a signal at Bellaire Bay. That was removed, obviously, because of the potential flyover. It's not an approved project. It's not a funded project. But they have removed that access. To the reasonings why they have done it at this point in time, that is a county decision that was made but well within their rights.

And the last point I wanted to make on this one is that the 6.06.01.G specifically states use of local streets by cut-through traffic shall be discouraged. And, again, that is about what we are trying to accomplish with this gating of Limestone.

And that is all I have, and I will turn it over to Greg for his presentation.

CHAIRMAN FRYER: I'll jump in now on behalf of the Planning Commission and ask if any Planning Commissioners have questions or comments for Mr. Yates. Seeing none, please proceed.

COMMISSIONER KLUCIK: I actually do; I'm sorry.

CHAIRMAN FRYER: Go ahead, Commissioner Klucik.

COMMISSIONER KLUCIK: Yes.

Okay. So for the Section 9.3 -- and this might be a question for our attorney or for one of the staff. Where Section 9.3 of the Transportation Element of the GMP mentions interconnectivity of developments, what is the definition of development there? Is it residential, mixed use, commercial, or all of the above? Because that actually makes a difference.

CHAIRMAN FRYER: That might be something, perhaps, better asked of staff unless the applicant wants to --

COMMISSIONER KLUCIK: Yeah. Is the applicant -- is your contention that that only refers to residential? Because that would be -- your argument seems to require the development -- the words "development" there to simply be residential and nothing else.

MR. YATES: I mean, from my standpoint, the interconnectivity allows -- is intended for the internal circulations to occur, and when the Heritage Bay and Quarry gated their subdivision,

they have total internal access. They have ingress into the activity center. And so it was -- when it was done, it was agreed that their inbound trips would be separated and need to go through their own separate gates. I cannot explain the history of that, but that is what was done, and what we are doing is maintaining that same circulation that has been occurring for years. And so by gating of Limestone, we're not changing any of that circulation, and we're not -- because of all the residential trips that are going to be internal to the project would have full use of Limestone with the gating.

COMMISSIONER KLUCIK: Yeah, no, no. I'm going to interrupt you there, because that wasn't really the specific question.

Section 9.3, the county shall require, where feasible, the interconnection of local streets between developments to facilitate movement throughout the road network. So if developments -- the definition that we should apply to developments there, if it only means residential developments, then I guess, you know, that would help you. If it means more than that, it seems to, you know, kind of support the idea that if it's feasible, we have a road that's already there performing this function, so the feasibility seems there.

I just -- I want to know what that definition is, and I'm sure we'll get to that. If I could ask the staff to make sure that that's covered when the staff presents.

CHAIRMAN FRYER: Ms. Faulkner has approached the microphone, so I'm going to call on her, and then I'll call on Commissioner Shea.

MS. FAULKNER: Hi. I'm Sue Faulkner for Comprehensive Planning.

And in our Comp Plan there is a policy that is called Policy 7.3.

COMMISSIONER KLUCIK: Can you put the speaker on the screen, please?

CHAIRMAN FRYER: She is masked.

MS. FAULKNER: Well, the answer is that it applies to regardless of land use type to encourage connections, and so that is the answer.

CHAIRMAN FRYER: May I venture a guess that when we say "development," we mean a Planned Unit Development?

MR. KLATZKOW: No.

CHAIRMAN FRYER: No? Okay. Could you clarify?

MR. KLATZKOW: I mean, an example of this would be -- this is just a recurring theme. In Pebblebrooke we had a commercial area that was adjacent to a residential area. We required an interconnection between the developments. Of course that's now gated, but this is just what happens. The county's policy is to allow internal access from the residents to the commercial, and then the residents always want the gate there. So this is just deja vu all over again.

CHAIRMAN FRYER: Thank you.

Commissioner Shea.

COMMISSIONER SHEA: The gentleman -- I just had another simple point of clarification for me just to make sure I've got all of the information.

COMMISSIONER KLUCIK: I cannot hear you. I'm sorry.

COMMISSIONER SHEA: A final point of clarification. Just -- is The Quarry road from Limestone to Immokalee also owned and maintained by The Quarry?

MR. PIRES: (Nods head.)

COMMISSIONER SHEA: Because there's a pretty substantial section there. So that's also Quarry property? Okay.

CHAIRMAN FRYER: The witness nodded in the affirmative.

All right. Applicant, who's up next, please.

MR. STUART: Good morning, Mr. Chairman, fellow Planning Commissioners, and staff. Greg Stuart, Stuart and Associates. I've been qualified as an expert in urban and regional land-use planning, urban design, zoning, and land development. My resumé is on file, so I can continue on that.

The PowerPoint -- before I get into my presentation, I just want to make sure that everyone

understands that the PowerPoint presentation that has and will be used is part of the substantial and competent evidence that we are presenting. It's not just a slide show, but there's documentation in the presentation that will be on the record that qualifies as evidence for this quasi-judicial hearing.

My testimony does, in some way, overlap with Chris Mears and Michael Yates, but it differs in that I'm really going to get into the land-use planning aspect of it rather than the technical traffic impact and traffic analysis. So, basically, what I'm going to do is to address the issue of, for better lack of a term, staff recommended denial based upon their aspirations of a transportation road network versus the reality of rules, regulations, planning principles, and practices. That will be the main difference. But, again, I do apologize up front if there is some overlap.

So to begin, if you look at the ordinance, the Heritage Bay ordinance on Standard 7, Heritage Bay, a PUD is designed to encourage internal vehicular trip capture by providing commercial and recreational uses and providing for pedestrian and bicycle access to internal community recreation and convenience retail centers. That really is the core issue, whether the amendment still is consistent with this standard, i.e., providing internal, not external, but internal connectivity.

So if you look at staff recommendation, basically, they're recommending denial. You've seen that. And they're primarily citing -- to simplify the staff argument, they're primarily citing Transportation Policy 7.3, 9.3, and the Land Development Code 4.04.02.

Now, I respectfully and strongly disagree with staff's recommendation. I hold the opinion, and hopefully you will come to see our side of the story on this consistent with this opinion, that the project has and still remains consistent with 7.3, 9.3, and 4.04.02.

So to begin with, how I'd like to frame this, I mean, first and foremost, you know, is the recommend denial logical? But I also then want to follow up to see whether it's predictable. And by that, I mean, does it follow -- does staff recommended denial follow accepted planning principles and practices, precedent, you know, whether it's predictable in terms of, well, other communities have had this situation and how everyone's being treated, and then the final standard is, obviously, whether the recommended denial is fair, whether it's prejudicial.

So to start with 7.3, the denial is not logical when you look at 7.3 when it says that developments shall be encouraged to connect to streets and interconnections and all that. And I'm not parsing words, because -- I'm not parsing words when you say look and encourage. Encourage doesn't mandate anything because whether it does or does not, we're still consistent.

If you look at the ordinance, and I believe there has been testimony with Chris Mears, the guardhouses, the gatehouses, the traffic control devices are clearly permitted uses in the PUD. They're permitted uses explicitly within Tract R of the Limestone Trail Road tract, and that is in the ordinance.

The connection is being maintained. There is no modification to the project's infrastructure. There's been testimony to that. There is no modification to the operational access and orientation. What we have now is what we had when it was approved in '03 and when -- using Weathered Stone Drive as an example, when that was built in '05. There are no changes. And since '03 -- and I have to emphasize this, because the general population, you know, such as communities on the south side of Immokalee Road, they have no right to use the Heritage Bay PUD property. So the denial doesn't look at these facts; therefore, the denial is not logical.

Now, when you look at whether this is predictable, I agree with our civil engineering testimony. When I first took a look at the case, I went, why is this going through a formal PUD text amendment process? This is clearly a minor modification to the site plan. Most projects that I've had been involved with, in Collier and elsewhere in Southwest Florida, I mean, this is a minor mod, and it's a minor mod because it's an ancillary -- excuse me -- it's an accessory residential use on a private road, and it's a use by right. We shouldn't even be here. This should have just been approved two years ago when it was originally submitted.

Going back to the original ordinance Standard 7, again, I have to emphasize, if you look at the slide, underline, internal community. That is the standard. Not external community. And,

finally, it seems to me regulatory assumption for staff denial is that the general public has the right to use a private road, and that contrasts with the common notion and definition of property rights. So the denial is not predictable.

We've had some questions in the past about, you know, okay, is this a public road or a private road? The graphic in front of you with the yellow lines, those are the public roads, so I hope that really clarifies that issue. And then the pink dashed lines are the private roads, and it shows the interconnection, the current conditions, if you will.

Also what's important to note, if you look at this is the current condition and then with the amendment, there's no change. There's no change whatsoever. The residents can still use Siesta Bay Drive for east movements.

And notice I did state on the slide, and I missed it, it's a westbound movement. That's a typo and a spelling. So the record, delete westbound movement, and the movement is misspelled. So when you're looking at 7.3, is it prejudicial to the applicant? And my opinion is that the denial absolutely is prejudicial to the applicant. It's because -- and, again, we have the president of the homeowners association to speak more to this, but the amendment will introduce more non-project general traffic into the community. It will increase through traffic and, therefore, it will create enhanced residential safety concerns.

And, again, the text amendment denial is based on solving a problem that is not being created by Heritage Bay. Heritage Bay is not responsible to solve Immokalee Road and Woodcrest Drive. Woodcrest Drive is the road that will be opposite -- or that is opposite of the intersection of Quarry Drive.

So, you know, my client is not responsible to fix Collier County roads, period. When you look at, from a planning perspective -- and, again, I'm crossing into a little bit of land-use law. But strictly from a land-use planning perspective, you know, there has to be logical connections between the denial and the facts on the ground. There has to be. And when you look at the facts as outlaid by both our traffic engineer and civil engineer in regard to all the previous traffic studies -- you know, I think they stated there's 14 studies in the -- in the PUD. One, everyone did not use Limestone for any type of operational traffic circulation consideration with the exception of one, and then that one showed, I believe, 11 trips. So, again, when you look at those facts, you know, versus a denial, I believe it's prejudicial.

Now, if you look at this graphic, I mentioned Woodcrest and southbound to northbound traffic movements. Succinctly looking at the staff report, their aspirational goal is to have Limestone Road to be used as a frontage road to the public to allow for all the communities on the south side of Immokalee Road to go up onto Quarry Drive, and before they get to the gatehouse, turn left. I mean, that's what this thing is trying to accomplish. And, again, there's a huge difference between, yeah, it looks good and it's a good idea, but the county has no right to actually incorporate a private road into a public frontage road system.

So when you look at 7.3, hey, the PUD amendment is consistent. And I have to point out that this consistency was found in 2005 when Weathered Stone -- for example, when Weathered Stone came into being through a Site Development Plan approval process and the gatehouse and all that, it was found to be consistent then, and there is no change. And, quite frankly, there has been so many permits issued within this community, and each permit has to be found consistent with the Growth Management Plan, including 7.3, including 9.3.

So it seems to me that from 2003 to two thousand and, let's say, '20, everything's fine, everything's consistent, but now it's not consistent. And there has not been any change in the road circulation network. The interconnectivity is maintained so, again, the project is consistent with 7.3.

Now, if you look at Policy 9.3 where it says, the county, where feasible, requires interconnection -- and, again, the denial is not logical. Previous testimony stated that the Limestone Trail was designed to build as a private road for the PUD. It was platted as a private road. The plat -- I know there was some discussion about, well, was it or was it not funded by a

public bonding issue. And, from my experience, it's irrelevant, because if that plat says it's a public road, it's a public road. If the plat says it's a private road, it's a private road, period, period. And the plat says it's a private road.

The general public does not have any legal access to the property vis-a-vis Limestone and, in fact, the Heritage Bay community has access, as discussed, into the activity center, but even they do not have the legal right to use The Quarry's private roads. That's something that needs to be worked out between the two communities.

So it's not logical whatsoever to deny an amendment for a permitted use by right on a private road, you know, based on the assumption that, well, we're going to transform this road into a public frontage road. It's just not logical.

Now, it's not predictable -- and for the -- for the simple reason is that, again, it's a private road, and the essence -- from a planning perspective, the essence of what is private versus what is public is very simple. If you have a private facility, whether it's a country club or a golf course or a road, you have the absolute right to allow whoever you want to allow into that facility or road network. You have the absolute right to deny the ability of Joe -- Joe Person A or whoever into your clubhouse or into your private road.

I mean, this is so important. I mean, this really gets to the heart -- in my opinion from a land-use planning perspective, this gets to the heart of the issue. They, my client, have the right to say to the general public or to Heritage Bay -- if they want to use their road network to go back east, they have the absolute and unconditional right to say, no, you can't; it's private property. And notwithstanding the staff's aspirational goals of creating a frontage road network, it violates the property rights of my client.

And then when you look at the text amendment itself and the impact statements that have been generated, then you'll clearly see that it does not diminish any of the key regulatory findings. Does it diminish level of service on Immokalee Road? No, it does not. Does it impact operational considerations? Again, out of the 14 TISs that have been accepted by the county, one used Limestone Road, had 11 trips. So I don't think 11 trips is going to really distract from any operational consideration. So it's not predictable.

The recommended denial doesn't conform to accepted land-use planning principles and practices insofar as, you know, what my client has in terms of property rights, which is an absolute right to deny the general public to use their road network. Now, therefore, 9.3 is consistent.

If you look at the graphic on the right-hand side of the slide, this has been used before, but I want to emphasize that the pinkish areas that are in shade, they're all the residential neighborhoods that have, since 2003, and, you know, after this permit hopefully is approved -- or text amendment is approved will still have access. I mean, there is no change. These communities, these neighborhoods have the ability to go into the activity center and then, with Heritage Bay, again, they are restricted about going west. That condition has been in place since 2003. Well, really, 2005 when they built Weathered Stone.

When you look at 4.04.02, again, the denial's not logical. There are other routes to be used to get to the activity center. If you're looking at Woodcrest Drive, I know it would be really neat for Woodcrest Drive to go north, cross Immokalee Road, and then turn left into Limestone. They are not permitted. They don't have any legal rights, but they can take a left on Immokalee Road and then take a right on Bellaire Bay or take a right on Goodland Bay.

So there are means to get in and out of the activity center and, according to the TISs that I reviewed -- and I believe staff concurs. I think staff concurred when you read their narrative on Policy 5.1, there are no level-of-service impacts.

So, yeah, hey, you know, people still get in, get out. There's no real impacts here. There's no -- there's no harm for being able to use a legally permitted use on a private road, because that's what this is all about.

Getting more specific, again, the design capacity was the 3,300 peak-hour trips. Currently there's 2,050. There's plenty of residual capacity with the future modeling. It's still at Level of

Service D. Level of Service D is higher than the established level of service, which I believe is E. And, again, I pointed out the 11 reassigned trips which are completely de minimus.

So the PUD complies with 4.04.02.B.2. And, again, if you look at 7.3, 9.3, and 4.04.02.B.2, which basically is the core foundation for staff recommended denial, I respectfully submit that staff is in error.

Now, I'll go through this relatively quickly, but I have to for the record. If you look at the consistency findings within the staff report, which is Page 7, and starting on Paragraph 4, whether the change is consistent with the Growth Management Plan, yes. We agree with staff; it's consistent with 5.1.5. There's no capacity issues, diminishment issues.

If you look at 7.3, as I already pointed out, I believe that staff is completely in error. This project has been found consistent. Building permits have been issued based upon a finding of consistency. Nothing has changed.

Same thing with 9.3; the project is still consistent with 9.3. It was consistent with 9.3 when they built Weathered Stone and put up gates, so forth and so on. You get where I'm saying. There has been no change in planning consistency findings.

Now --

CHAIRMAN FRYER: May I ask whoever's got their telephone on to mute it.

MR. STUART: I thought that was reverb. Okay. Sorry. I thought there was reverb. My apologies.

Changing conditions, yes, they're changing conditions. They're putting a light in. The light will facilitate more through traffic. Through traffic is an adverse condition. There are codes and rules and standards in the Collier County Growth Management Plan and the Land Development Code that strongly discourage through traffic. That's a change in condition that necessitates the gates to be approved.

Whether the gates will adversely influence living conditions in the neighborhood. Now, staff says yes because of travel time, impacts, and emergency access impacts. First, it's my understanding that insofar as emergency impacts, that the gates will have a -- I don't know the technical term, but a universal access code or key that will allow for fire safety and police to access. So there's no emergency accesses.

And then looking at level of service in all of the TISs that have been submitted and approved, there's no traffic congestion. So there is no adverse impacts to the public and to Heritage Bay and to The Quarry's community. So I disagree with staff.

And, again, the -- okay. 6, 7. Will it increase traffic congestion? I already testified, and we've had other testimony. No, it's not going to create traffic congestion.

Whether there are substantial reasons why the property cannot be achieved without amending the PUD. Well, as I pointed out, the gatehouse, or the access control device, are uses by right. They have an absolute unconditional ability to put in these devices. And, again, for the record, I'm amazed that we're even here talking about a PUD text amendment. This is a site plan modification pure and simple. So I strongly disagree with staff on that.

Item 14, whether it's out of scale with the needs of the neighborhood. No, it's not. Again, the interconnections are still in existence in regard to the original PUD standard, which was 7, which was to provide internal interconnection, Heritage Bay, Quarry, so forth and so on. So it's not out of scale whatsoever. And, of course, there's been other slides that do show existing gates that have been built in the PUD's road network.

Level of service, public impacts, we've already talked about that. There are no level-of-service impacts. Staff agrees with that.

So I need to address this. We had some discussion about Bruce Anderson. I wish Bruce was here. I'd love to see Bruce again. He would agree with me on this point, which is as follows: Bruce made a comment on the record, and staff is relying on the comment. If you look at the PUD, if you look at the conditions, if you look at the plat, if you look at the master concept plan, Bruce's comment, quote-unquote, this project also features internal access to the activity center so

that residents of Heritage Bay will not have to travel out onto Immokalee Road to shop for their everyday needs.

And, Mr. Chairman, assuming you're correct, access is both ways, east to west, west to east. But they, for better lack of a term, there's no codification of that comment. And so what we have here is, well, you know, they stated this on the public record and yet we didn't create a regulatory requirement for it, and we've built this project, and we've platted this project, and we've found everything to be consistent, and now we're kind of trying to create a new condition that's really not in the original PUD ordinance.

So, again, I believe strongly that we comply with Bruce's statement but, irregardless, that statement is not in the PUD ordinance that specifies that you've got to have both east to west and west to east connections with Heritage Bay. You've got to have these roads open up to the traffic south of Immokalee Road to go through it. There's nothing in there. So you have to go with what is actually on the books. So, you know, I disagree with staff.

Their other two comments talking about instead of developing as one consolidated project, it would split, multiple parties. Well, you know, that happens all the time. Every project that I've worked on in terms of PUDs and PDs and master planned communities, they're always subdivided, so that comment's not even relevant.

And when you look on Page -- the staff report Page 5, Paragraph 7 -- and then they're talking -- the staff is talking about the sidewalks, and the sidewalks somehow create the momentum to allow for a private road to be used for public purposes. Obviously, a sidewalk is not a road. A sidewalk has very vast different operational and maintenance and management and liability responsibilities. So I don't really think that's relevant whatsoever.

And then to wrap up, if you look at -- and, again, I'm not sure if this is in your package or not, but if you look at the executive summary on the Woodcrest Drive traffic signal bid, 20-7682, okay, and it states -- and this was, I believe, last spring -- Heritage Bay PUD was a master planned community intended to take advantage of interconnections, controlled accesses, and internal capture between residential and commercial uses. There you go. Internal capture between residential and commercial uses.

Master plan was designed for Heritage Bay and The Quarry. And yet if you go through the staff report and if you look at some of the staff graphics showing, again, it's purely aspirational. Woodcrest Drive communities going up through this new light going into this property that they have no right to go into to get to a commercial activity center. Well, again, you know, staff has basically made our case for us in regard to the bid document because, again, this solely is dealing with an internal connection.

So, to conclude, the principles and practices pertaining to the private nature of this road and the fact that by being private you have the right to say yes or no to anybody using your facility or road or whatever, I mean, that's -- and you could talk to the County Attorney on this. I mean, this planning principle is enshrined in constitutional law. It's enshrined in Dolan [sic] versus Coastal -- California Coastal Commission, Nollan [sic] versus Tigard, Florida's own *Koontz versus St. Johns Water Management District*. So these planning principles that underline case law, you know, clearly point the direction for an approval because, again, to use private property for a public good is not permissible; it violates all types of planning rules and principles and practices.

CHAIRMAN FRYER: Thank you very much. I'm going to exercise the prerogative of the Chair and go first with my questions and comments, please, without objection from the Planning Commission.

First of all, I want to say that if the only thing that were before us was the Limestone Trail issue, I would agree completely with the applicant. It's private property. To me it's always been private property. As soon as the residents were able after turnover, they posted a "no trespassing" sign, which has been flouted by members of the public that, legally speaking, are strangers to the PUD.

So for essential constitutional private property rights, I'm in complete agreement but,

unfortunately -- oh, and also I want to point out that I fail to see the logic between allowing the developer to put up gates and other structures but then denying it to the developer's successors in interest, namely the homeowners, makes no sense. So I agree with you on that point.

But here's where I continue to significantly depart from your logic, and it gets back to Bruce Anderson's statement which has very much to do, I think, with Policy 7.3. He's talking about the residents of adjoining neighborhoods, if you will. And that was -- he made those statements at a time when there was one PUD, which is still the case, and only one subdivision called Heritage Bay. It wasn't until later that The Quarry got carved out of that.

So, to me, the people that have a special interest in this property are the owners, the residential owners within the PUD, and that includes Heritage Bay and Quarry. And that's the way I see it, and that's the way I think that Mr. Anderson was seeing it. And, certainly, it's my interpretation of 7.3 which encourages interconnectivity between adjoining neighborhoods, and that's what sets them apart from, say, Bent Creek -- is that the name of it, to the south? Bent Creek? Burnt Creek?

MR. STUART: Bent.

CHAIRMAN FRYER: Bent Creek. The folks there are not part of this PUD. They're not adjoining neighborhoods. And I agree completely with you that they do not have a special interest in encroaching on private property.

But I very much still part company with you that when the barrier was erected between -- somehow to prevent a return trip for residents of Heritage Bay via Bellaire Bay, Weathered Stone, Quarry, Siesta, the return trip. When a barrier was put up then, I think that that was offensive to the intent of the Board of County Commissioners when they granted this based upon comments on the record made by Mr. Anderson on behalf of his client, the developer who was the predecessor in title of the owners.

Now, the fact that it's not contained explicitly in the PUD to that effect, I don't see that as dispositive, the fact that that was -- that was the commitment made and the undertaking made by the developer at the time.

And so where I am on this is I would like to see us, when the time comes -- and we're not there yet to be sure, but when the time comes to see a motion that approves the application with the condition that the return trips along those roads I've mentioned be reopened for the benefit of the Heritage Bay people.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Now, having said that, I'm going to call on Commissioner Shea.

COMMISSIONER SHEA: Just following along the same lines of concern that the Chairman has, have Heritage Bay residents always had access through The Quarry to Limestone Road?

MR. STUART: It's my understanding yes, but we could --

COMMISSIONER SHEA: There was not a sign up there that used to -- same kind of sign that's on the beginning of Limestone Road that says private property for residents of Quarry only?

MR. STUART: Oh, our next speaker, Cheryl Ollila, the president of the homeowners association, she could more accurately speak to that. I believe that they've always had it but, again, I don't have --

COMMISSIONER SHEA: I don't think you're correct.

MR. STUART: Well, Cheryl will speak to that. She can address that. But I don't know.

CHAIRMAN FRYER: Well, do you want to call her up now and have her testify?

COMMISSIONER SHEA: We can wait. I'm fine waiting. I just didn't know if somebody --

MR. STUART: Well, she's up next.

CHAIRMAN FRYER: Okay. Well, we'll wait.

COMMISSIONER SHEA: Is somebody from Heritage Woods [sic] going to be speaking also?

MR. STUART: Yes. Oh --

COMMISSIONER SHEA: Heritage Bay, I mean.

MR. STUART: I don't know. I think you have a lot of letters from Heritage Bay. I don't think any speakers.

COMMISSIONER SHEA: I don't know. I don't recall.

MR. STUART: Well, let me -- but Cheryl will speak.

But, Mr. Chairman, I just say, now, see, my position from a planning perspective is that, certainly, you may have a point, but it's up to the private parties involved to come to terms with this interconnection issue because it's a private property matter, and it certainly deals with funding and maintenance and operations and liability. So the two parties need to get together, and I don't see how the county can intervene in this private-party discussion.

CHAIRMAN FRYER: Well, Mr. Stuart, we're not intervening. You're before us with a PUDA, and in my judgment when you come before us with a PUDA, you open any other substantial issues that are directly related to it, and I think you've opened that door.

MR. STUART: Okay. Thank you. Any other questions?

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Mr. Stuart, I guess, two questions. One is, have you seen other related similar issues elsewhere in your experience, and how were they settled?

MR. STUART: Well, quite frankly, I've been practicing over 35 years, and I've never seen anything like this. You know, I mean, succinctly, if you have a private road and if you have a use by right, a guardhouse, traffic control facility, you have the absolute right. So I've never seen -- other than -- now, let me back off. Other than actual condemnation cases, but that's a whole different ball of wax here. So, you know, in this type of situation, no, this is unique unto my professional experience.

COMMISSIONER FRY: So as I understand, the DRI was approved in 2003/2004, and then subsequent to that, the PUDs for Heritage Bay and The Quarry were approved; is that accurate?

MR. STUART: Yes.

COMMISSIONER FRY: No? Yes?

MR. BELLOWS: For the record, they're not PUDs separately. They're communities within --

MR. PIRES: Let me step in briefly. It was one PUD, one DRI, encompassed the same geographic area. So it was called Heritage Bay, and it was one big 2,000-plus-acre community, a development. Then the developer came along and decided to make two different residential communities; in fact, two different developers. One development's called Heritage Bay on the east side; the west side is The Quarry. Two developments with two different development entrances.

Heritage Bay comes off Immokalee Road at Heritage Bay Boulevard, The Quarry on Quarry Drive off Immokalee Road.

So those were county approvals approving the two different communities and approving the gates into those communities. And, as Mr. Stuart mentioned, in 2005 the gate at Weathered Stone was specifically approved by the county with an SDP and a building permit on Weathered Stone, which the county had to find that that Development Order/SDP permit was consistent with the PUD, the Land Development Code, and the Comprehensive Plan. That was back in 2005.

But, no, it was one PUD, and it's been developed with two residential communities outside the activity center.

COMMISSIONER FRY: Was there a county approval involved in the current traffic pattern whereby Heritage Bay residents can travel through The Quarry to get to the activity center but not return? Has that been -- has -- that traffic pattern and restriction on Heritage Bay travel, has that been formally approved at some point by the county?

MR. PIRES: The county approved The Quarry, the gates at Quarry Drive, and the county has not required The Quarry Drive gate to allow access to Heritage Bay. Similarly, the county has

not approved the gate at Heritage Bay Boulevard and Immokalee Road, and the county has not required Heritage Bay to allow Quarry residents through the Heritage Bay gate. In other words, the county allowed the gating of those communities to provide their particular access control.

COMMISSIONER FRY: Is it your statement, then, that the decision on which accesses are allowed for which residences at each of those gates is not within the county's approval process; that is purely a private matter?

MR. PIRES: In my opinion, absolutely yes.

COMMISSIONER FRY: Jeff, do you have a reading on that?

MR. KLATZKOW: I was part of the -- I was -- I worked with Transportation when we originally did this PUD. And I know what was intended, and I know what went to the Board, and I know what they're asking for, and I do know that over time things change, and I don't know what else to say.

This was supposed to be an integrated community with the residents having access to the commercial. As soon as the ink was dry on the PUD, they started balkanizing it, selling it off to different communities, and now these different communities want gates.

This is not the first time this happened in the county. This is not the last time this is going to happen in the county. So I don't know what to tell you. I know what was intended, but what was intended and how it developed are two different things.

MR. PIRES: And it's important, the way it was developed was approved by the county. Collier County issued the approval for the gate at Quarry Drive. The county issued the approval for the gate at Weathered Stone.

MR. KLATZKOW: And I understand that staff over the course of time issued permits, okay. I am telling you that I was there at the beginning of this. I know what the intent was. But I'm also aware that these things are in paper, okay. They can't be amended. That's why we had these processes. That's why you're here, okay. And that the development of -- the development of this PUD was not what was originally intended, at least by staff and the Board. Whether the developer had these purchase contracts in the back of their pocket, I don't know.

But I do know what was presented to the Board, and I do know what's happening here, and they were two different things, and that's fine, Mr. Pires. It's fine. But we're here now to say, given the current way this has been developed, is this an appropriate request, and that's all.

COMMISSIONER FRY: But we would be --

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, sir. Go ahead, Commissioner.

COMMISSIONER KLUCIK: Well, I'm going to bring up something new. If I'm interrupting, I don't want to interrupt something that -- a discussion that's already happening.

CHAIRMAN FRYER: Well, start. We'll see.

COMMISSIONER KLUCIK: Okay. So I'm looking at Section 9.3, and I ask if you could put up Page 13 of the staff packet where it talks about Policy 9.3 in the staff finding, just because we will see the language that I'm talking about. It's also what -- I'm sorry. Our most recent witness, what is your name, sir? I apologize.

MR. STUART: Greg Stuart.

COMMISSIONER KLUCIK: Mr. Stuart. Mr. Stuart also had a slide on this where he discussed it.

So if we look at Section 9.3, I think our analysis and the staff analysis hinges on whether that 9.3 lawfully requires, where feasible, the interconnection of developments. If 9.3 is a lawful requirement, then it seems that interconnectivity to and from the developments Bent Creek and La Morada is something that Section 9.3 actually requires. And this petition would hinder and even remove that required interconnectivity, because right now the interconnectivity is all but there. It's just a simple [sic] of the recently installed light going active. And as soon as that light goes active, certainly we could say it's feasible at this point because someone just has to turn that light off and remove the barrels that are at the median, and then we'll have the required "where feasible"

interconnection of local streets between developments, meaning here between Bent Creek, La Morada, Heritage Bay, Quarry, and the activity center.

If -- so my whole thing is, if 9.3 is actually unlawful and it's an unlawful taking in this instance, then that's a whole 'nother issue. But I'm saying, if that's lawful, that requirement of Policy 9.3 and the county's enforcement of it, then, you know -- because I was ready to say, well, I don't see how it works, but then I thought about Bent Creek and La Morada -- or Bent Creek and La Morada, and I think that 9.3 actually does require it.

MR. STUART: And if I can respond, where it fails the test of logic and predictability is that, again, the project has been found consistent with 9.3 during the Weathered Stone improvement and all subsequent building improvements and, of course, Florida law mandates that any and all permits, building permit to utility connection permit, has to be consistent with the Comp Plan. So we are consistent with 9.3.

And then the second thing is, we're not questioning whether it's -- to use the physical feasibility aspect of it. We're questioning the absolute right of the public to use a private road and the absolute error in staff denying a permit for an existing -- for a use that's permitted by right on a private road.

CHAIRMAN FRYER: Thank you.

Commissioner Schmitt.

COMMISSIONER KLUCIK: Well, I was --

CHAIRMAN FRYER: Commissioner Schmitt, please.

COMMISSIONER KLUCIK: Well, no. I'm following up to the response to my question. I'm sorry, Mr. Chairman.

CHAIRMAN FRYER: All right. Go ahead.

COMMISSIONER KLUCIK: Your response -- I understand what you're saying, but I would say that here the condition is that you're asking for a -- you're asking for an approval of something. And if the county approves this, this petition, then the county would not be requiring, you know, under Policy 9.3. So the approval that you're asking for -- I get that you're saying, well, we already, you know, should be able to do this. The whole point of it is, though, we're at the point where you're asking for permission.

And so the county -- in order to follow Policy 9.3, I think the county can go ahead and hang their hat on Policy 9.3 to say no. And I don't -- you know, your argument is that, but we have a right to do that. Well, the county -- you know, the code actually, you know, impinges on these rights.

MR. STUART: Yes. But also the code doesn't say an absolute interconnection on, you know, north, south, east, west. It's an interconnection, and if this was more clarified through a code amendment, you know, yeah, you may have a point there. But the fact remains is that the physical interconnection has and will still remain as it was and as it is, so --

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah, I just want to follow up in regards to this process.

So just to be clear, even though it was approved as one unified development and it was a DRI and a PUD, the formation of the two separate CDDs are, in fact, Board actions. They go -- they're publicly advertised. And I just want to make that clear just so folks understand, it is a public petition, it is advertised, and it goes before the Board of County Commissioners because it is a formation of two local governments.

So the fact of the matter is, the Board approved the two CDDs. Now, whether at that time the Board understood that it was creating now inconsistency with 9.3, I don't know. But all I do know is the Board has subsequently approved the two CDDs. Whether that's in violation, we'll deal with that during our discussion. But the Board did approve the two CDDs which, again, created the situation. I just want to make sure folks understand the CDDs are approved by the Board of County Commissioners.

MR. STUART: That's correct.

CHAIRMAN FRYER: Thank you.

Mr. Stuart, anything else, sir?

MR. STUART: No, sir. Thank you very much.

CHAIRMAN FRYER: Any other Planning Commissioner have questions or comments of Mr. Stewart?

(No response.)

CHAIRMAN FRYER: If not, Mr. Pires.

MR. PIRES: Yes, Mr. Chairman. We have Cheryl Ollila, the president of The Quarry Community Association.

But just briefly before that, following up on what Mr. Schmitt said, the County Commission also approved the platting of two different communities, and the platting is a quasi-judicial act, whether it's on a consent agenda or not. The approval of a plat, the courts have found that's a quasi-judicial act.

The Quarry plat was platted first, which -- the plat that's at issue in this case was approved November '04, recorded January '05. Heritage Bay plat was not approved until six months later, June of 2005.

And so we have the situation where the County Commission, again -- in 2004/2005, the County Commission approved two separate CDDs. 2004/2005 the County Commission specifically approved two subdivisions, Heritage Bay on the right, secondly. First, Quarry on the -- sorry, the western portion.

So those actions are, again, actions of the county. And whether -- and the county staff is always very contentious about making sure the development orders that are issued are consistent with the Growth Management Plan, the Land Development Code, and the PUD.

And so we would submit those three gated approvals, Quarry Drive, Heritage Bay Boulevard, and Weathered Stone all were approved by the county, and they had to make the determination. The statute says all development orders, all -- have to be consistent with all Land Development Code regulations.

CHAIRMAN FRYER: Mr. Pires, before you leave the microphone, do you have any evidence at all that when the BCC took its actions with respect to the CDDs and the divisions that it was consciously also enabling the inability of the Heritage Bay people to return internally rather than having to go out to Immokalee?

MR. PIRES: I've not seen that but, again, I think that's subjective as opposed to the determination that they realized -- they made a determination when they established the CDDs.

CHAIRMAN FRYER: But my question was, do you have any evidence, and I think you're saying no.

MR. PIRES: When the CDDs were established, the County Commission make a conscious determination that they were the best way for those individual communities to deliver services to those individual communities by the individual CDDs. That's a requirement to be made under Chapter 190.

CHAIRMAN FRYER: Well, you're not answering my question.

MR. PIRES: I would say that would indicate to me that they did make that decision.

MR. KLATZKOW: That has nothing to do about putting up gates, okay. It has nothing to do with putting up gates. Filing plats has nothing to do with putting up gates. The CDDs had nothing to do with putting up gates, okay.

There was an internal transportation system there, and now we're going to be gating it, which we can do that if that's the prerogative of this board and the Board of County Commissioners. It's fine. I'm just saying that it's red herrings, okay.

COMMISSIONER SCHMITT: Well, Jeff, it -- and I'm going to follow up. Yes, you're correct. And I don't argue the fact that it's open for discussion, because it is.

MR. KLATZKOW: It is.

COMMISSIONER SCHMITT: And -- because it's now in front of us. But, typically, an

approved plat is typically, as you know, on the consent agenda. It's approved -- it's reviewed by staff, and it's typically a consent-agenda item. But a PUD, there is -- correction. The CDD, typically there is a staff report, and unless there's objections raised, again, typically those will go on the consent agenda as well, or typically they're part of a -- in most instances, the formation of the CDD is part of the PUD/DRI process as well. But in many cases, it's pretty perfunctory. It's just -- it's a consent-agenda item unless it's raised. So if there were any issues that were found inconsistent, it should have been brought up by the staff and raised to the Board of County Commissioners. I mean, that's --

CHAIRMAN FRYER: I agree.

And, furthermore, what we have -- the only evidence we have as to what was presented to the Board of County Commissioners with respect to ingress and egress was the statement of Bruce Anderson who was talking about the entirety of the PUD at the time, and he wanted there to be access for everybody in there to the commercial area. And to me, access means both ingress and egress.

So, I mean, if there's other evidence out there that you've got, now would be the time. If not, let's hear from the president of the homeowners association.

MR. PIRES: There might be some documents on the visualizer. Cheryl, do you want me to help you with them?

MS. OLLILA: Yeah, do you want to do that now.

MR. PIRES: Yes.

MS. OLLILA: Okay. A question came up about --

CHAIRMAN FRYER: Identify yourself, please, ma'am.

MS. OLLILA: Yes, thank you. I'm Cheryl Ollila. I'm the president of The Quarry Community Association. I've been in that position since 2017.

CHAIRMAN FRYER: Last name, please.

MS. OLLILA: O-l-l-i-l-a, Ollila.

CHAIRMAN FRYER: Thank you. Thank you.

MS. OLLILA: Yes. Okay.

A question came up earlier that we had a sign on Siesta Bay Drive that said private property, no trespassing, Quarry residents only. And that sign was placed By The Quarry Community Association, which I'll refer to as the QCA, in approximately 2015 time frame shortly after we assumed turnover.

We were having issues with Heritage Bay residents. Some of the condos are very close to Quarry Drive that belong to the Heritage Bay Master Association, and they were coming over and using the pools and some of the amenities. Conversely, Heritage Bay will tell you that Quarry residents have come in through Siesta Bay Drive and used their trash receptacles at the end of season, and so forth. So there's been that history.

But the original purpose of erecting that sign was due to amenity usage by nonresidents of The Quarry Community Association.

We had some discussions with the Heritage Bay president, and he was talking about an opportunity to possibly share expenses on the roadway network, to your point, Mr. Fryer, about not being able to come in through The Quarry gates even though we're separate. And we pay for our own roads. They pay for their own roads. And I said that would be a very difficult sell even beyond our board, let alone to our residents.

But I did offer that -- in a July conversation with him and the general manager of the Heritage Bay Association that if it would be of any benefit, we could remove the sign and change the wording, as it is kind of in your face. And the problems of the amenity usage across the community lines seem to have diminished, and we are under more control with that.

So we did take that sign down, you can see. That was done on November 16th. And we have new -- a new sign that we have put up.

COMMISSIONER KLUCIK: Can you please make sure that I can see the graphic. I'm

sorry.

MR. PIRES: I apologize, Mr. Klucik.

MS. OLLILA: Okay. That's when it came down. That was the no trespassing sign. That was the before, this is coming down, and then just last week the new sign arrived, and it now says "Entering The Quarry. Amenities for Quarry use only," because that's really our concern.

I will also say that even though it said no trespassing, just like it says no trespassing on Limestone Trail, people usually ignore that, and they do what they do and come through the roads and go out either The Quarry front gate or The Quarry gate at Weathered Stone Drive. Okay.

So I'm not going to reiterate all the history that we've heard here in terms of the Limestone Trail being platted as a private road, but I do want to reiterate that Limestone Trail and its improvements, the road, the sidewalk, the streetlights, the landscaping, is owned in fee simple title by The Quarry Community Association, and it's designated as a QCA common area. The QCA pays for and is responsible for all of the operation and maintenance of that private street right-of-way including the road, the sidewalk, the streetlights, and landscaping, including insurance for its ownership, operation, and maintenance.

There are coach homes, as you've seen in a previous photo, or slide, less than 100 feet from Limestone Trail. And I believe you've heard from many Quarry residents that they're very concerned about if this remains and goes to a private -- public road. So you've heard from those residents.

I want to give you some history. We've been at this a long time. This process basically started in 2017, at the end of 2017. I was approached by one of the representatives from the Commercial Real Estate Enterprise, the CRE consultants who maintain and lease the properties in the common activity center. He approached me in late October, early November of 2017, and he said -- he introduced himself. He said, I have a traffic signal warrant analysis here dated October 22nd, 2017. Are you aware of this?

I said, I'm not. He personally delivered it to my home.

And he said to me, Limestone Trail is a private -- is the QCA's private road, right?

And I said, yes, it is.

He said, I'm sure you don't want all this traffic that this warrant analysis shows on your private road. He said, I'm not interested in whether the county puts a traffic signal at Immokalee Road and Quarry Drive. My interest is having a traffic signal at Bellaire Bay Drive where the Racetrac is and for people to get into the commercial activity center. So he said, it doesn't matter to me what you do, you know, or what the county does at Quarry Drive and Immokalee. That's my whole interest in this. I want to show you this traffic study.

So from there, after I read through it and shared with our board, we were very concerned, and we asked for a meeting with the county. So in early 2018, we began discussions with county staff, specifically Commissioner Saunders and former Department County Manager Nick Casalanguida. And when we had the meeting with Burt Saunders, there were representatives from The Quarry Community Association, from The Quarry Golf Club, a private golf club, which Hole 17 runs parallel to Limestone Trail, and also from CRE. We joined together and met with Commissioner Saunders.

Commissioner Saunders said, I understand your concerns, but I really need you to have a meeting with Nick Casalanguida and his staff, and he was instrumental in setting that up. That took place on March 8th of 2018.

The outcome of that meeting led to a town hall that took place on April 11th of 2018 at The Quarry where Mr. Casalanguida and his staff, many representatives from the county, came and presented to Quarry residents -- and it was very heavily attended. There were over 200 Quarry residents in attendance. And out of these meetings, it was indicated that the county would not push for or support a public thoroughfare on Limestone Trail as a means of alleviating traffic on Immokalee. I can tell you that commitment was made to us on at least three different occasions.

And at that time, we retained, the QCA did, Attorney Anthony Pires and Native

Engineering Chris Mears to begin the process of obtaining administrative support approval from the county for placing gates on privately owned Limestone Trail as authorized by the Heritage Bay PUD.

On July 8th of 2019, I asked for a meeting with Commissioner Saunders and Mr. Casalanguida. And attending that meeting, in addition to myself and the two individuals I just referenced, were board treasurer of the QCA, Mr. Jerry Solomon, and Board Director Mr. Kevin Mooney. And at this meeting, both Commissioner Saunders and Mr. Casalanguida specifically informed us the county would not stand in the way of the QCA placing gates on Limestone Trail but that we may get some pushback from our neighbors, specifically Heritage Bay and the commercial activity center.

And I informed Mr. Casalanguida that I didn't believe we would get pushback from Heritage Bay because they had access to Limestone Trail, and it was our intent when we put gates on Limestone Trail, we would receive that approval, that we would give them access on the Limestone Trail gates, through those gates.

And so I -- in December of 2019, as we prepared for the pre-application meeting, Heritage Bay Community, through their general manager and their president, provided a letter of support, which is in the county package, supporting gating Limestone Trail as the QCA and the legal engineering team prepared for this meeting.

And again, we went through the history here, that, you know, it started out as an insubstantial change, and then in the pre-application meeting, we were told that it had to be a PUD amendment, and we were completely surprised and didn't understand that whatsoever. And we felt that it was without any supporting evidence to request that it be a PUD amendment.

So, in summary, to turn Limestone Trail into a public thoroughfare is in direct contrast to the discussions, the commitments, and many meetings with Commissioner Saunders, the Deputy County Manager, and staff as we approach almost three years for this little stretch of road that we're allowed in the PUD per 2.14 to put gatehouses, access control structures, guardhouses. We have that right. And we pay -- the 900 homes in The Quarry Community Association pay for the gates; we pay for the maintenance; we pay for the insurance; we assume the liability. It's our road. It's our road, and we have the right in the PUD.

And as far as Weathered Stone Drive and the back gate, I mean, you can look on the Collier County property's appraisal, that's our -- that's all QCA property. Heritage Bay has their property. They -- yes, they can cut through Siesta Bay Drive and get out, but they don't have access back into The Quarry because it's our private community. It's QCA, Quarry Community Association, 900 homes. We pay the dues for the roads and all the common elements and everything else that is part of our property, including Limestone Trail.

So approval of this PUD amendment is consistent with the intent of the PUD and the County Commission approval in 2004 on Limestone as a private street. Approval will protect the quality of life and property values in The Quarry.

On behalf of Quarry residents, we implore the Planning Commissioners to recommend approval of this PUD amendment, reiterating the ability under the PUD for the QCA as the owner of this private street to place gates on its privately owned Limestone Trail to prevent Limestone Trail from turning into what it was never intended to be, a public thoroughfare. With the gates, the street which will be used by residents of The Quarry and Heritage Bay -- and, again, I reiterate, nothing is changing for Heritage Bay residents. They have the same access as they have today and will have that access on Limestone Trail if we are approved to put gates.

I thank you for your time.

CHAIRMAN FRYER: Thank you. And before -- we've got two commissioners who have lighted up, but before we go to that, I'm going to ask Mr. Pires to come to the microphone, please. And, the Planning Commission, we need to take a look at the time. It's five minutes after 12:00. When do we want to take our lunch break? And I want to hear Mr. Pires tell me how much longer he has for his presentation.

COMMISSIONER KLUCIK: And, Mr. Chairman, I also want to weigh in as being in line.

CHAIRMAN FRYER: Okay. Thank you. I'll make that note. Come on up. Tell us how much time -- more time you need, and then we'll talk about --

MR. PIRES: I'd say fifteen minutes, and then with the opportunity for rebuttal later on.

CHAIRMAN FRYER: Sure, understood. Okay.

Planning Commission, we're -- I suggest that we go for another 15 minutes and then recess for lunch and then return at the appropriate time. Is everybody in agreement with that? It seems to get a lot of affirmative nods. So that's what we'll do.

And please continue with your applicant's presentation, sir.

MR. PIRES: I thought some commissioners had questions.

COMMISSIONER KLUCIK: I had a question for the last witness.

MR. PIRES: I'm sorry, Mr. Chairman.

CHAIRMAN FRYER: All right. Go ahead, Commissioner. I'm sorry. I'm sorry. Yeah, Commissioner Schmitt was first. My bad.

COMMISSIONER KLUCIK: Okay.

COMMISSIONER SCHMITT: A couple of questions. My perception is, hearing all this, it's kind of -- you've been through sort of the big thumb of government kind of pushing down and squeezing you, because you went from an insubstantial change to a plat, I believe, ICP to a PDI, and then now you're going to a PUD. And each time you met with the county you were under -- understood that you were going through the proper process only to be told now it's something different; is that correct?

MS. OLLILA: Well, initially, up until the preplanning meeting is -- up until that time, through our engineer, it was those less extensive processes. In the preplanning meeting, I believe it was Mr. Bellows who indicated you must go through a PUD amendment.

COMMISSIONER SCHMITT: And you can bring that up at staff, Ray. We don't have to discuss it now. We'll discuss it at staff, because those questions are to staff as well.

How much have you spent so far on this? Estimate. Between consultants, advising, amendments.

MR. KEDDIE: Probably close to 100,000.

COMMISSIONER SCHMITT: I would guess between 75- and 100,000.

MS. OLLILA: Yes. We're at least that, at least that.

COMMISSIONER SCHMITT: That is incredible.

Who's liable -- the golf course -- and I did ask you this on the phone. That's Hole 17. If, in fact, the public transits on this Limestone Road, who's responsible for any golf balls or any -- you know, some people do slice the ball, and that is -- I've never been known to slice playing golf, never; only once out of every three. But who's responsible for any golf balls that enter -- cross the road or hit traffic?

MS. OLLILA: Well, since -- I would guess that since the QCA has all responsibility for Limestone Trail, if that would happen, then they would come after us.

COMMISSIONER SCHMITT: I would probably assume so. I mean, it would be open for discussion.

But it appears to me -- and I'm going to ask staff this, but I'm going to ask you as well. They ever discussed -- if they wanted this to be a public road, did they ever discuss eminent domain and taking over the road completely?

MS. OLLILA: In the April 2018 town hall held at The Quarry, Mr. Casalanguida did suggest that, perhaps, the county could take over the maintenance of the road; however, as I said, it was very heavily attended. Our residents objected strongly because we would still own the road. We would still have all the liability of that road. And it was rejected.

And, additionally, we've seen some of the -- well, the county does a very nice job on many of the roads. I think Limestone Trail would just be a forgotten road. And, as I said, we have the

coach homes that are less than 100 feet away. We want to maintain that road, and we have maintained it throughout our ownership. It looks very nice. It's very nice. And we don't want the county taking over the maintenance and, you know -- and see how they may or may not take care of. We take care of it very well.

COMMISSIONER SCHMITT: They talked about taking over the maintenance. Did they discuss -- you don't know their current backlog, but I'm sure the staff does. Did they discuss what their current backlog of maintenance is for county roads?

MS. OLLILA: No.

COMMISSIONER SCHMITT: I didn't think so.

MS. OLLILA: No.

COMMISSIONER SCHMITT: Did they discuss taking over responsibility for the lakes and the landscaping south of the road since they want to maintain the road? I would assume that the rest of it would go to the county as well, and they can maintain the landscaping along -- between Immokalee Road and Limestone Road. Never discussed that as well?

MS. OLLILA: No. It was just -- I wouldn't even call it an offer, a serious offer. It was just a suggestion that perhaps they could take a look at doing that, but it was met with a lot of objection by Quarry residents for the reasons I just stated.

COMMISSIONER SCHMITT: And the other -- I have other questions, certainly, I'm going to address to staff. Because I'd like staff to -- between -- during the lunch period to tell me how many other roads exist in Collier County that are private roads that have been -- gone through this same process, and how many times have they been told that if it's a private road it's now open to the public? And I'd like to have staff research that and come back to me with that as well.

That's all my questions.

CHAIRMAN FRYER: Thank you. Commissioner Fry, then Commissioner Klucik.

COMMISSIONER FRY: Cheryl, I think you've heard the conversation up here. An idea has been floated, and the County Attorney has, in effect, I believe, told us we have the latitude to possibly approve your request but with a condition that you allow two-way access, to-and-from access to the Heritage Bay members. My question for you is -- and I don't know if that will get legs or not, but I'm just curious, if that happened to be the decision of the Planning Commission, what would be your response to that outcome?

MS. OLLILA: I would be upset. We've been at this for three years. We've been given commitments by both the commissioner and county staff, and that has nothing to do with our application to put gates on Limestone Road -- Limestone Trail, in my humble opinion.

The interconnectivity issues that have been surfaced here today have been that way since day one. Neither the current homeowner-run association of The Quarry nor the current homeowner-run association of Heritage Bay had anything to do with setting up those gates and the private access and the interconnectivity.

There is land between Quarry Drive and Heritage Bay Boulevard. In fact, there's, like, a semi-dirt-type road. That would have been the ideal place for the county to have said, that's the interconnecting road between the two communities outside of our front gates, outside of the gates of the two private communities, but they never required it. And now they want to say that we're supposed to give the roads that we pay for out of our homeowners' dues to a 1,200-home community.

COMMISSIONER FRY: So I have to say I've been here a little over two years now. I don't think I've ever looked forward more to the staff report in terms of how we get to this point. But, you know, as commissioners we have to keep an open mind until we hear everything.

I just want to ask you one more question. In your -- to your knowledge, is there kind of a county approval that has taken place that maybe we haven't talked about that showed support -- I think we have a situation where it turned out different than was intended. It was intended to have two-way access to allow both the communities in that DRI to access to and from the shopping, as stated by Bruce Anderson, correct? It didn't turn out that way. You ended up having two

developments, and you have restricted access returning to Heritage Bay.

Is there any county approval formal that you know of that I would say supports that restricted access that we're struggling with today?

MS. OLLILA: I don't know that. I do know in our discussions over the past three years that Mr. Casalanguida said that they subsequently learned after, for example, The Quarry development that a master association should have been set up for Heritage Bay, The Quarry, and the commercial activity center to be responsible for all the roads. And I'm -- he told us that that is what is done now by the county, but it wasn't done then. We were set up as separate communities.

COMMISSIONER FRY: Your position would be that it is this way, it's all been approved, according to county policy, and there's really no justification for asking you to change your internal access strategy?

MS. OLLILA: That is correct.

COMMISSIONER FRY: Okay. Thank you.

CHAIRMAN FRYER: Thank you.

Commissioner Klucik? Commissioner Klucik, we're not able to hear you, sir.

COMMISSIONER KLUCIK: Sorry about that.

Commissioner Schmitt actually touched on what I was going to touch on, and that was I certainly think if this petition is denied, I don't think the current owner of the road should be responsible for, you know, the cost of maintaining the road and that could, you know, go two different ways to, you know, give up, you know, that land, you know, that road, or to, you know, enter into an agreement where the county, you know, does the maintenance and pays for those costs. But I certainly understand that that's -- that is not a wonderful solution.

But you're right in that if this petition is approved -- is denied and everyone can access that road, it doesn't make sense that you would be responsible for the costs, all of the costs, any of the costs for that road at that point.

CHAIRMAN FRYER: Thank you, sir.

Any other Planning Commissioners have questions or comments for this witness? Go ahead, Commissioner.

COMMISSIONER SCHMITT: When the county talked about possibly taking over the maintenance of this road -- I guess then it would almost be perceived public -- did they talk about any type -- putting up any type of security fence or security wall or anything between the -- on the north side of Limestone between the golf course and the road? More specifically, did you as the residents ask about any type of fence or sound wall fence or any other type of wall with the condos just to the north?

MS. OLLILA: In the meeting preceding the April 18th town hall when the parties that I referenced earlier met with Mr. Casalanguida and his staff, we, the QCA, talked about, you know, if you're going to use this as a private road, then we're going to want privacy walls to protect especially those coach homes along the golf course, because people can park over at the Racetrac gas station and just walk across and enter onto Hole 17. The Quarry golf club put a hedge of Clusias, I think, in 2019 that have grown up nicely, but it still doesn't -- it still doesn't protect people from walking right onto the golf course, throwing their fishing lines into the pond there, and then we have to call our front gate access control to take them -- you know, get them removed. So it's a problem.

But we did -- we did reference that. We referenced some other things as well, and we were told no, no, no, no, no. And then the county said what we can do is come out in April and conduct this town hall in between the March 8th meeting and the April 11th meeting, I believe it is, the town hall, that's when the county finally said some suggestion, and that was perhaps we could take over the maintenance. And as I said, our residents were not interested in that because we've seen the way they've maintained some of these roads, and we would still own the road and assume all the liability and pay the insurance and so on and so forth.

COMMISSIONER SCHMITT: Are these -- does the community now allow for golf carts,

private golf carts to drive on the roads?

MS. OLLILA: Yes. The --

COMMISSIONER SCHMITT: And this road would be one of them for private golf carts? Can you actually go on a private golf cart --

MS. OLLILA: You're not supposed to go out of the gates --

COMMISSIONER SCHMITT: Out of the gate, okay.

MS. OLLILA: -- with a golf cart.

COMMISSIONER SCHMITT: So this road would be -- would not be part of the -- available to use as the private golf cart to go from the community to the activity center?

MS. OLLILA: No, it's not allowed.

COMMISSIONER SCHMITT: Okay.

CHAIRMAN FRYER: Anything else from the Planning Commission?

(No response.)

CHAIRMAN FRYER: Would any Planning Commissioner object if we shortened our lunch, made it shorter than one hour? Anyone object to that?

(No response.)

CHAIRMAN FRYER: Then let's go 45 minutes then, and I'll do the math in a moment. But before I do that, I want to say that it's very important that we give our complete attention for as long as it reasonably takes on this matter and also our complete attention for however long it takes on the workshop item that comes next. And it may well be that we need to ask the County Attorney and his office, if they begin today and don't get finished or have questions yet to be answered, that we continue that over to the 21st of January.

MR. KLATZKOW: We're at your disposal.

CHAIRMAN FRYER: Thank you, sir. Thank you.

All right. So 45 and 19, can anybody help me here? What does that take us to? 12:04. Let's take the 12:05. 12:05. We're in recess until then for lunch. 1:05, sorry. Thank you.

(A luncheon recess was had from 12:18 p.m. to 1:04 p.m.)

CHAIRMAN FRYER: We have a quorum returning from lunch, so we will reconvene.

And I'm going to ask, is Mr. Pires here? Okay. Mr. Pires, do you -- I kind of lost my place here. Do you have more presentation for us?

MR. PIRES: Just a brief, for a closing on my part, for rebuttal.

CHAIRMAN FRYER: Okay.

MR. PIRES: Thank you.

CHAIRMAN FRYER: Well, your rebuttal can occur after the public speakers if you wish.

MR. PIRES: And it can include my closing and everything else, if that's okay.

CHAIRMAN FRYER: You can do it when you want it. If you do it before the public speakers, then you really can't do it a second time.

COMMISSIONER SCHMITT: It should also follow the staff presentation.

MR. PIRES: I'll wait until afterwards to do everything, then.

CHAIRMAN FRYER: Okay, good.

MR. PIRES: I'll wrap up our presentation and rebuttal --

CHAIRMAN FRYER: Okay, thank you.

MR. PIRES: -- if that's acceptable. Thank you.

CHAIRMAN FRYER: Thank you. So you're resting for the time being?

MR. PIRES: I'm not resting until after I do my closing and rebuttal.

CHAIRMAN FRYER: Okay. Ms. Gundlach, are you going to lead us through?

COMMISSIONER KLUCIK: Mr. Chairman, I just wanted to confirm I'm back.

CHAIRMAN FRYER: Thank you, Commissioner.

MS. GUNDLACH: Good afternoon, Commissioners. I'm Nancy Gundlach, principal planner with the Zoning Division.

And today we have our presentation for Heritage Bay. And with me I have several subject-matter experts, including Trinity Scott. She is our manager from Transportation Planning; Mike Sawyer's here with us today from Transportation Planning; we have Sue Faulkner. She'll be on her way. She's from Comprehensive Planning; and Ray Bellows, our manager; and Anita Jenkins, our Zoning Division Director.

CHAIRMAN FRYER: Very good.

MS. GUNDLACH: And we are -- as you might know, we are recommending denial of the petition as the request to close Limestone Trail. Limestone Trail is a required interconnection between the commercial area and the developed areas.

And this is Limestone Trail. It is approximately a quarter of a mile long. And to the left is Immokalee Road and to the right is The Quarry. And you can see there's extensive landscaping, landscaping and a berm along both sides of Limestone Trail, and it separates the residents of The Quarry. They're approximately 100 to 200 feet away. The berm is approximately 75 feet wide.

And the reason for denial is because interconnected development is required. The Growth Management Plan requires interconnection. The Land Development Code requires interconnection.

And the Growth Management Plan specifically states the following: The county shall require, whenever feasible, the interconnection of local streets between developments to facilitate convenient movement throughout the road network. The LDC shall identify the circumstances and conditions that would require the interconnection of neighboring developments.

And the Land Development Code requires interconnection subject to the following four criteria, and it's not required if it's not physically possible.

This interconnection, it exists.

The location of environmentally sensitive lands might prohibit it. This is not the situation here. And I can go through the list but, basically, it's an existing interconnection, so it's required by the Land Development Code.

And Activity Center No. 3, it's a mixed-use concept designed to concentrate all commercial zoning in locations where traffic impacts can be readily accommodated, and to avoid the strip and disorganized patterns of commercial development.

Would you like me to read the whole thing or --

CHAIRMAN FRYER: It's not necessary for my purposes.

MS. GUNDLACH: Okay.

CHAIRMAN FRYER: Anybody else want this read?

(No response.)

CHAIRMAN FRYER: I think you can dispense with that.

MS. GUNDLACH: All right. And then this is our Activity Center No. 3. I wanted you to see the boundaries. It's that commercial area. Let me see if I can -- right here, you see the pointer, this is -- these are the boundaries of Activity Center No. 3. And we already discussed Bruce Anderson's statement back in 2003, that we should have internal access in the activity center.

And with me today I have Trinity Scott here to discuss the commercial area ingress to the east. So please welcome Trinity Scott.

COMMISSIONER SHEA: Can I ask you a quick question?

COMMISSIONER SCHMITT: I have a question as well.

CHAIRMAN FRYER: I think we want, Nancy, before you turn it over to Trinity, let's get some questions for you as well. And I -- Mr. Schmitt, Commissioner Schmitt is lit up first.

COMMISSIONER SCHMITT: Go ahead. I think you had your question first, Paul.

COMMISSIONER SHEA: I was just wondering, on your map you showed the apartments north of Bellaire Road [sic] as not being in the activity center.

MS. GUNDLACH: That's correct.

COMMISSIONER SHEA: But it is part of the commercial HOA equivalent; is that the case?

MS. GUNDLACH: I believe it's separate. We have that mapped, Ray? I think it shows it separate.

MR. BELLOWS: For the record, those -- you're referring to the affordable housing project that was originally there?

COMMISSIONER SHEA: Yes. It's there.

MR. BELLOWS: Well, it's no longer an affordable housing project. It has served its time period as an affordable housing project, and the turnovers can be market rate. All the units have been turned over, and they can be market rate. It's my understanding they're basically condominium type of projects. Market rate units.

COMMISSIONER SHEA: So they're individually managed. They've not part of The Quarry? They're not part of the commercial?

MR. BELLOWS: They're their own entity.

COMMISSIONER SHEA: They're their own entity?

MR. BELLOWS: Correct.

COMMISSIONER SHEA: And we haven't heard anything from them on this?

MR. BELLOWS: Not to my knowledge.

CHAIRMAN FRYER: Thank you.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. Nancy, can you go back to your first slide again, because you make a statement. That's not what I was looking for. No, sorry. Go back where it says Land Development Code. Next one. Okay. The County Attorney shall, wherever feasible, on and on about the interconnect of local -- whoop. Back.

MS. GUNDLACH: Sorry. I thought you wanted Land Development Code. Okay. Growth Management Plan.

COMMISSIONER SCHMITT: Growth Management Plan, I'm sorry. So based on your determination, you -- the interconnect exists now, correct?

MS. GUNDLACH: Correct.

COMMISSIONER SCHMITT: And the interconnect is between two communities, Heritage Bay and The Quarry.

MS. GUNDLACH: Correct.

COMMISSIONER SCHMITT: So how would putting up gates that are accessible to both residents from The Quarry and Heritage Bay not be the same as it is now without the gates? Because it basically does provide interconnect between the two communities; does it not?

MS. GUNDLACH: It's only going to provide one-way interconnection, because the residents of Heritage Bay aren't going to be able to egress from the commercial area without going onto Immokalee Road.

COMMISSIONER SCHMITT: But how do they do it now?

MS. GUNDLACH: That's currently how they do it now.

COMMISSIONER SCHMITT: They have to -- they have to go onto Immokalee Road.

MS. GUNDLACH: Correct.

COMMISSIONER SCHMITT: But --

MR. BELLOWS: Or they're utilizing Limestone Trail currently.

COMMISSIONER SCHMITT: But if the Limestone Trail is -- has an RFI reader or other type of access to open the gates automatically for residents of Heritage Bay and for The Quarry, what changes? It's still accessible for residents from Heritage Bay to get onto Limestone Road, go out to Quarry Drive, and basically -- well, they're going to have to do similar to what they're doing now. I'm trying to understand --

MS. GUNDLACH: Oh --

COMMISSIONER SCHMITT: I'm trying to understand what's changed.

MS. GUNDLACH: Okay.

COMMISSIONER SCHMITT: Because the -- it was built as an interconnect and it serves

now as an interconnect for the residents of Heritage Bay and The Quarry, but putting up gates -- and the gates now are accessible for residents of Heritage Bay and The Quarry. What has changed, other than it's no longer open to the public?

MR. BELLOWS: For the record --

COMMISSIONER SCHMITT: But your GMP says interconnect between communities.

MS. GUNDLACH: Developments.

CHAIRMAN FRYER: Yeah. And, Commissioner Schmitt, this is exactly the concern I have. Even though it may be a transgression of relatively longstanding, it still offends what was represented to the Board of County Commissioners by Bruce Anderson, and I think it also offends 7.3, and I'm not talking about Limestone.

COMMISSIONER SCHMITT: Correct.

CHAIRMAN FRYER: I am absolutely with the applicant on Limestone. I'm talking about this route Bellaire Bay to Weatherstone, to Quarry, to Siesta Bay.

COMMISSIONER SCHMITT: And I'm not arguing that. What I'm trying to understand is the petition before us today is to put controlled access on Limestone. We can discuss the interconnect. But regardless of whether there's controlled access to Limestone, the interconnect doesn't exist. What changes if we put gates on Limestone? The interconnect still doesn't exist. I'm totally lost on this.

MR. BELLOWS: For the record, Ray Bellows.

I think part of the discussion needs to include activity centers that has users utilizing Limestone Trail which would be precluded if this was gated. Those activity center customers, users, road travelers would be precluded from using Limestone Trail if this was gated, altering the traffic circulation.

COMMISSIONER SCHMITT: Ray, I understand, but --

COMMISSIONER KLUCIK: Mr. Chairman, I'd also like to weigh in on this particular question when --

CHAIRMAN FRYER: Okay. After Commissioner Schmitt finishes, I'm going to call on Commissioner Fry, and then I'll call you on, Commissioner Klucik.

COMMISSIONER KLUCIK: It's this specific question that he has and the answer to it.

COMMISSIONER SCHMITT: We have many activity centers located near gated communities or controlled communities. It's not that because the activity center is located near the community you have every right to connect the activity center to the community. It was built for the community to have access to the activity center, and that's Heritage Bay and The Quarry, and they have that.

Now, we can discuss the other issue, which would be another access, but I still don't understand by the controlled access on -- that wants to be -- they want to put up now, what changes other than the public, the general public that visits the activity center.

MR. BELLOWS: And that was primarily the concern, that it was deemed at the time of PUD approval and platting that this road, which is outside the current gates, it's landward or road -- towards Immokalee Road, it's not within the gated part of the existing community that this served as a connector road, kind of a frontage road for the activity center.

COMMISSIONER SCHMITT: But, again, for whom? For who? For the residents of Heritage Bay and The Quarry. And putting up a gate, it's still available for the residents of The Quarry and Heritage Bay. I don't see where the conflict exists, so could you please clarify that. Because it seems to me to meet the requirements of the GMP, because it is servicing the communities. Am I going to come across the street from another -- I think what I'm reading into this now is the county is saying, well, if you're -- well, what's the community across the street?

COMMISSIONER KLUCIK: Bent Creek.

COMMISSIONER SCHMITT: Bent Creek. I live in Bent Creek. Now I'm eligible to cross at this full intersection to enter the activity center, when Bent Creek wasn't even existed back when we were discussing The Quarry.

So I -- I don't understand how it was inconsistent with the GMP then and now we're saying it's not. I guess we could make it consistent with the GMP by requiring the interconnect elsewhere. I just need to understand that. And you still haven't clarified that for me.

CHAIRMAN FRYER: Before I call on Commissioner Klucik, I want to -- they're really kind of two separate issues, at least the way I see it. First of all, what to do with Limestone Trail. And I have not -- and maybe there are points of view out there that haven't been expressed, but I have not heard any Planning Commissioners say that they think Limestone Trail should be open to the general public. Now, we haven't heard from the Vice Chair yet, but -- so that will come, and we'll talk about that.

But then the other issue is, the original intent going back to 2003 that was expressed very clearly by Bruce addresses the -- what have now become two, as the County Attorney said, balkanized communities within one integrated PUD, and they are adjacent to one other. And we only -- right now, and for some period of longstanding, the folks at Heritage Bay have been able to get to the activity center, but they can't come home without going back and taking U-turns and being on Immokalee and every other darn thing, and to me that's the thing that I'm having difficulty with.

And they are separate, and I'm hopeful that we can get -- if -- if it is the consensus, perhaps not unanimous, of the Planning Commission that we would -- that we would grant this petition, I'm hopeful that we can do it on the condition that the other route, the northern route, the Bellaire, Weathered Stone, Quarry, and Siesta Bay can be open so that the folks inside this integrated PUD consisting of adjoining developments have access to and from the activity center.

Commissioner Klucik.

COMMISSIONER KLUCIK: Thank you, Mr. Chairman, and somewhat in response to Commissioner Schmitt, but it's something I raised before. I do think that if you were going to use Policy 9.3 to -- you know, as a basis to deny the petition, the -- you certainly can go to Bent Creek and La Morada as neighboring developments and use that as a justification. I haven't heard the staff do that but, you know, in trying to figure out how could you say no to this, that would be the only way that I think you can say no, because I don't think you can read that and say that, well, you can't go across to Bent Creek and La Morada. Those are neighboring developments, unless -- unless there's something specific that indicates they're not, but I don't know how you can just categorically deny that they're neighboring developments.

I would say, though, that I want to understand that qualifier, the LDC shall identify the circumstances and conditions that would require interconnection and develop standards and criteria.

My question is, where -- are we relying on -- or what are the circumstances and conditions that the LDC must -- you know, must contain that elaborate on this? And then I would say, overall, you know, as it stands right now, I am uncomfortable even if our code says that and even if you can say, oh, we want to deny this because it's a -- because of interconnectivity, and all of those questions seem to be answered the way where you could do that, I would then say, I don't understand how we can have this element of the GMP to function as a taking of private property because, ultimately, I don't think our Land Development Code can just say, oh, well, yeah, under the code we have to take private property from private owners, and that's where I'm at right now.

CHAIRMAN FRYER: That's where I'm at, too.

Commissioner Shea.

COMMISSIONER SHEA: That's where I'm at, too. But in terms of the access coming from, I guess it's Bent Creek, to me when the light goes in, you take a left on Immokalee, and you take a right on Bellaire Bay. So what's the difference if you go on private property, take a left, go down a private road? It's the same length and the same amount of turns. So I don't see why you would want --

COMMISSIONER KLUCIK: I think it's heading back.

COMMISSIONER SHEA: -- to take public property.

CHAIRMAN FRYER: I think it --

COMMISSIONER SHEA: Private property.

CHAIRMAN FRYER: I think it involves, to a degree, some stress between two important principles. One, smart growth, which includes interconnectivity, and then the other, constitutional property rights of private owners. And to my way of thinking, in almost all situations, the latter should -- is superior to the former. That doesn't mean smart growth isn't important, but the solution that I am starting to see here -- and, again, I don't -- I'm not going to declare how I'm going to vote until I've heard all the evidence, but approving this application subject to the condition that another way for ingress and egress interconnectivity can be provided for the Heritage Bay people.

Ms. Gundlach. Oh, I'm sorry, Commissioner Fry.

COMMISSIONER FRY: Nancy, this may be better phrased to Trinity -- and I'm assuming she's going to leave and perform an entrance from the outside when she speaks.

MR. BELLOWS: Yeah. She's part of the presentation team. So if we could have our presentation done, then we can answer all the questions afterwards, because some of them may be answered by the presentation.

COMMISSIONER FRY: I'll reserve the question for Trinity, then. It's a traffic question.

CHAIRMAN FRYER: Thank you. Thank you.

MS. SCOTT: No entrance music today, folks.

COMMISSIONER FRY: Does your face mask match your blouse?

MS. SCOTT: It does, and for the record -- first of all, Trinity Scott, Transportation Planning Manager. And, for the record, I did not plan that. I grabbed the mask that was on my seat of my car.

MR. PIRES: She told me the same thing.

MS. SCOTT: Legal counsel concurred with -- my testimony's been consistent.

Just to go over -- and we've been through this a lot -- the existing Limestone Trail, the Heritage Bay residents have ingress to be able to get to the activity center, but they do not have egress. They are forced out onto Immokalee Road, as are visitors to Heritage Bay, you know, landscape folks, commercial activities that might happen within that as well who may go to the activity center; they are required to go back out onto Immokalee Road to have ingress into Heritage Bay.

So I'm not going to go over this a lot, because I think we've gone through the fact that it's been a longstanding roadway that's been there, et cetera.

What I will note on this exhibit is that they're -- the county has a traffic signal that's currently under construction, expected to be completed very, very, very shortly, as well as we had median modifications at Bellaire Bay Drive and Collier Boulevard that actually are completed already, but they were kind of a first phase of this project.

So this just shows a little bit more of a closeup. The median modification is over here at Bellaire Bay, and the traffic signal is at -- The Quarry Drive is on the north and Woodcrest Drive on the south.

And this shows -- the current aerial that we have doesn't show the completed improvement, but this is what the improvement will be at Bellaire Bay Drive. So Bellaire Bay Drive is to the north, Immokalee Road east/west. It will allow a left-in at Bellaire Bay Drive as well as a right-in, right-out, as well as a U-turn opportunity.

So, overall, there is lots of new developments within this area that could possibly utilize Limestone Trail to gain ingress and egress to the activity center and come back out at the newly installed light once the light's open. They've not had that opportunity in the past because the median was modified many years ago.

And I'm going to go ahead and go to questions, because I started writing down the questions that you all were asking. And so I'm going to try to address some of those before we turn it over to the remainder of staff that we have available for questions as well.

CHAIRMAN FRYER: All right.

MS. SCOTT: One of the questions was about Quarry Drive. Is it a full median opening? Was it put prior to our signal? It previously was open and was a full median opening. It was closed between 2014 and 2015, according to our aerials. We closed that because we've had a campaign, if you will, from a county staff perspective where we've been trying to go look at our left-outs on a six-lane roadway. And we've been trying to channelize them.

What happens when you have a left-out particularly on a six-lane roadway, on a high-volume, high-speed roadway is folks tend to get out into the median, and they have to wait for that next gap, but the person who's behind them doesn't always wait. And so then you wind up having two or three, sometimes four people stacked up in the median, which creates issues from a sight distance and a safety concern. So we've been going and channelizing those intersections when we could.

What I will note is that the applicant's presentation did note that the TIS assumptions, many of them did not indicate the use of Limestone Trail because they were done after the county had closed that intersection. So there was no longer the opportunity to make a left and go eastbound. That was done in 2014/2015, the slide that was up. Many of those TISs were done in 2016/2017 for the commercial area.

They do indicate Bellaire Bay closure, because when folks are coming in for the Site Development Plans, and if we know that we have the intent to close that, we want to tell them before they put that building up. We try our best that if we know that there's something planned, we're going to let them know so that they do their TIS with that in consideration and that before you've got your end-user in there, particularly when you've got a shell building, if you will, before you have the end-user in there, that we've notified the person who's going to be leasing that that your access is going to change.

At the time we had not received the signal warrant study to show that the intersection at The Quarry and Woodcrest would meet signal warrants. The county recently -- if I go back to my last slide here. The Tree Farm/Woodcrest connection was just completed in the last few years. That road -- it was a dirt roadway previously. It really didn't exist. So that -- those roadways -- and so the people who would be coming north on that roadway, they didn't exist at that time. You've seen Bent Creek and La Morada now build. And, interestingly enough, there's a Habitat development that was actually -- half of the land costs for that were actually paid for by Heritage Bay as part of their PUD/DRI commitment. So there's an affordable housing piece that's on the south end. So that did not exist.

Let me just go back and look here. Also at the time, in 2015 when we were talking about Bellaire Bay Drive closing, to my knowledge, county staff hadn't been approached about Limestone Trail. We had been approached about possibly gating Siesta Bay Drive between the two communities, and that goes back as early as 2010 from my predecessors, and it came up, again, I believe, in 2016, which staff was not in favor of as well. But it didn't move forward through the process. It was just folks reaching out to us asking questions. We had a dialogue.

In April of 2018, county staff did go out and we met after our initial meeting with the QCA folks. We had a town hall meeting; very well attended. There were -- I actually have my exact PowerPoint presentation. I don't have it loaded in here. But I can read you my exact two slides of what county recommendations were. These were the last two slides of the evening; that we wanted to work with the entire Heritage Bay DRI to fulfill the original development order intent of an interconnected community allowing the residential communities to have ingress and egress through the gates, if you will.

There's also -- we were willing to maybe work with them to assist in discussion of master association operations of how we could help them through the process of, you have two separate homeowners associations and trying to help them through that process.

Our other two items that we had were that county staff would recommend to the Board of County Commissioners acceptance of ownership and maintenance of Limestone Trail with the exception of the landscaping components and the pavers, but that certainly may have been a

discussion that the Board could have gotten into deeper, as well as ownership and maintenance of Quarry Drive on the north side of Limestone Trail intersections but south of the Quarry Drive bridge, as well as The Quarry Drive bridge, because those are all privately owned at this time.

Ms. Ollila, her recollection is absolutely correct. There was -- you could tell from the tone in the room that the residents were not interested in that. And, to my knowledge, that's where it stopped. We didn't have any further conversations. But that was what we had proposed when we went out for the initial -- or for the town hall meeting.

When we do our TIS reviews with regard to gating, when a development comes forward -- so Heritage Bay PUD is the entire development. It's Heritage Bay, it's The Quarry, it's the commercial piece. When they come forward and they proposed their gates, I've -- I don't know that I've actually seen where they actually tell us who has access to those gates or not.

I went back and tried to find, through the public record, if the county knew that the Heritage Bay could not have egress -- or I'm sorry -- ingress back in. And Ms. Ollila can tell you, I think when we had our initial meeting in the County Manager's Office with QCA, I know Mr. Casalanguida and myself, we were both scratching our head, because we didn't know that they didn't have access back through. So I went back, and I tried to read as much as I could within the public record but couldn't find anything one way or another on it.

One other question that came up, I believe, when Mr. Mears was presenting about the overpass at Immokalee Road and Collier Boulevard, the 2045 Long-Range Transportation Plan has been adopted by the MPO board, and the overpass at that location is within the 20-year plan identified as a need.

And with regards to the signal warrant study, I have two other folks who are available in addition to the folks that Nancy had noted with questions. I have Anthony Khawaja, our Chief Engineer from Operations. He's available via Zoom. I believe you met Mr. Khawaja a few months back at one of our other hearings; as well as Tom Ross from Jacobs Engineering who completed the review of the Traffic Impact Statement.

So -- but Mr. Khawaja, I'm sure, can get into more detail with regard to the traffic signal warrant analysis should you have questions about that.

And with that, questions for the team.

CHAIRMAN FRYER: Thank you.

Commissioner Fry.

COMMISSIONER FRY: Trinity, Trinity, Trinity, how are you?

CHAIRMAN FRYER: You said it three times.

MS. SCOTT: Am I supposed to turn around now or something?

COMMISSIONER FRY: So, Trinity, when the light was warranted at Quarry Drive, when we went through that process, was it based on the expectation and is it really founded on the premise of Limestone Trail being part of the public traffic pattern?

MS. SCOTT: I am not familiar with the traffic signal warrant analysis personally, and I think I'm going to phone a friend, Anthony Khawaja, if he's on the line, to be able to answer that specifically.

COMMISSIONER FRY: The ultimate question is, without that, I mean -- I think to me it's a bit of a leap to assume that we're going to take a private road and build it as part of our public roadway without some kind of a discussion with the homeowner. So that's one of the things I'm struggling with. If the light was warranted based on that assumption, and that really is the compelling reason for its location there, I think that would be interesting to know at a minimum.

MS. SCOTT: Tony, are you online?

MR. KHAWAJA: Yes. Good afternoon. Can you hear me?

MS. SCOTT: Yes, thank you.

MR. KHAWAJA: Hello. Good afternoon. For the record, this is Anthony Khawaja, Chief Traffic Engineer for Collier County.

CHAIRMAN FRYER: Thank you, sir.

MR. KHAWAJA: Commissioner, yes, when the warrant was submitted, it was submitted by the activity center, and they looked at both sides of the road. At the time, Woodcrest was not constructed yet or open all the way through, and some of the subdivisions were not all built.

So the warrant study was based on the number of left turns that would be utilizing the signal coming from the north or going southbound, mainly coming from the activity center. So that's what the warrant was based on, left turns trying to go east, southbound to eastbound, coming from the activity center.

COMMISSIONER FRY: So the light would not be warranted if Limestone Trail was a private road and gated; is that accurate?

MR. KHAWAJA: I cannot -- so at the time we also looked at a projection for the northbound traffic from the subdivision, and they only looked at the one p.m. peak. So I cannot tell you that it will not be warranted today, but at the time that's what they looked at is southbound, that's correct.

COMMISSIONER FRY: Tony, if not for the prospect of the flyover, in the 20- or 25-year plan, would this light have been better located at Bellaire Bay Drive?

MR. KHAWAJA: We like to keep our signals spaced as far away from other signals as possible. Bellaire is -- it's half a mile away from Collier, and I think maybe it would have been a better spot for the shopping center to have the light there, but it is too close to Collier, and also because of the bridge coming on, it was not a good location for a signal.

COMMISSIONER FRY: I understand. So spacing was not ideal.

I think this is for you, Trinity. I guess I'm struck by the fact that we've focused on Bruce Anderson's statement about interconnectivity to shopping, and we've made the assumption that that meant both ways, which would mean that you would want a system where Heritage Bay owners could return home after shopping. And I see that the gates -- the gates actually do not affect that in any way, shape, or form.

The only factor affecting that is that they don't have access through The Quarry gate to get back home. So why is there no requirement in the staff report as a condition -- if that is the issue to be addressed, why is there no requirement for two-way access for Heritage Bay people?

MS. SCOTT: I'd have to go back in and dive into the staff report. It was done by multiple folks, one of which was my staff member. So I would -- I would look to him to come up and discuss that. I don't get involved in the day-to-day, the reviews of items, so...

COMMISSIONER FRY: Okay. Final question, I guess, is it talks about requiring an interconnection, and I'm curious: Without the definition of interconnection, the applicant has defined it as the requirement being and showed us codes in LDC and GMP about interconnecting the neighborhoods to the commercial center, and they have that, and they're not changing that with the addition of these gates, but the county seems to be defining interconnection as a requirement that they dedicate and leave their private road open for public interconnection to the activity center. So give me your perspective on that.

MS. SCOTT: Well, I would say first and foremost, the official interpreter of the GMP and the Land Development Code are my colleagues who are here today. But I would say that the development itself is not just Heritage Bay and The Quarry. We have a commercial piece that's there as well. This public process has allowed, one, everyone within the PUD to be notified of the change -- potential change in the traffic pattern, and also with the language in here with regard to at least the Heritage Bay residents, is it codifies the fact that they would have continued access to it as well.

So I think from our staff perspective -- and I'm going to look to Ray and to our Comp Planning staff of -- is that we don't just look at the residential pieces. We also look to the commercial pieces as well.

COMMISSIONER FRY: Okay. And I guess maybe Ray will speak to this. But that overall interconnection master plan seems to make the assumption that a development's private roads be part of the public access plan, and that's where I'm struggling.

MR. BELLOWS: Yeah. For the record, Ray Bellows.

The PUD master plan doesn't designate -- it shows the traffic circulation system. It shows the streets, but it doesn't say these are only for certain residential users or certain commercial users. It's the traffic circulation system. When platting comes in, some of those roads are going to be part of a gated community. This road is outside of a gated community, and it's connecting, clearly, the commercial node, which is in the PUD -- it's a property owner within the PUD, so it has the same interconnection rules as any other development, and we're trying to keep that interconnection open to a signalized intersection.

COMMISSIONER FRY: What would you say to their claim -- and I think there's a lot of merit to it -- that you're adding traffic to their private road, they have responsibility for maintenance, for the liability from it, for the potential security issues with the residents that live near by there? So what would the county's response to that be?

MR. BELLOWS: Well, my understanding -- and I was the planner for this PUD and DRI when it came in -- was that there are certain roads that the developer at that time committed to to have interconnection, interconnecting all the residential area -- residential tracts. And this road was one of those that showed interconnection from the commercial out to the east.

COMMISSIONER FRY: To the developments -- to the Heritage Bay and The Quarry.

MR. BELLOWS: Yes, to the east. But it doesn't say it was restricted to residents only and not the users of the commercial facility.

COMMISSIONER FRY: So I guess that's the \$64,000 question. Is that requirement for their private road to be for public benefit, or was it an interconnection requirement between the development and the commercial center? So that's all I have. Thank you.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. Karl, spot on on the question. Again, I'm -- we talked about interconnect for the communities, and what -- where'd Trinity go? She's disappeared.

MS. SCOTT: I'm here.

COMMISSIONER SCHMITT: The intersection at Quarry Drive has been closed since 2014, correct? That's what you stated.

MS. SCOTT: It was closed between 2014 and 2015.

COMMISSIONER SCHMITT: So for the last five or six years, what did people do leaving the commercial center to go east?

MS. SCOTT: Well --

COMMISSIONER SCHMITT: They would have either come out Bellaire Bay or Goodland and --

MS. SCOTT: Yes.

COMMISSIONER SCHMITT: -- and made a U-turn.

MS. SCOTT: Yes, or they would go north on Collier Boulevard extension, make a U-turn or come out at Weathered Stone, because there is an opening. They would come out on Collier Boulevard extension, head south, and go back through the intersection at Immokalee and Collier.

COMMISSIONER SCHMITT: Yeah. They've been doing that for five or six years, because you could not make a left turn at Quarry. So even if they did, went on Limestone Trail and went on The Quarry, you can't make a left turn. So it's been that way for six years.

MS. SCOTT: Yes, it has.

COMMISSIONER SCHMITT: So most people have it in their brain, whether you're service -- a service provider or a resident, if you want to go east, you're going to come out, have to drive over towards Collier Boulevard, because you can't -- the full intersection at Bellaire is closed.

So the county -- I look at this as the county created the problem by closing the full intersection at Bellaire. And I understand why, because of the -- how close it is to Immokalee Road. So I fully understand that. But now --

MS. SCOTT: It actually wasn't -- the left-out was not closed just because of the access out to the proximity to Collier Boulevard. The access was closed -- this is what we're doing on a

majority of our six-lane roadways. We are working through closing where we have a full median opening to where we don't want people hanging in the median. We were receiving several complaints from people who utilize that, so --

COMMISSIONER SCHMITT: And you stated that.

So the option would have been to put a full -- a signalized intersection at either Bellaire or Goodland, but that was not the preferred option because of the proximity to Collier Boulevard.

MS. SCOTT: Correct, correct.

COMMISSIONER SCHMITT: What about that access -- and I -- I'm looking at Google Earth here. I'll give Google credit here, so that goes in my bank account. I just said the name.

But Bellaire is kind of askew, and it has to go all the way up. But there is sort of an access drive between the NCH Healthcare center and behind CVS. Is that -- what is that? Is that part of the parking lot? Because I see if traffic come out there, they really can't make a left turn onto Collier Boulevard. The only way you can make a left turn is all the way up to -- what is that, Woodland?

COMMISSIONER SHEA: Yes.

COMMISSIONER SCHMITT: Yeah, Woodland. Otherwise you have to head north to make a U-turn.

MS. SCOTT: So, yes, you have to --

COMMISSIONER SCHMITT: Again, you guys have created this morass on Collier Boulevard.

MS. SCOTT: Hold on. Hold on. Let me tell you. So on the north end of Bellaire Bay Drive, you see where the road swings around. That is a future government center site that will have an access from Bellaire Bay Drive over to -- it's shown as Plateau Road here, but that's Collier Boulevard extension.

So someone traveling in the commercial area, leaving the commercial area, could also go north and once the government center site is completed -- which I believe it's been in for an SDP, I believe, or they're close to it -- there will be another access point, and we're actually putting a roundabout on Collier Boulevard extension because we have the folks right now who are egressing at the CVS location, and when they come out, it's too close to the intersection to be able to allow them to have a left-out.

So they go make a right, and they have to go up and make a U-turn. So we're putting a roundabout at that location where the existing U-turn is.

COMMISSIONER SCHMITT: All right. So on the map that's shown there, right where it says, what is that, Bellaire Bay Drive, that kind of little stub out? That's between the hospital -- or the NCH Healthcare and --

MS. SCOTT: So if you see the exhibit that's going to come up, the U-turn here on Collier Boulevard is roughly in this area.

COMMISSIONER SCHMITT: Yeah.

MS. SCOTT: And that's where there'll be a roundabout. The Board just approved the developer agreement with the adjacent PUD.

COMMISSIONER SCHMITT: Okay. So once that's constructed, would it seem to be more logical for the typical driver to go out that way, go around the roundabout, and use the light to make a left turn to head east rather than go through this serpentine, go through Limestone drive?

And the other concern I have is at Limestone and I reach The Quarry, I just -- I've not been out there. I've not observed. But for trucks to make that right turn, it's sort of a -- you sort of head north, and then you have to make a turn and almost make a U-turn as you make the right turn around to get on The Quarry.

Again, this has been going on for six years. And I'm still trying to get my arms around what has changed other than what the Chairman brought up about the interconnect, and I agree with him on that. But I'm trying to understand when it applies strictly to Limestone. They've not been in compliance for six years, and what has changed other than the fact that they've now come

forward and said they want to put a gate in? But I just don't understand -- other than the fact that the gates do provide interconnect for The Quarry and for Heritage Bay.

MS. SCOTT: For the residents only. Not visitors, not commercial landscape folks, you know, anyone doing --

COMMISSIONER SCHMITT: But they're not -- but they're not doing it now. What are they doing now that they would do with these gates up?

MS. SCOTT: Well -- so the only difference based -- and they showed that based on their traffic analysis, which is why we asked for the traffic analysis is you will have visitors to The Quarry who will now be forced out onto Immokalee Road to make the U-turn, visitors, whether that's a commercial visitor to The Quarry residents -- you have a landscape -- I'm presuming that their landscape folks are in there for a majority of the day, mainly for lunchtime or for someone else who is employees of The Quarry will now go out, and then they'll come back around on Immokalee Road and around.

COMMISSIONER SCHMITT: Okay. So the last question then is, if this is deemed so important and it's a private road and you now want to make it a spine road for access, why not proceed with eminent domain?

MS. SCOTT: We haven't proceeded with that.

COMMISSIONER SCHMITT: Why?

MS. SCOTT: County --

COMMISSIONER SCHMITT: That's your alternative.

MS. SCOTT: The Board has not provided direction to do so.

COMMISSIONER SCHMITT: Well, if this is approved, that's probably your only option, then, is to proceed through eminent domain.

MS. SCOTT: The Board has not provided us that direction. Like I said, in our original town hall meeting back in April of 2018, we offered to go in front of the Board and say -- that that would be staff's recommendation, that we work with The Quarry to take over ownership and maintenance of the roadway and the bridge and the connecting portion of Quarry Drive.

COMMISSIONER SCHMITT: Well, now, if you take over ownership -- and I said it was my last question, but I'm following up. If you take ownership of this road and the maintenance of this road, then you're going to assume all the responsibility for all the landscaping --

MS. SCOTT: Not necessarily.

COMMISSIONER SCHMITT: -- south? Why not?

MS. SCOTT: That would be something that --

COMMISSIONER SCHMITT: And then put up a wall between -- because of the traffic increase, and now we're going to have a lot more traffic coming through there. If I were to approve this right now, I would mandate that the county take over the road, take over all the responsibility for the property south of Limestone between Limestone and Immokalee, and put up a sound wall. That's my position for approval.

MS. SCOTT: Commissioner Schmitt, we never got to that opportunity because the residents weren't interested in engaging in that conversation at all.

COMMISSIONER SCHMITT: Okay. Well, that's my position.

MS. SCOTT: So we never had the opportunity to even get in front of the Board to have that conversation.

CHAIRMAN FRYER: Vice Chair Homiak?

COMMISSIONER KLUCIK: Mr. Chairman, just -- I'm in line, please.

COMMISSIONER HOMIAK: Could we direct you to do that? I mean, that would be our recommendation. This is all about moving traffic --

COMMISSIONER SCHMITT: Right.

COMMISSIONER HOMIAK: -- inside the communities to get to commercial and staying off Immokalee Road and off Collier Boulevard, right? I mean, that's what all this is?

On Page 257 of our packet, the original PUD, the DRI is there, and it's all connected to the

commercial. All -- the community can move around and never get out on the road, on Immokalee Road, and that's -- then all of a sudden it got split up.

So now that was part of the agreement to have Limestone Trail there. It had -- just so that people could connect even just in that community, in Heritage Bay, just to get to the commercial. But it's been open to the public so -- the whole time. So I'm assuming that's part of the reason why the light is going in there.

MS. SCOTT: Well, Mr. Khawaja indicated that --

COMMISSIONER HOMIAK: It makes sense to me.

MS. SCOTT: -- the signal warrant study did show the commercial area utilizing Limestone Trail because it has been open.

MR. KLATZKOW: Well, staff's position is that under the PUD it's required that that road be open to the public, right? Is that staff's position?

MR. BELLOWS: For the record, Ray Bellows. It's staff's position that this road is depicted on the master plan and is not restricted to being a residential use only; that it is open to the public.

MR. KLATZKOW: Okay. So staff's position is under the PUD the county currently has the rights to use this as a de facto public road?

MR. BELLOWS: For public access.

MR. KLATZKOW: And what I'm hearing is the Planning Commission disagrees with you on that.

CHAIRMAN FRYER: That's a take.

MR. KLATZKOW: Okay. I think that's where the discussion is right now. And so that your point, can you require that if you're going to approve the condition, is that the county take this by eminent domain? You can make that recommendation. It's going to be a very expensive eminent domain.

COMMISSIONER SCHMITT: Very expensive.

COMMISSIONER HOMIAK: Well, I don't know why it wasn't signed over to the county in the first place as part of them letting them split the community up. It's not developed as it was originally approved from the beginning, so...

CHAIRMAN FRYER: Commissioner Klucik's going to be next, and then Mr. Eastman. Mr. Klucik.

COMMISSIONER KLUCIK: Thank you.

So my question for Trinity -- you know, and everyone calls you by your first name. Is that okay?

MS. SCOTT: Yes, absolutely.

COMMISSIONER KLUCIK: It's such a nice name, so that's why we all like it. It's easy to remember.

MS. SCOTT: It's his favorite flavor of ice cream.

COMMISSIONER KLUCIK: It is, it is. Chocolate Trinity at Publix.

The light -- the thing that kind of most bothers me, you know, as someone who, you know, now is on the Planning Commission and trying to help, you know, make wise recommendations for all of these things is I see that we're in a situation now where it seems as though there's a pretty strong sentiment to approve this, and if this petition were to get approved, then we have a very expensive project that we just put in, and the only beneficiaries of that project are the residents of, you know, these two communities, you know. And we put -- and we're also, then, disrupting traffic for everybody else, you know, by putting this light in because nobody gets to take advantage of the light except, you know, the people in these two communities.

So I just think it is an example of something that's gone awry if -- you know, if you're planning -- and it seems as though this is what happened, and you can tell me if I'm wrong -- that you were assuming that that road would -- you know, that Limestone Trail would continue to be accessible to the public. And by making that assumption, we're now in a position where the

investment in that light is a lot of money with a benefit to very few people. I mean, do you understand that analysis? Do you have a response?

MS. SCOTT: I understand. And let me respond to a few of those things.

So with regard to the public use of the roadway -- and the applicant is aware of this; they brought it up in their presentation. I'd actually provided them the review comments. When the plat was done for The Quarry Drive for the cul-de-sac road, which is Coastline Court, the reviewer --

COMMISSIONER KLUCIK: Could you just show me that, because I'm not --

MS. SCOTT: It's not on here -- it's actually covered -- if you can see my pointer, it's covered right up underneath this section of the red line. It's a cul-de-sac road where the -- where the townhomes are from The Quarry.

When that --

COMMISSIONER KLUCIK: I can't see it. What is it called?

MS. SCOTT: Oh, right here. Yep. Hold on. I hit too many buttons. Sorry. Taking my PowerPoint skills from Anthony Pires.

COMMISSIONER KLUCIK: Oh, right there, okay.

MR. PIRES: Absolutely right.

MS. SCOTT: It's right here.

COMMISSIONER KLUCIK: Repeat that again, because I wasn't following what you were saying.

MS. SCOTT: Okay. So when the -- when this roadway was platted or the Site Development Plan came in, the reviewer at the time, Russ Mueller, who worked in our Engineer Services sections -- this was back in 2004 -- he requested a pedestrian interconnection, a pedestrian sidewalk to go from this sidewalk here on Coastline Court to the sidewalk on Limestone Trail. It is what we would have asked for for interconnecting those pathways so that somebody doesn't get to the end of the cul-de-sac and now I've got to go over a 50-foot berm. And the response from the project engineer at the time was at the southern end of Coastline Court the sidewalk is not tied into Limestone Trail because the sidewalk for Limestone Trail is on the opposite side of the street, which I concur. It's on the -- the sidewalk for Limestone Trail is here. This is Coastline.

That would also be connecting a street outside of the gated community, which could be -- could, it says "could" -- be used by the public to a private internal street within the gated community. That's the only thing that I could find on the public record that indicated that that roadway could be used by the public.

MR. KLATZKOW: Conspicuously absent from the PUD is a requirement that that road be a public right-of-way.

MS. SCOTT: The plat -- there's nothing within the PUD that requires it explicitly. The plat is platted as a private roadway. When we -- I do not have with regard to the CDD funding of Limestone Trail; it is one of the first questions I asked of the QCA representatives, and their indication was that no, it was not funded with the community development district. Those are the questions that we were asking in the beginning of this in 2017 and 2018.

MR. KLATZKOW: And there is a difference between requiring an interconnect between the communities within the PUD and requiring an interconnect between that PUD and the rest of the public. If the intent was for that road to eventually go out to a light to other communities, which were not even on -- were not developed at that point in time, that was just -- I used to live out there. There was nothing out there. I think it's a stretch.

COMMISSIONER KLUCIK: What is a stretch?

MR. KLATZKOW: It is a stretch saying that the interconnect requirement requires that people be allowed -- the public be allowed to utilize that internal road. The interconnect requirement, in my experience, would be to allow the people within the community free access throughout the entire community. And there's a difference -- a tremendous difference in traffic volume there.

CHAIRMAN FRYER: And if I may follow up on that, with which I agree.

COMMISSIONER KLUCIK: If I would just ask if she's done or if she's going to continue to answer the question that I asked, which was specific to --

MS. SCOTT: Oh, I'm sorry. He did have a second part of his question that I got sidetracked on. Sorry.

CHAIRMAN FRYER: Go ahead. Go ahead.

MS. SCOTT: The second part was as far as the benefit of the traffic signal, and to say that it's only the folks on the Heritage Bay and The Quarry side to have benefit, that is not the case now that -- I'm going to switch to a different exhibit. Now that Woodcrest Drive --

COMMISSIONER KLUCIK: If you could please show the exhibit.

MS. SCOTT: It's up -- it should be up now, the network with Limestone Trail "open to the public" exhibit.

COMMISSIONER KLUCIK: Yes.

MS. SCOTT: So Woodcrest Drive, the traffic signal will be in this location. Woodcrest Drive now completes all the way down to Tree Farm Road, which connects over to Collier Boulevard. In addition, as part of the Vanderbilt Beach Road extension project, that will be starting construction shortly, in the next year or two.

MR. KLATZKOW: And the purpose of that -- because I was involved with that -- was to bypass the intersection of Collier Boulevard and Immokalee. It gives the public -- it gives the public the ability -- it gives the public that are going westward on Immokalee to bypass the intersection which, quite frankly, is failing and just use alternative route. And we spent a lot of time trying to get that right-of-way between the developments that are in there. That was the intent of that.

MS. SCOTT: And if I could --

COMMISSIONER KLUCIK: No, I just want to tell you I appreciate that explanation and, actually, I realize that my assertion on that was wrong. And that clearly -- that clears it up for me. There's plenty of benefit from that signal beyond to the people in those two communities.

MS. SCOTT: And just so the Planning Commission is aware, the intent is to also connect that roadway, continue Woodcrest Drive. There's an existing private road that we have acquired the right-of-way, and that will connect all the way down to Vanderbilt Beach Road extension as well. So the residents north will have a direct connection all the way down to Vanderbilt Beach Road extension without having to go on Collier Boulevard.

COMMISSIONER VERNON: Mr. Chairman?

CHAIRMAN FRYER: I'm going to interject, if I may, please, just to stay on subject, and then I know Commissioner Shea has asked to be recognized.

This is the same question that I'm going to ask Ms. Faulkner. But I believe it's both a Transportation and a Growth Management Plan question.

This way of proceeding north of Immokalee, staying entirely inside the two subdivisions that I've described as Bellaire to Weathered Stone to Quarry to Siesta is now blocked at some point by a gate, and the gate does not allow the people from Heritage Bay who can exit through that gate to re-enter it. In your opinion, does outgoing-only interconnection satisfy the requirements of Section 7.3 that adjoining neighborhoods be interconnected?

MS. SCOTT: I go back to what we recommended at our town hall meeting was that from a county staff perspective we wanted to work with the internal neighborhoods to achieve that ingress and egress for both The Quarry and the Heritage Bay residents. That was our goal as well.

So we did believe that it should be an ingress and egress. And, as I said, when we get permits for gating and things like that, they don't tell us who has access. That's not something that we've asked.

Now, what I will tell you is we're learning. What's -- Mr. Yovanovich always tells us? We reserve the right to get smarter.

Another GMP amendment that you have that's come before you, we're actually requiring

that cross-access easements be in place prior to PUD coming back for approval. I think you're going to start seeing some differences with regard to our recommendations with these interconnections so that we can formalize them, and we don't have these issues that pop up 25 years later.

CHAIRMAN FRYER: So I think -- I'm going to recast what you said, and tell me if I erred. But I think what you're saying is that one-way only, outbound only and not return access, is not true interconnectivity under Section 7.03 [sic].

MS. SCOTT: That is what we have provided as far as our staff opinion, yes. We need the interconnect.

CHAIRMAN FRYER: Okay. Now, my second question for you is this, and I'm going to also ask Ms. Faulkner. If we as a Planning Commission were to protect the private property rights of the folks in Quarry by granting the gates that they're asking for but on the condition that they allow true ingress and egress for the Heritage Bay people on this northern route that I described, would staff -- would staff's recommendation still be against that, or would you revise your recommendation of approval with that condition?

MS. SCOTT: I hadn't thought about that, and I would want to go back to my reviewer first. Like I said, I don't review these on an everyday basis, so I would want to get the whole picture from him.

CHAIRMAN FRYER: All right. Well, Ms. Faulkner knows what I'm going to be asking her.

Commissioner Shea.

COMMISSIONER SHEA: You mentioned something, Trinity, again, and I said it earlier, I don't see -- with that light going in, I don't see, coming from the south on Woodcrest, whether you take a left at the light on Immokalee and a right on Bellaire Bay, why that's any better if you go on Limestone Trail. You still have control.

MS. SCOTT: I wouldn't say for the ingress it would make a difference, but for the egress of not having to go make a U-turn on Immokalee Road and just be able to have access to a traffic signal and come due south.

COMMISSIONER SHEA: I guess the other thing, too --

MS. SCOTT: It all depends on someone's travel patterns. I like to keep moving. I don't like to be stopped at a traffic signal, but I'll go further out of my way, but not everyone is like me. And I like gas tax money, too, so...

COMMISSIONER SHEA: And as far as -- I know we talk a lot about the return of the Heritage Bay. I realize that under the situation that we're talking about with that light, the return is much improved over what's there now because now they can go to the light, take a left, and take a left back in. They're still out on Immokalee for that little bit of time, but it's much improved over what they have right now. And I guess the other thing, as a general comment for somebody, is I don't understand why we're not hearing anything from Heritage Bay or the commercial association for or against it. It really troubles me.

MS. SCOTT: I think that there were letters from each, and there were letters in favor from Heritage Bay, and I think that there were letters in favor from individual -- or, I'm sorry. Letters against from individual residents in Heritage Bay that I believe were --

COMMISSIONER SHEA: I'm talking about here at the hearing.

MS. SCOTT: Oh. Well, we haven't heard from the public yet.

COMMISSIONER SHEA: If it's an issue, why are we only hearing -- oh, we haven't?

MS. SCOTT: No.

MR. BELLOWS: We have approximately 30-some people who had registered online.

CHAIRMAN FRYER: Oh, I meant to tell you that.

COMMISSIONER SHEA: Never mind.

MS. SCOTT: I don't have a crystal ball to know what they're going to say.

COMMISSIONER SHEA: No, I'm saying as part of the presentation, I would have

thought that we would have -- not your part but the applicant's part.

CHAIRMAN FRYER: Anything else --

COMMISSIONER SHEA: I'm done.

CHAIRMAN FRYER: -- Commissioner Shea? Thank you.

No one else is lit up at this time.

COMMISSIONER VERNON: Let me -- if I can jump in.

CHAIRMAN FRYER: Please, go ahead, Commissioner Vernon.

COMMISSIONER VERNON: I just -- I don't think I'm adding anything new, but I think maybe I want to just highlight the direction for everybody going forward, since we've got a lot more people to speak. It seems like the best argument, the best piece of evidence -- can you go back to that. I was just about to talk about it.

MS. SCOTT: Sorry.

COMMISSIONER VERNON: Just -- the best piece of evidence that the staff has supporting their recommendation is that exhibit we're looking at right now, and it seems to me -- and, obviously, staff can speak for themselves -- that the amendment that the Chairman is suggesting will not impact their argument. So I think the Chairman's trying to solve a problem, but I think if there's, in my opinion, intellectual integrity to the staff's position, that amendment doesn't change their point of view.

And that being said, if I'm reading my fellow commissioners correctly and telling you what I'm thinking right now based on everything we've seen, it seems to me that that piece of evidence, that what we're looking at right now does not overcome the rights of the petitioner. And it's been said several different ways.

So the point of me saying this, which is really just summarizing what I think everybody else said, is I think, with respect to staff, speakers, rebuttal, everybody else presenting evidence going forward, unless -- tell us if we're missing something, because it seems like everybody's sort of figured out the issue, and if we did figure out the issue, then I think any discussion, argument, evidence from the speakers should be focused on changing the point of view that I think I just summarized. And not to speak for the other commissioners, but I think that's what I hear everybody saying. And I'm in agreement with what everybody's saying.

CHAIRMAN FRYER: Thank you, Commissioner.

Commissioner Fry.

COMMISSIONER FRY: Chris -- and I'm not sure -- and correct me if I'm not understanding you correctly. But as I see that, that orange segment up there, without that working both ways for the public, it guts the value -- the benefit of that traffic light on the north side. You cannot -- you have a very difficult path to get out going west -- I'm sorry -- going east on Immokalee Road. You have to either go up and do a U-turn and come down Collier Boulevard or do a right-out, and then do a U-turn in either of those two locations.

So, in my opinion, that public access to that segment is key to that system, that orange segment having any value for the public. It adds a little bit of value to service -- not even service people, but to the people from Heritage Bay. As Commissioner Shea said, they don't have to go way west in order to come back east to get into Heritage Bay.

But I see that light not really being justified except for the benefit it provides to the south, as you've mentioned. But to the north, it more or less guts the value, in my opinion. So do you disagree with that?

COMMISSIONER VERNON: I agree a thousand percent with everything you just said. And my only point I was trying to make is I feel like -- and I shouldn't speak for the other commissioners, but I just feel like there's a sense that the rights of the petitioner may be superior to that.

COMMISSIONER FRY: Agreed a thousand percent with that. We're at 2,000 percent now.

CHAIRMAN FRYER: Very good.

All right. Go ahead, Commissioner Schmitt.

COMMISSIONER SCHMITT: But the light to the north, Karl, would it not -- it allows for traffic coming out of The Quarry and out of the Heritage Bay. Both can come down Quarry Drive, and they can make a left turn and go into town. I mean, it's -- and I'm -- I don't know how many homes are back there between the two. It's probably close to 2,000 doors back there between the two units -- the two communities. So I would believe that even with the traffic, it would -- they would be able to get a warrant for a full opening and a light at that corner. I think it's beneficial for traffic both from the north and the south, I mean, because it does allow for access.

COMMISSIONER FRY: It allows Quarry and Heritage Bay to go out to the east more easily.

COMMISSIONER SCHMITT: Right. Get out to the east and to the west.

COMMISSIONER FRY: They could already come out there to the west. They can make a right without the light. But to go east, I see what you're saying; those combined residences now have a second way they could come out and go east. Heritage Bay wouldn't need it because they're already farther east, but coming ingress, it would only benefit -- it doesn't add any benefit to The Quarry people other than making a left, coming down Immokalee eastbound.

So, I mean, I see what you're saying. It does add a little bit of benefit for the residents, but where does that weigh compared to the benefit that I think the staff is looking for for the public? I guess I was assuming the public ease of ingress and egress from the activity center was the primary driving reason for the light. Is that correct or incorrect, or is that a more complicated question? Here comes Trinity.

CHAIRMAN FRYER: Well, as she's coming up, I want to offer my apologize to Mr. Eastman who now has the floor.

MR. EASTMAN: Well, I no longer have a question. I was going to clarify a point, but Mr. Klatzkow clarified that point previously.

CHAIRMAN FRYER: Thank you, and I apologize.

MS. SCOTT: I'm sorry. I forgot Mr. Fry's question on the way up. I lost it because I was listening to Mr. Eastman.

COMMISSIONER FRY: Just Commissioner Schmitt mentioned that there is benefit to the north side of that light in that Heritage Bay -- Heritage Bay and Quarry residents can use that light to go eastbound on Immokalee; it gives them an easier path. And there's, I think, 1,200 homes in Heritage Bay and I don't know how many in Quarry. Where does that benefit rank compared to the public benefit of being able to access ingress and egress from the activity center through that light?

I was assuming it was the public benefit that was the driving reason for the warrant for the light, and that overall system, I think, is a public system, not a private system. And I would say it's the benefit of the commercial. When I say "the public," I get it, it's the public, but it's to benefit the people who are ingressing and -- based on the signal warrants, the signal was warranted, I believe what Mr. Khawaja -- and he's going to tell me if I'm wrong. The signal was warranted based on projected traffic from the commercial area on the north and what their left movements and southbound movements would be.

So when we're saying "public," we're saying from the Heritage Bay Development of Regional Impact, the traffic that's coming from the Heritage Bay Development of Regional Impact are going to the commercial portion of the Heritage Bay Development of Regional Impact. That is what warranted the traffic signal.

COMMISSIONER VERNON: And the people who live within The Quarry or Heritage Bay would not really need that light because they're not coming onto Immokalee. So it really -- when you say "public," you're talking about the broader public?

MR. KHAWAJA: Well, when we talk about -- this is Anthony Khawaja, Traffic Operation.

When we talk about public, we're really talking about the users of the activity center but

not the public as in general. Like, when we talk about cut-through traffic, like a lot of people are calling this cut-through traffic; this is not really cut-through traffic. Cut-through traffic would be somebody's going from Immokalee to Collier. Then there will be cut-through traffic.

If they're going to Immokalee to the activity center and back, that's a PUD. That's part of this development traffic. This is not cut-through traffic. If it went through all the way through Collier, then they cut through the development. This is still local traffic within the development.

COMMISSIONER FRY: I understand.

MR. KHAWAJA: But to answer Commissioner Fry's question, the traffic signal was warranted on the basis of the activity center traffic making a left turn to go east. The Quarry traffic by itself did not need it as much because they did not have a heavy left-turn movement exiting The Quarry. Most of their traffic is either making a left-in and a right-out.

And this is the same when we looked at -- the time when we looked at the traffic signal warrant analysis. Woodcrest did not go through at the time, and most of the traffic on Woodcrest, when it opened, it would have then served traffic going and coming from the east. So it would be left-in, right-out is most of our through traffic, unless they're going to the activity center, which would be local traffic going to the activity center.

COMMISSIONER FRY: So, Tony, you are saying that with the Limestone Trail gated, you're losing a significant amount of the benefit of that light because people can no longer exit the activity center to go east on Immokalee using that route?

MR. KHAWAJA: That is correct.

COMMISSIONER FRY: Thank you.

MR. KHAWAJA: And they would have to struggle through making a right and a U-turn, or a right and a U-turn on Collier. They'll still make their way through, but it's not as convenient.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: Anything else, Ms. Scott?

MS. SCOTT: No, thank you.

CHAIRMAN FRYER: Thank you. All right.

Who will be the next speaker? I'd personally like to hear from Ms. Faulkner, but I don't want to throw you out of order. Oh, good. You're ready.

MS. FAULKNER: I'm happy to answer questions.

CHAIRMAN FRYER: Thank you.

MS. FAULKNER: The question that I've heard you bring up is why did I review 7.3 and find as I did. Here's what I had happen when I was doing the reviews. There were several submittals, and in one of those submittals, at the early end, it was stated in the application packet that Heritage Bay would have complete access to go to the commercial development. I took them at their word, and my idea of what that meant was that they would be able to go ingress and egress, and that made sense to me that that was beneficial and that followed the intent of 7.3, and I found that that was consistent.

Later on, it was brought up that they do not have access to return to their homes after going to the commercial center. I didn't care that -- that was difficult for me, because I feel very strongly that they should be able to come and go in the same route and not have to be re-routed in order to complete their task. So I reversed my initial finding and stated that I felt that it was not consistent.

Just for information, normally Comp Plans are -- Comp Planners are looking at projects that are not built, and they come in and we apply these different policies for consistency. This is unusual that we're looking at all of these different policies when something has already been built and that the roadway is there. And I was a little frustrated because I realized they had built that interconnection and then they wanted to block it off.

And we have a very big challenge with our word "encourage" in getting developers to come in and actually build those interconnections when it's a brand new development. Therefore, I was excited that there was one that was actually built that could function in that way.

And so the developments we normally look at usually have some other sort of restraint

already. But if you ever travel in that direction, across the road there was several different stub streets. I guess you're familiar with stub streets. It's where there's going to be a road that connects to something. And in this case we asked people to draw in, in new developments, stub streets so they can connect to other neighboring developments, and many times we're told we're sorry, that's not possible, it's not feasible, and thank you very much.

And so this was a case that was different, and if I didn't handle it perfectly, I tried. I'm not the traffic expert. I have worked in traffic and transportation in the past, and I feel pretty strongly that this was a good opportunity.

CHAIRMAN FRYER: Thank you.

MS. FAULKNER: Yeah.

CHAIRMAN FRYER: Before you go -- and I've got at least one other commissioner who wants to ask a question. And I gave you some forewarning about what I wanted to ask you and, of course, it follows a conversation that we had on Tuesday where I believe our minds met. And I would like to try to make that record and find out where -- how we can reach some progress today as a result of that meeting of the minds, because you're the GMP person here.

MS. FAULKNER: I am.

CHAIRMAN FRYER: And we've heard that Bruce Anderson representing the predecessors in title to these property owners, all of them, Heritage Bay, Quarry, everybody --

MS. FAULKNER: Yep.

CHAIRMAN FRYER: -- back in 2003 made a statement about true ingress and egress interconnectivity for the -- to the activity center -- to and from the activity center. Now, is it -- is it your opinion that that egress only is not in compliance with Policy 7.03 [sic]?

MS. FAULKNER: It's 7.3, and yes, it is.

CHAIRMAN FRYER: Thank you very much.

Now, again, I've heard no evidence of the county knowingly approving the gate at -- up at the Bellaire/Weathered Stone/Quarry/Siesta. I believe it just evolved informally the way sometimes these things do, and the only evidence we have to the contrary is what Bruce Anderson said, and that -- and your point is well taken that here we're looking after the fact at a complete development, but before this development was even started, we had the representative of the owner of all the property talking about full ingress and egress interconnectivity between the adjoining neighborhoods within the PUD.

So that -- that point is what helps me get over the issue of private property rights. I think that putting up that gate was done without any official knowing approval of the county.

So to me -- this is going to be my next question. If the applicant were to agree to allow the Heritage Bay people ingress and egress access on this route that I've mentioned, would you still oppose gating Limestone Trail?

MS. FAULKNER: No, I would not.

CHAIRMAN FRYER: Thank you.

MS. FAULKNER: I feel -- you know, I'm speaking strictly from the policies in the Growth Management Plan. I see that Transportation has some other factors that are being considered. I was not going into that.

CHAIRMAN FRYER: Thank you. You've answered my question. I appreciate it. Commissioner Fry.

COMMISSIONER FRY: Sue, are you saying that if they had had ingress and egress for Heritage Bay at the time of their application, this would have never come to us? It would have been an insubstantial --

MS. FAULKNER: Oh, I didn't determine that.

COMMISSIONER FRY: Oh, okay. Just --

MS. FAULKNER: No, no.

COMMISSIONER FRY: Just that you would not have had a problem -- you would not be recommending denial.

MS. FAULKNER: When I reviewed it, I would not have found it inconsistent.

CHAIRMAN FRYER: With the GMP?

MS. FAULKNER: Yes.

CHAIRMAN FRYER: But the reason we're here, and with all due respect to other speakers, there needs to be a language change to the PUD because it refers only to the developer. Now, logically, to me the developer had that right. That right passed on to the successors in interest to put those gates up. So I'm all about doing that. But I'm also wanting compliance with 7.03 the way Ms. Faulkner sees it, and the way you get to that is only the Heritage Bay people not only ingress but egress over the other roads.

COMMISSIONER FRY: Chairman Fryer --

CHAIRMAN FRYER: Sure.

COMMISSIONER FRY: -- you've been mentioning the upper gate at Weathered Stone. Why not the more direct route at the gate at The Quarry -- Quarry Drive?

CHAIRMAN FRYER: Good question. And my answer to that is this: That you have a sense of parity coming off of Immokalee. You've got the Heritage Bay point of ingress and egress, which at least from the standpoint of ingress is only for Heritage Bay. And then you've got The Quarry Road, which is the same thing except only for the benefit of The Quarry people, and so that seems to be kind of a parity. And it could -- you could have opened it up, but I just -- I'm hung up on -- that's not the proper phrase. I am still embracing the notion of property rights on Limestone Trail, and I don't see the same notion with this northerly route that I proposed, because way back at the very beginning Bruce Anderson on behalf of the then property owner recognized full bilateral interconnectivity.

COMMISSIONER FRY: Would you allow The Quarry, if this was a condition, to decide which gate they might open?

CHAIRMAN FRYER: Yeah.

COMMISSIONER FRY: If they decided The Quarry --

CHAIRMAN FRYER: Yes. I would, yeah. As long as -- as long as both segments, Heritage Bay and Quarry, are able to move to the activity center without going out on Immokalee Road and doing U-turns and the like, of course. I'd leave that up to them.

All right. No one else is lit up. Does staff have anything further to present?

COMMISSIONER KLUCIK: I know you're surprised by that, Mr. Chairman.

CHAIRMAN FRYER: Commissioner Klucik, do you have anything to say, sir?

COMMISSIONER KLUCIK: No, no. I was just noticing that you probably were surprised that I didn't.

CHAIRMAN FRYER: Well, we always look forward to hear from you, sir.

I'm taking it from Ms. Gundlach that staff is resting, or do you want to say something more?

MS. GUNDLACH: Our testimony's complete. Thank you.

CHAIRMAN FRYER: Okay. Thanks very much.

All right. Any discussion, comments, questions before we turn to the public up here at the Planning Commission?

COMMISSIONER HOMIAK: No. But could somebody in TV land make it cooler here?

CHAIRMAN FRYER: That's a good question. Good point. It's gotten very warm in here. Yeah, if there's anybody who's within the voice please lower the temperature in the Board of County Commissioners chambers.

Yes, sir.

COMMISSIONER FRY: I have a question for the County Attorney. Jeff, you were nice enough to include in our packet for our workshop a definition of the Bert Harris Act, which is basically taking someone's personal-property rights without compensation, without -- you know, unfairly. Would taking the -- would -- demanding use of a private road and not allowing them to put gates on Limestone Trail, would that constitute a Bert Harris potential action?

MR. KLATZKOW: It's staff's opinion -- and I don't know that I concur. It's staff's opinion that the PUD itself, along with the interconnect requirement, creates the right of the public to access that road. So there's no taking, okay. Whether or not that opinion would be validated by a court is a different matter entirely.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: Thank you.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, sir. Commissioner Klucik.

COMMISSIONER KLUCIK: I would -- I would appreciate, then -- if that's staff's opinion and it wasn't the attorney's opinion, I would appreciate if staff could go ahead and elaborate on that. What's their basis for concluding that?

MR. KLATZKOW: Well, no. What staff is saying, that just the interplay between the requirement for an interconnect, in their view the interconnect includes the activity center and that in order to get to the activity center it would have to be a de facto public road.

COMMISSIONER KLUCIK: Right.

CHAIRMAN FRYER: Thank you.

COMMISSIONER KLUCIK: Okay.

CHAIRMAN FRYER: Thank you.

All right. Mr. Henderlong, do we have callers and people in the room, sir?

MR. HENDERLONG: Yes, Mr. Chairman. We have five registered speakers here in the chambers, and 18 online. I'm going to ask that public speakers that are here in the chambers to approach the two podiums, either left or right, and the first -- and state your name and give your address. And the first three speakers that are registered here to speak in the chamber, the first gentleman is Mr. Peter Keddie, if you'd go up to the podium on the left. Ms. Jody Ressler-Tatro, second speaker, and MaryAnn Okner, the third speaker.

CHAIRMAN FRYER: And before we do that -- and thank you for that clarification. And we're going to -- we're going to allow -- assuming we have 18 -- 18 speakers is the number? Very quickly, is the Planning Commission -- should we go three minutes or five minutes per speaker?

COMMISSIONER SCHMITT: Three minutes.

COMMISSIONER HOMIAK: Three, I think.

CHAIRMAN FRYER: The consensus seems to be three minutes per speaker, so that's what we'll do. But seeing as how it's 2:33 p.m., we're going to take our midafternoon break. And it's only going to be for eight minutes -- seven minutes. We're going to come back at 2:40.

COMMISSIONER HOMIAK: Don't move.

CHAIRMAN FRYER: And sorry that you came up, but we'll just --

MR. KEDDIE: So we can just start earlier, right?

CHAIRMAN FRYER: You'll be right back after these words from our sponsor.

(A brief recess was had from 2:32 p.m. to 2:40 p.m.)

(Mr. Eastman left the boardroom for the remainder of the meeting.)

CHAIRMAN FRYER: Let's return to session. Reconvene, please. And my apologies to the speakers, but we needed to have our afternoon break. With that said, who was the first person? Sir, tell us your name again, and then please proceed. You have three minutes.

MR. KEDDIE: Hi. Good afternoon. I'm Peter Keddie, 9060 Graphite Circle. And I am on the board at The Quarry, and I've been involved in trying to develop this plan to gate Limestone. So I have pretty good knowledge of what's going on.

There's been a lot of studies and things gone on, but when we looked at the use of The Quarry Drive back in -- not more than about a year ago, 92 percent of that traffic on Limestone either originated or terminated at The Quarry. And with regard to Quarry Drive, 97 percent of it originated or terminated at The Quarry. So it is Quarry's road, and it has been used by The Quarry people.

Trinity just brought up a comment about ownership of the road or asked to buy the road. That has never been asked of The Quarry, never. They've stated that they would maintain it, but nobody has asked to buy either Quarry Drive or Limestone Trail. And when you're really talking about Limestone Trail, it's not only about Limestone. It's about Quarry, because they connect together to get out.

The problem I see with the tact you're taking with getting Heritage Bay to get entry into our gates is that when you bring them in, how are we going to get funding for that? The gates are going to open -- they have twice as many cars than we do, so the gates are going to open by three times what they've already been prepared to do. And so there's going to be more maintenance on these gates with everybody using that road.

They don't pay for any of the maintenance on our roads, so now they're going to be driving through our community to use our gates to get out the front gate so they can drive on the light and then coming in that way, so it's going to get a lot more use, and they don't pay any of our maintenance fees. We spend -- we spend right now, just on Limestone Trail, about a million -- or \$100,000 annually, and that's including mowing, tree trimming, weeding, mulching, insurance, light pole maintenance, electrical, and irrigation, but that's even before we talk about adding extra liability, and who is going to cover the cost of the extra liability with the extra traffic on Limestone and Quarry Drive?

When people are coming into The Quarry, and if you're going to open that up for public --

MR. HENDERLONG: Mr. Keddie, you have 30 seconds.

MR. KEDDIE: All right. So when people are coming into The Quarry, they're going to have to turn left, and that's where the stackup is for our entry to the gates. So you're -- that road was never designed for public use. And if you look at it, there's a lot of pavers there. That's for decorative purposes and not for heavy traffic. It's going to get ripped up. And the paving is only an inch and a half thick. So it's not conducive to heavy traffic on Limestone Trail.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: So I get it, and I feel -- personally, I feel very uncomfortable with trying to dictate that you guys have to open up access and suffer that additional maintenance, and I really feel like it's a private property decision.

MR. KEDDIE: Yeah.

COMMISSIONER FRY: However, we have a big -- you know, big challenge here. We've got severe traffic issues on Immokalee. Limestone Trail looks like it's perfectly positioned to be a feeder road or what's the term?

CHAIRMAN FRYER: Arterial.

COMMISSIONER FRY: No, just an access road. Let's call it an access road. And I also don't think it's fair that you pay for the maintenance of that. So I really only see one solution, which is the county takes over that road somehow, and that's the only way that light makes sense. We've -- it's been demonstrated that it's counting on the fact that the accessors of the activity center can use Limestone and use that light; that's where the value of that light comes from.

So is your board open to conversations with the county on whatever it might take so that road is then owned and operated by the county?

MR. KEDDIE: I would say we would be open to it just because I know where this is heading, and it's not in a good direction for us. And we've spent so much money right now just to get where we are, and we don't see an end to this.

You know, just listening to the presentation by the Collier County, it just seems to me that we gained a better understanding of why they've rejected us, because they really want to take that road and use it, and if they're going to take it and use it, they should be buying the road.

But, you know, I can't speak for the entire board, but we just have to look out for what's in the best interest of our community and the people that live there, and we're trying to do that to the best that we can.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: All right. Sir, thank you, sir.

Yes, ma'am. Please identify yourself and speak for three minutes.

MS. RESSLER-TATRO: Yes. My name's Jody Ressler-Tatro, and I live at 8981 Quarry Drive. I'm actually here to support the gating of Limestone Trail.

So I, too, am also not only a resident. I'm also a board member. And I've actually been a resident of The Quarry for nine years. And I'd like to reiterate something that I hope hasn't been lost in that everything that you're proposing relative to Heritage Bay having access to our roads is something that's been in place for years, since day one, as our president had shared with you earlier.

So nothing is going to change with what we've asked for in terms of the gating of Limestone Trail. But with that, based on the discussion that you just had with my colleague, I just wanted to point out a couple of other things, and I'm going to focus on two areas.

One is safety. I mean, The Quarry is an active-lifestyle community. Right now on every one of our roads on every morning we have people walking, running, golf carts galore, bicycles. And so when you talk about allowing 2,000 additional cars, potentially, a day coming in from Heritage Bay, I have grave concerns about safety for our residents. And, you know, that's something that we struggle with every day with just having, you know, our own people coming and going, because of how active everybody is.

Additionally, in terms of the liability risk, it's going to be huge depending on what happens. If we feel -- if we're going to keep Limestone Trail, it needs to be gated, because any type of a vehicular or pedestrian accident that's going to -- would occur on Limestone Trail and now potentially anywhere in our community if we're going to be allowing Heritage Bay free access to come and go, we're going to be a named party in any type of a vehicular or pedestrian accident.

In terms of Limestone Trail -- and one of the reasons I feel strongly about it being gated, you know, we talk about people having access to the community center to shop. There's also restaurants that are there that are open late at night that serve alcohol. So, again, I have huge concerns about those people 24 -- or, you know, seven days a week late into the evenings using access to our roads. And I know I'm running out of time here, but I found this interesting when I was preparing for this presentation, was, ironically, Collier County established a neighborhood traffic management program to ensure the safety of Collier County neighborhoods from speeding drivers and to restore the local streets to the residents.

This traffic management program --

MR. HENDERLONG: Thirty seconds.

MS. RESSLER-TATRO: -- acknowledges, and I quote, traffic conditions on residential streets can greatly affect neighborhood livability. When our streets are safe and pleasant, the quality of life is enhanced. When traffic problems become a daily occurrence, our sense of community and personal well-being are threatened, end quote.

So, you know, Limestone Trail's not going to be a candidate for this management program, but we have the same goal, to make sure that our streets for Quarry homeowners remains safe, and to, you know, enhance our everyday lifestyle.

Thank you.

CHAIRMAN FRYER: Thank you, ma'am.

Who was our third speaker, Mr. Henderlong?

MR. HENDERLONG: The next speaker is MaryAnn Okner followed by Paul Schlattis -- Schlattis [sic], sorry, and then Frank Tatro.

CHAIRMAN FRYER: Thank you very much. Ma'am, please state your name.

MS. OKNER: Good afternoon. My name is MaryAnn Okner. I live at 9087 Breakwater Drive in The Quarry. I have been a homeowner for 14 years in The Quarry. I actually saw Phase 1 and Limestone Trail being built.

I'm very proud of our community and what our board has done. It is a very professional, hard working, intelligent board, and I want to thank them publicly for all they have done over the

last few years; however, I'm very distressed that our community has spent over \$100,000 for what we considered to be a modification of the PUD.

I am here to support your approval of the gates on Limestone Trail. I believe it is a private road and has been a private road since the beginning. We do not permit trespassing on our private roads. And according to Florida Statute 810.08, people can commit trespassing, and it is a second degree misdemeanor, and can be punished. Therefore, I come back to the idea that The Quarry owns this private road and has done an excellent job of maintaining it, and it is beautiful.

To the point of, I think one of Trinity's slides, if Limestone Trail would become a public road and construction trucks and oil tankers for Racetrac would be coming off of the light turning right and using Limestone Trail to get to Racetrac, it would be a hairpin turn, extremely dangerous, and, of course, trucks like that would ruin the road.

I'm sure that none of you would want a dump truck or oil tanker in your front yard. And I know the people that are in those condos look at that as a private road. The golfers look at their golf course as being their private golf course, and they don't want anyone interfering as far as the public using that road.

So in conclusion, I just want to --

MR. HENDERLONG: 30 seconds.

MS. OKNER: -- encourage all of you to consider passing this amendment, approving the gates on Limestone Trail.

Thank you very much.

CHAIRMAN FRYER: Thank you very much.

Next speaker.

MR. HENDERLONG: Paul Schlattis.

MR. TATRO: I'm on deck.

MR. SCHLATTER: My name is Paul Schlatter. My wife Mary is here. We've been on The Quarry since 2010. And I'm not an expert on anything, so you know that.

I am a deputy sheriff. I've been one for 26 years. I'm about to retire. I am deputized in three states: Indiana, Ohio, and Michigan. I've seen plenty of safety issues, and that's why I'm here.

Ironically, this morning when Mary and I left to come here, we couldn't get out of The Quarry because there was a dump truck coming from Limestone Trail, as well as an air conditioning truck, as well as another truck. And so it's already being used as a commercial entity, and that needs to stop.

It's going to -- you're trying to put an intersection in a residential area, and that never works. And we, as police officers, know which intersections are bad, and you're trying to make an intersection coming out of the gated community, and there is -- there is absolutely no room for that.

As far as the back gate goes, Mr. Chairman, you talked about access and ingress and egress. I understand that. They have 1,200 doors. We have 900 doors. And if we have 1,200 doors coming through because, eventually, it's the path of least resistance, they'll come over to the Collier extension and try to come out the back gate, which is a very limited -- we call it the back gate. It's a very limited access.

So from a safety aspect, I would also ask you to approve putting gates, and we are happy to have the -- as far as I am concerned, we're happy to have the people at Heritage Bay use Limestone Trail as they've been using it forever.

But let's limit that and not have the commercial access, if you would, please. It's a safety issue. I'm less than my three minutes.

CHAIRMAN FRYER: Thank you, and thank you for your service.

MR. TATRO: Thank you very much. My name is Frank Tatro. I live at 8981 Quarry Drive.

CHAIRMAN FRYER: Troy is your last name, sir?

MR. TATRO: Tatro, T-a-t-r-o.

CHAIRMAN FRYER: Tatro. Thank you. Sorry.

MR. TATRO: And I used to be a resident of Heritage Bay. I have a lot of friends over there. We at The Quarry like the people over there. We have nothing against the people at Heritage Bay. This is not personal.

I'm not going to cover all the material that's already been gone over, but I just wanted to give you an idea of the costs that, as a resident, I'm going to have to pick up. Right now for 900 doors, we almost have one full-time person that administers the passes to get in and out of the gates. We have to renew them every year. You have people selling cars, buying cars, kids moving in. It's a full-time job. If you -- if you mandate that we let the Heritage Bay people coming in and out of our gates, we're going to need two additional people just to administer the passes.

We've already talked about wear and tear on the gates, liability, wear and tear on the road. It's just -- it's just something that I don't feel you ought to push off onto the residents of The Quarry.

As a matter of history, probably seven or eight years we talked to Heritage Bay about this issue, and we also told them, we need help financially to pay for the gates, pay for the roads, pay for the administration of the passes. They didn't want to hear anything. If they had to pay, I'm not interested anymore.

So your recommendation, if it includes allowing access to the people at Heritage Bay, there's a price tag that comes with that. And I think that ought to be part of your order.

Thank you very much.

CHAIRMAN FRYER: Thank you, sir.

Next speaker.

MR. HENDERLONG: Mr. Chairman, the next speakers will be online. Is it -- Mr. Thomas Bernardi, is he online? Can you hear so? If so, turn on your mic, please.

CHAIRMAN FRYER: Mr. Bernardi? Mr. Bernardi?

(No response.)

CHAIRMAN FRYER: We'll try to come back to him. Who's next after that?

MR. HENDERLONG: We need to get up. One second, Mr. Chairman.

CHAIRMAN FRYER: Okay.

MR. HENDERLONG: Mr. James Deitrich [sic].

CHAIRMAN FRYER: Say the last name.

MR. HENDERLONG: Deitrich, D-e-i --

CHAIRMAN FRYER: Deitrich?

MR. HENDERLONG: Deitrich.

CHAIRMAN FRYER: Okay. We'll ask him to say it. Mr. Deitrich, are you there, sir?

(No response.)

CHAIRMAN FRYER: All right. Those on the telephone need to remember to unmute on their end as well.

MR. HENDERLONG: Mr. Gerard Miserendino.

CHAIRMAN FRYER: Mr. Miserendino.

MR. HENDERLONG: Mr. Miserendino?

CHAIRMAN FRYER: Miserendino. Mr. Miserendino, are you on, sir?

(No response.)

CHAIRMAN FRYER: Mr. Miserendino, are you on, sir?

(No response.)

CHAIRMAN FRYER: Next speaker.

MR. MISERENDINO: Hello, hello. I'm here. Can you hear me?

CHAIRMAN FRYER: Yes, we can, sir. You have three minutes.

MR. MISERENDINO: Okay. I didn't know how to unmute. I'm sorry.

Yeah. I live at 9188 Ores Circle at The Quarry. I've lived here for about eight years. I

know I heard at the beginning that some of you have been there to visit physically; some of you have not. Anyone that would take the time to drive and see that road, Limestone Trail is unequivocally nothing like the roads within that PUD, the activity center. It is a landscaped, curving road with, like Pete Keddie said, pavers where it terminates at Quarry Drive. The road terminates and curves in right in front of our gate exiting. I hope all of have you seen that. It will be extremely dangerous to have not only cars but trucks that close to our gate. I would love for any of you to look at that and say you'd want that traffic coming that close to your gate.

Secondly, we have people talking about that light would be useless. Well, that is your problem, and the county's mistake.

The road by Bellaire Bay but next to the gas station, if that was moved over, I don't know how many feet, not a lot, that would meet your guidelines for a traffic light closeness, the closest it could be to Collier Boulevard, and everyone could have access left and right out of that commercial district.

You guys messed up and put that light. We didn't want a light, need a light at our gate. You put it there. It was a mistake. Don't try to fix your problem by using our private road to fix your mistake.

It was -- we have a lot of elderly citizens at our community that would be pulling out of that gate with trucks pulling right in front of them. Will you be responsible for the lawsuits when they get killed or hurt?

It is extremely dangerous what you're proposing, to use a private road that is landscaped, curves with pavers, designed just for the people in Heritage Bay and The Quarry to fix your problem. And I invite every one of you to take a close look at what you're dealing with here.

Thank you very much.

CHAIRMAN FRYER: Thank you, sir.

Next speaker.

MR. HENDERLONG: Stan Omland. Mr. Stan Omland.

CHAIRMAN FRYER: Omland?

MR. OMLAND: Can you hear me?

CHAIRMAN FRYER: Sir?

MR. OMLAND: Can you hear me?

CHAIRMAN FRYER: Yes, we can. Would you state your name again, please, sir.

MR. OMLAND: My name is Stan Omland, O-m-l-a-n-d.

CHAIRMAN FRYER: Thank you.

MR. OMLAND: 9293 Quarry Drive.

CHAIRMAN FRYER: Thank you.

MR. OMLAND: A resident of The Quarry -- a resident of The Quarry since 19 -- 2014.

CHAIRMAN FRYER: Thank you.

MR. OMLAND: I submitted some comments in an email to the board members -- to the commissioners. I am a registered professional engineer.

CHAIRMAN FRYER: Sir, we've lost you, I'm afraid. Mr. Omland, can you hear us?

MR. OMLAND: Can you hear me now?

CHAIRMAN FRYER: Now we can hear you.

MR. OMLAND: Thank you. Where did I lose you?

COMMISSIONER VERNON: You're an engineer, or your professional --

MR. OMLAND: Okay. Professional engineer registered in Florida, consider myself an expert in matters just like this. I represent government, counties, and municipalities on development matters like this. I don't profess to have a long and detailed understanding of the history of this other than what I have come to find out from the limited research and this hearing.

It appears to me that fundamental to this is a property-rights issue, and Limestone Trail is, I think, indisputably privately owned by The Quarry, and to use it for public purposes would liken it to a condemnation and a taking, and I think that anything short of a taking would be a violation of

the rights of The Quarry and its ownership of Limestone Trail, as has been stated by many.

I drove out yesterday, or this morning -- yesterday, and there's significant landscape expenses being undertaken even as we speak. I can't imagine losing the quality of Limestone Trail should the county choose to condemn it and go through the legal process in establishing value and so forth. Long, arduous, and expensive.

I fully support the amendment to the PUD that is before this commission and hope that we will be granted the rights to install those gates.

The one item that has not been brought up, I don't believe, is entering traffic from the traffic light from Immokalee making a left on Limestone Trail may not make that left given backup at our gates for the many contractors that come in and have to register at the gatehouse. So I don't believe that will be unimpeded traffic if that Limestone Trail is permitted to be used by the public.

MR. HENDERLONG: Thirty seconds.

CHAIRMAN FRYER: Thirty seconds, sir.

MR. OMLAND: Thank you.

Again, I appreciate the time and effort that the Commission puts in. And I know there's a lot of subjective and objective history here, but it is -- appears to me that for me the largest right and issue is one of property rights that The Quarry maintains on Limestone Trail that cannot be just passed off as to old history and planning and that it was always intended to be used. Those rights of ownership transcend those theoretical thoughts on planning.

Thank you for your time.

CHAIRMAN FRYER: Thank you, sir.

Commissioner Fry.

COMMISSIONER FRY: Quick question, sir. How often do you see service vehicle traffic backing up into the intersection between Limestone Trail and Quarry Drive?

MR. OMLAND: Very, very often. Certainly mornings and when the list of contractors come in to service the various homes. But I can -- moving trucks -- it's throughout the day, and it happens quite often that that intersection gets blocked by those entering contractors and delivery trucks.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: Thank you very much.

Next speaker.

MR. HENDERLONG: Mr. William Betz. Mr. William Betz.

CHAIRMAN FRYER: Mr. Betz?

MR. BETZ: Yes. Can you hear me?

CHAIRMAN FRYER: Yes, sir, we can. Please proceed.

MR. BETZ: Thank you very much. I appreciate the time to speak in favor of the Heritage Bay PUD process.

I live on Coastline Court. I am approximately 100 feet away from Limestone Trail and, to me, it's an issue with regards to the fact that when we first bought back in 2013, when we were a part of the original development of the coach homes at the end of Coastline Court, we were told -- we were assured that that was a private road, and it would -- it would not be turned over to be a mini Immokalee speedway that you're potentially having it to move into.

We have major concerns about the safety involved with regards to the access to and from the areas, because we've already had situations in which private individuals have driven over the berm to make access into our neighborhoods. And so we have major concerns with regards of increasing amount. And from what I understand, a 35 percent increase in the -- in the activity on that road is a tremendous amount.

So, please, we need to make sure that we have a safe environment that my wife and I can walk in. We're just old folks. We just need to make sure that you-all don't make the Limestone Trail into a speedway that failed Immokalee Road has already become.

Thank you.

CHAIRMAN FRYER: Thank you.

Next speaker.

MR. HENDERLONG: Next speaker is Kevin Mooney. Kevin Mooney, are you there?

MR. MOONEY: Yes, I'm here.

What I would like to say -- and Bill Betz has already -- Bill Betz has already touched on it -- we've had trespassing taking place all along Limestone Trail for a long time. People driving over the berm to avoid the gates to get into our community, people going into the golf course along Limestone Trail to fish in the ponds, and even the pond in the front.

This road is our property. It doesn't belong to anyone else, and for anyone to take it away from us would just be a miscarriage of justice.

I have nothing else to say on this matter. I just wanted you to know that the road belongs to us. It is not a county property, and I think this is an overreach by the county.

Thank you so much for your time.

CHAIRMAN FRYER: And thank you.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, Commissioner Klucik.

COMMISSIONER KLUCIK: Yeah. I would just say that I think that from what I'm gathering the consensus at this point of the Board is that we're going to vote for approval, and I would think -- I respect all the people wanting to voice their opinion, but I think we're not going to hear, you know, much that's going to sway us, and we already are of the opinion, unless we have somebody who's opposed to it, you know, hearing more speakers is redundant, and I think it doesn't -- it's not a wise use of our time at this point.

COMMISSIONER HOMIAK: We have to hear them.

CHAIRMAN FRYER: Yeah, I think -- I think, Commissioner Klucik, I believe you have accurately characterized where at least most of us are headed. But in the interest of due process, I think it would be advisable for us to hear everyone out. We're coming, I think, to the end of this period of time. But I will -- at the suggestion of Commissioner Klucik, those who have a different take on this, we'd be most interested in hearing from. If you simply agree with what you've already heard, it's sufficient for you to say that.

For my part, I'm particularly interested in hearing cogent reasons why the so-called back gate should remain in place. So just from my personal standpoint, that's what I'm interested in hearing.

With that, I'll ask for the next speaker.

MR. HENDERLONG: Mr. Adam Best. Adam Best, are you --

CHAIRMAN FRYER: Mr. Best? Mr. Best?

(No response.)

CHAIRMAN FRYER: Next speaker, Rich.

MR. HENDERLONG: Please unmute yourself, Mr. Best.

CHAIRMAN FRYER: Let's go to the next speaker.

MR. HENDERLONG: Mr. Jeff Jones. Mr. Jeff Jones, are you there?

MR. JONES: I'm here. Thank you.

CHAIRMAN FRYER: Go ahead, sir.

MR. JONES: I do have many of the same concerns. My address is 8783 Coastline Court. And so I am just across the berm from where this road is located.

I personally have observed vehicles coming over the berm and into The Quarry as well as people with fishing poles and other trespassers. Limestone Trail is used a lot for walking and biking. People actually go to Starbucks and those kinds of places. I'm really concerned about the additional noise so close. I'm concerned about the speeding cars. I'm really concerned about the property values and what's going to happen if you allow this to be open to the public.

I agree with Trinity's assessment that I don't like to sit at stoplights either. I think the people coming west on Immokalee and they hit a stoplight are going to dive in and go through this

Limestone Trail route in order to get to wherever they're going in the activity center.

I would hope that you would allow us to gate this road and to keep it safe and usable for the people that own it. Thank you.

CHAIRMAN FRYER: Thank you very much.

Next speaker, please.

MR. HENDERLONG: Laura Beurman-Ellison. Ms. Beurman-Ellison, are you there?
If so, please unmute your mic.

MS. BEURMAN-ELLISON: Can you hear me?

CHAIRMAN FRYER: Yes, ma'am. Please proceed.

MS. BEURMAN-ELLISON: Sorry. I've got to shut the other phone off. But -- I live at 9344 Quarry -- hang on.

CHAIRMAN FRYER: And I don't even think we're on a five-second delay either.

Can just barely hear you, ma'am. Now you're good. Now you're good.

MS. BEURMAN-ELLISON: Okay. I live at 9344 Fieldstone Lane. It's also in The Quarry. And I am also in support, of course, of the gates going up on Limestone Trail.

My big concern has to do with the fact that it is private property. And the terminology that I've heard since this morning about calling it a de facto public record is very concerning, taking our property, because this is really taking by eminent domain without the benefit of any court processes, any payments, and also saying, by the way, you need to keep up your insurance and the maintenance of the property.

So it really concerned me quite a bit that the county would even consider taking over the Limestone Trail and not allowing us on this private property to put gates on it.

Other than that, I mean, I think it would be a better use of time to go onto the next person. Thank you.

CHAIRMAN FRYER: Thank you so much.

Next speaker.

MR. HENDERLONG: Gerald Williams. Are you there, sir?

CHAIRMAN FRYER: Mr. Williams?

MR. WILLIAMS: Yes, I am. Can you hear?

CHAIRMAN FRYER: Yes, sir. Please proceed.

MR. WILLIAMS: Okay. Gerald Williams, 9404 Copper Rock.

I understand that the gate will be approved. I see no other alternative. It was -- it should have been a slam dunk three years ago. The PUD allows for installation of the gate. The road is definitely a private road.

So what I don't agree with is making it conditional upon opening up the back gate to Heritage Bay. The system works very well right now. It's going to work better when the road is open. To open up to Heritage Bay is just going to cause a lot of nightmares. I think that we were forced into this amendment of the PUD when it never should have been taken this far. It should have been approved as an insubstantial change. It should have been almost automatic.

So we've been forced -- because they wanted to turn it into a public road, we've been forced to spend \$100,000. Now you want to force us to accept opening up all our gates to another 1,200 homes. It's like we're being treated very unfairly, and it's just -- it just baffles me why, if we have a private road, we weren't approved to put a gate up and instead we were forced to expend \$100,000, and now we're going to be asked to add another 1,200 cars or more through our community. It just doesn't seem fair.

I think it should be just approved, and let's get -- let's admit that there was mistakes made, and it's time to move on because, if it goes to the next level, I think the argument would be that it should never have been to an amendment process. It should have been the easier process, and with the easier process, you have no right to go back and deal with the issue of exiting the mercantile area and entrance by Heritage Bay. That's already been approved. It's been taking place for seven years.

Had we -- had it just been an unsubstantial issue that was approved right away, you wouldn't have a right to bring that issue up to ask for a compromise to open up the gate to Heritage Bay. So I'm saying, just give us the gates and let's get on with it.

And that's all I have to say.

CHAIRMAN FRYER: Thank you, sir.

Next speaker?

MR. HENDERLONG: John Streich. John Streich.

CHAIRMAN FRYER: Mr. Streich?

MR. STREICH: I'm here. John Streich. Can you hear me?

CHAIRMAN FRYER: We hear you. Please proceed.

MR. STREICH: Can you hear me?

CHAIRMAN FRYER: We can hear you, sir. Please proceed.

MR. STREICH: Okay. Thank you.

I'm John Streich. I live at 9271 Fieldstone Lane. I am in support of the gates. I also do not support allowing Heritage Bay access to our community. Jerry stated it pretty well.

The one thing I would offer and -- for the commercial is, we need to think of a new solution for the commercial, and the right solution and the safest solution is to redirect the commercial area back to Collier Boulevard. Collier Boulevard was built to handle the traffic and, for the folks that want to go eastbound, it will be the safest route for everything, especially for the truck and heavy traffic.

I don't have anything else to add. I thank you for your time.

CHAIRMAN FRYER: Thank you, sir.

Next speaker?

MR. HENDERLONG: Gia Motto. Gia Motto, are you there?

CHAIRMAN FRYER: Mr. Motto? Is it Amato or Motto?

MR. HENDERLONG: Motto.

MR. MOTTO: Motto.

CHAIRMAN FRYER: Motto. Are you there, sir?

MR. MOTTO: I'm here.

CHAIRMAN FRYER: Please proceed.

MR. MOTTO: Yeah. My name is Vince Matto. I live at 8787 Coastline. And I agree with all my neighbors. Everybody hit on great points. But what I can't get my head around is you guys in that room want to decide our thing. We live here. You guys don't live here. You guys don't walk here. You guys don't run. You don't bike. Nothing. You got to let us have it the way it was supposed to be, the way it should be, and that's all I have to say.

CHAIRMAN FRYER: Thank you.

Next speaker.

MR. HENDERLONG: Pat LoGrippe. Pat LoGrippe, are you there?

CHAIRMAN FRYER: How many more do we have after Mr. LoGrippe?

MR. HENDERLONG: About five.

MR. MOTTO: Speak my peace.

CHAIRMAN FRYER: Five? Okay.

Mr. LoGrippe, are you there?

MR. MOTTO: And as far as you, Mr. Klucik, if it was you, you'd want to fuckin' talk. You don't fuckin' live here, you mother fuckers.

MR. HENDERLONG: Mr. Matto, please.

CHAIRMAN FRYER: Yeah. Turn that -- let's proceed to the next speaker.

MR. HENDERLONG: Linda Lepore, are you there? Linda Lepore?

CHAIRMAN FRYER: Ms. Lepore? Ms. Lepore?

MR. HENDERLONG: Could you unmute yourself, please, Linda Lepore.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes.

COMMISSIONER KLUCIK: I just -- I'd like to respond to that gentleman, only that I absolutely understand. And my request was simply because we're all in agreement, from what I can tell. The entire Commission is in agreement to go ahead and approve this petition. And rather than continue to, you know, take up the time of this Commission, which is tasked with a lot of other things. That's all -- that was the only reason why.

So had you actually had something -- anyone who wants to express disagreement with what we were planning to do, I would definitely want to hear from. And I apologize as far as, you know, you thinking that I don't want to have people talk. As a matter of fact, in my own community I'm a huge advocate for the little guy, and almost -- you know, if you think I talk a lot here and interject a lot here, I'm doing it a lot on a panel where I am one out of five members, the only one elected by my neighbors on a panel that consists of five, and that government is -- it's our equivalent of a CDD, and I'm the only elected member. And I would just want to tell you that I apologize if you thought I was trying to squelch the voice of the average person out there, and that wasn't my intent at all.

CHAIRMAN FRYER: I know that, Commissioner, and I certainly would never ascribe to those motives on your part, so please feel free to weigh in.

And we had Ms. Lepore. Is she on?

(No verbal response.)

CHAIRMAN FRYER: Let's go to the next speaker.

MR. HENDERLONG: Nancy Shall. Nancy Shall.

CHAIRMAN FRYER: Ms. Shall?

(No response.)

MR. HENDERLONG: Nancy, are you there? If so, please unmute your mic.

CHAIRMAN FRYER: Next speaker.

MR. HENDERLONG: George Scocca, George Scocca. Sorry.

CHAIRMAN FRYER: Mr. Scocca?

MR. HENDERLONG: Mr. Scocca, are you there?

(No response.)

CHAIRMAN FRYER: Mr. Scocca?

(No response.)

CHAIRMAN FRYER: Next.

MR. SCOCCA: Yes, hello.

CHAIRMAN FRYER: Yes. Go ahead, sir.

COMMISSIONER FRY: Can you hear me?

CHAIRMAN FRYER: Yes, we can hear you.

MR. SCOCCA: Okay, great.

Yeah. So I want to thank you for listening to me. I'm George Scocca. I live on 8755 Coastline.

I walk -- and I walk down Limestone every single day back and forth. I'm looking right out the window now, out my lanai at the four carriage houses which are going to be drastically affected if this thing doesn't pass, and they will be sacrificial lambs, no doubt.

And I'd just like to say I echo pretty much everything that you've heard here in the community. I do want to add that by opening up that road is really going to take -- would really take away from the sense of community that we have here. Right now when you see people entering The Quarry, they're coming to The Quarry, they're coming to see someone at The Quarry, maybe they're going home or maybe they're just going to go visit someone. But to have through traffic coming through there -- and, you know, one other point I'd like to make is I think we're underestimating the power of the GPS. I have lived this same thing in my home, at my old home in New York where they built an access road to a parkway at the end of my block, and a block I grew up on and played ball in the street immediately had traffic coming through there to cut

through because that's where the GPS directs them.

Every person that has to go east coming out of that traffic center, the second they put in their GPS, they're going to be directed to Limestone. So, I mean, please keep that in mind.

The last thing that I want to say is, I fled New York because of constant government overreach. I came here, and this is the first issue I'm dealing with. And I'm hearing people out there say, well, we're just going to take it then. I'm glad to hear that you sound like you may all be in -- you know, with us. I hope you are, and I hope this isn't a land grab, and I hope you don't use the excuse and the mistake of the light that they should have never put there.

I mean, I saw one of the slides that you put up showed that back in 2004 they were going to put -- that light was projected to be down at -- I guess, what is that; Bedford? I forget what the name of that street is, but it was not projected for here.

So, you know -- and to be clear, it's obvious a lot of you people haven't seen it. The light is up. It just has to be, like, turned on. This is all done. So, please, consider us.

MR. HENDERLONG: Thirty seconds.

MR. SCHMITT: Please note government overreach like I seen in New York. And, again, I appreciate you listening to us, and I appreciate all the work that The Quarry board members have done.

CHAIRMAN FRYER: Thank you, sir.

Next speaker.

MR. HENDERLONG: Nancy Shall. She's back online. Nancy, can you --

CHAIRMAN FRYER: How many would we have after Nancy Shall?

MR. HENDERLONG: About four.

CHAIRMAN FRYER: How did we --

MR. HENDERLONG: Mr. Chairman, some come back online --

CHAIRMAN FRYER: All right.

MR. HENDERLONG: -- and off.

CHAIRMAN FRYER: I'm going to politely request that going forward, that the additional speakers -- I believe it's fair to say that there seems to be a strong consensus not to open up Limestone Trail. I could be wrong, but I believe that's what I'm hearing. And I think the issue, if there is going to be one at all, has to do with what the original intent of the developer, the predecessors entitled to the landowners now had in mind with respect to interconnectivity as that pertains to the road that is now blocked by the back gate.

So I'd especially like to hear about that. I don't personally need to hear anything more about property rights. I'm a sure thing for you on that one. And the other issues, just my sense of things is that the Planning Commission is generally with you as well.

So if you have something new to say, please do so, or you can simply say I agree with everything that's been said, all right.

Ms. Shall? Ms. Shall?

MR. HENDERLONG: Nancy, can you unmute your mic, please.

CHAIRMAN FRYER: All right. I'm going to cross her off now.

MS. SHALL: Okay. Can you hear now?

CHAIRMAN FRYER: Yes, go ahead.

MS. SHALL: Okay. So this is Nancy Shall. I'm at 8759 Coastline Court, and I've been here since about 2007, so I've been here before the gates and everything.

I know you guys are -- or one of you is, like, your big quandary is about our gate, but you don't hear anybody from Heritage Bay during this whole conversation listening or talking about their right of not being able to get back in. You're more concerned about it than they are; otherwise, they would be questioning us about putting up the gate, and they're not. They're okay with it.

So I don't understand why you guys have such a hard time with that point. I do believe that's between them and us. They have not had a hard time with that, so I think you guys need to

let that part go.

And that's the only thing I have to say, so thank you very much.

CHAIRMAN FRYER: Thank you.

Next speaker?

MR. HENDERLONG: Joe Boudreau. Joe Boudreau, please unmute your mic.

CHAIRMAN FRYER: You have three minutes.

MR. BOUDREAU: Can you hear me?

CHAIRMAN FRYER: Yeah.

MR. BOUDREAU: Yeah. My name's Joe Boudreau. I live at 9411 Copper Rock Court. And I want to thank you guys for your time and stuff. I know we've all been listening to this all day along, and -- very good.

I just wanted to let -- you know, to say that, you know, the county went ahead, they were 40 feet short off of Bellaire Bay Drive to make that traffic light to their advantage and put it there, 40 feet, but now it seems like we are paying the price for their mistake.

And I'm not going to go through everything my colleagues and my neighbors went through, but I just wanted to let you know that, you know, we pay a lot of money for this, and it seems like everything's going in our direction to pay and not be repaid back.

Heritage Bay knows; they haven't been using our gate for years, and they've never made any contested issues on that. And it's -- the system's not broken, so we shouldn't fix it. The county made a mistake, and they're trying to put it on to fix it.

And I appreciate everything you guys have done. That's all I have to say. Thank you.

CHAIRMAN FRYER: Thank you, sir.

Next speaker?

MR. HENDERLONG: Doreen Kostecki.

CHAIRMAN FRYER: Ms. Kostecki? Ms. Kostecki?

MS. KOSTECKI: Yes, I'm here.

CHAIRMAN FRYER: Yes. Please proceed.

MS. KOSTECKI: Can you hear me?

CHAIRMAN FRYER: Yes, I can.

MS. KOSTECKI: Great.

Thank you for your time. I agree with my neighbors wholeheartedly. I live at 8731 Coastline Court; been here three years. Never would have realized that you would have changed a private road into a commercial road.

As a realtor, I can see that that's not going to help our property values throughout. And I do support having the privately -- private gates put on our private road with no additional access to Heritage Bay, and I'll wrap it up for you so you guys can call it a day.

Thank you.

CHAIRMAN FRYER: Thank you for your brevity.

MR. HENDERLONG: Nancy Shall. She's back online.

CHAIRMAN FRYER: She -- she already spoke. She's had her opportunity.

MR. HENDERLONG: Chairman, that's the end. We're done.

CHAIRMAN FRYER: That's the end. All right. Thank you.

Anybody else who has not registered who's in the room who would like to be heard on this, they may. If not, we are going to ask the applicant if he wishes to rebut.

MS. OLLILA: Could I ask if you have Jerry Solomon registered?

CHAIRMAN FRYER: Ma'am, let Mr. Pires speak for you, if you would, since he's approaching.

MR. PIRES: Mr. Chairman, if I am. I maybe want to ask for just for two minutes to huddle with my team as to rebuttal. But was Jerry Solomon on the list? Mr. Solomon, we understood, was going to be signed up and wanted to speak, if we could.

CHAIRMAN FRYER: Mr. Henderlong, was --

MR. HENDERLONG: He's not online.

MR. PIRES: Okay. Thank you. If we can have until 3:35, Mr. Chairman, to huddle to --

CHAIRMAN FRYER: All right. We'll give you -- that's seven minutes. We'll give you seven minutes in recess.

MR. PIRES: Thank you very kindly.

CHAIRMAN FRYER: Thank you.

(A brief recess was had from 3:27 p.m. to 3:38 p.m.)

CHAIRMAN FRYER: Let's reconvene.

The applicant is at the podium, and we've asked the applicant if he wishes to present rebuttal.

MR. PIRES: If I may, briefly, Mr. Chairman. It's been a very comprehensive and detailed discussion, and I appreciate the Commission's indulgence and consideration and attention and the good questions and queries. While we may disagree at times, I always appreciate -- especially, it's a volunteer position, and I very much appreciate the efforts you-all put in.

Just a couple of points. Chris Mears has -- my able assistant in this endeavor, has put up on the screen, it's a portion of the approved Site Development Plan for the gate at Weathered Stone that was from 2005.

And, Chris, if you can -- if you maybe want to pull out a bit where the county approved both the building permit and the Site Development Plan for the Weathered Stone gate. That's just to the point that in order to -- can you pull out a bit, Chris. In order for that Site Development Plan to be approved, there had to be a determination and a finding that it was consistent with the PUD, the Land Development Code, and the Growth Management Plan. All development orders have to be consistent with those. And that was just to the point there was a formal approval by the county staff consistent with the policies administratively approving, consistent with the PUD, that particular gate.

CHAIRMAN FRYER: That was a staff-level approval.

MR. PIRES: Yes, which is all that's required.

CHAIRMAN FRYER: Okay. Would you please, then, show me on that map where the gate is and then direct me to the legend that says that that image is a gate.

MR. PIRES: I think it says -- if you pull back out a lot, Chris -- let me do that, because it says Weathered -- right there, The Quarry Guardhouse No. 2. Right at the top. No, Chris, no. Pull up to the style, the title of it on the top, the first page. You're coming -- okay, Guardhouse No. 2.

And then there's also a building permit, but if you can then go back into the detail in the box on the left, Chris. And it shows Weathered Stone where it meets Bellaire Bay Drive, I believe, and it says, entry gate, and that's an approved SDP by the county staff.

CHAIRMAN FRYER: Is there -- is there an indication there that the Heritage Bay people would only have exit rights and not entry rights?

MR. PIRES: There's no reference at all. The county typically doesn't get into that. And that is also the platted portion of The Quarry plat that has Weathered Stone as a private street right-of-way, just like Limestone.

CHAIRMAN FRYER: I understand, but I want -- I want to know if there is any indication, preferably by the BCC, but if not, by staff, that a one-way egress only point of interconnectivity was knowingly approved, and I don't -- I -- this doesn't constitute that.

MR. PIRES: But it provides a gate on a private road, which is typically indicative of access control --

CHAIRMAN FRYER: Oh, I understand.

MR. PIRES: -- by the owner of that roadway segment.

CHAIRMAN FRYER: But I would look at that and conclude from it, because it says

entry and exit, that the traffic was going to go two-way like that.

MR. PIRES: Correct, by the owners of the private road, which is The Quarry Community Association. That is -- The Quarry Community Association owns Weathered Stone.

CHAIRMAN FRYER: Well, I -- this is -- this is helpful evidence, but I'm not satisfied that someone knowingly and understandingly said that this is going to just be a one-way point of interconnectivity for the Heritage Bay people. You've made the point that somebody approved the existence of a gate there, but you've got entry and exit, and there's no -- unless -- unless there's something in the fine print there, there's nothing that says that the Heritage Bay people shall not have a way in.

MR. PIRES: In my -- in just rebuttal to that, with all due respect, that it doesn't reflect that there is any access to anybody else. And, typically, those operational considerations, to my knowledge, on private gates and gatehouses are not an issue with the county. The county looks at the PUD or Land Development Code, and whether or not a gatehouse is allowed and whether -- whether or not public access is required is generally not their issue.

For example, we had the discussion about CDD roads, which are considered public roads if it's tax exempt financing; otherwise, you have private activity bonds. There are gatehouses on CDD roads. Those are allowed; however, not because of any county codes but because of the concern about a private activity bond there are requirements to maintain them as being public. But once those roads are -- bonds are paid off, they might be more restrictive.

So, I mean, you even have situations where one CDD charges a toll to utilize. They call it a rate or a fee. Key Marco does. And see, down on Marco Island, they charge non-residents to go onto the CDD roads a fee.

But -- so I would submit that the absence of any operational aspect talking about entry to any other party means that there is no entry to other the party. That's the whole purpose of the gatehouse.

CHAIRMAN FRYER: Well, it seems to me that public access could be constrained or stopped in that fashion, but -- and I'm not saying that your argument doesn't have some weight; it does.

MR. PIRES: I appreciate that.

CHAIRMAN FRYER: But I'm still fastened on Mr. Anderson's point about interconnectivity between adjoining neighborhoods for access, which to me means both directions to the activity center, and also to Ms. Faulkner's statement on behalf of staff that a one-way only would not conform to 7.03.

MR. PIRES: And the counter to that, there's no restriction on that that talks about ingress for any other residents of Heritage Bay at that gatehouse. There's no condition that was imposed. And one other -- I think another important aspect is the PUD was approved in 2003 with Anderson's comment. The Quarry -- first Quarry plat where Weathered Stone and Limestone were platted as private street rights-of-way was in 2004/2005, and they were platted as private. And so, again -- and the County Commission has to approve those plats. That's not a staff-level function. That's a quasi-judicial function under Florida law.

CHAIRMAN FRYER: I understand. I just want to be sure that when this was brought before the Board of County Commissioners, that the point was made that the Heritage Bay people were only going to have one-way access, and I'm afraid I still haven't seen that.

MR. PIRES: I understand.

And with regards to one other real quick item -- and I appreciate -- I'll try not to belabor too many points. The discussion with regards to the 14 Traffic Impact Statements, only one assigned trips to Limestone, I think it's important that the last TIS that was utilized in the traffic signal warrant -- and, in fact, it's referenced at Addenda Packet Page 285, that on January 10th, 2018, it assigned no trips to Limestone, but three weeks later the traffic signal warrant analysis assumed 35 percent to Limestone. I just -- so, again, three weeks -- three weeks before there's no trips assigned from the commercial center. A few weeks later, 35 percent is assumed.

CHAIRMAN FRYER: Personally, I think you're on the side of the angels with that. That has to do with Limestone --

MR. PIRES: Can you tell my wife that?

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Tony, in regards to the gated access and gates, as far as any declared emergency, whether it's evacuation or any other declared emergency in preparation for hurricane or evacuation, is it standard practice that all the gates are either placed in an up position, or are the arms removed?

MR. PIRES: We would agree to that. We think that's a reasonable public safety concern. Yeah, it's already happening today. Ms. Ollila indicates it's already today. We would -- I think that's a great public safety consideration, yes, sir; that's an appropriate condition.

Otherwise, we respectfully request, and after all this deliberation, that the Planning Commission make a recommendation of approval to the Board of County Commissioners of our amendment request language as it exists with that condition as Mr. Schmitt mentioned.

CHAIRMAN FRYER: Thank you.

MR. PIRES: Thank you very much.

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

COMMISSIONER VERNON: Just real quick. What's the date of this document that we're looking at?

MR. PIRES: 2005. Chris, if you can go back.

COMMISSIONER VERNON: 2005?

MR. PIRES: Yes. If you can go back to the --

COMMISSIONER VERNON: That's fine. That's fine.

MR. PIRES: It's December 19, 2015. That was received by Centex, but that's a 2005 SDP file.

CHAIRMAN FRYER: All right. Thank you.

MR. PIRES: Thank you. Yes.

CHAIRMAN FRYER: Does staff have any anything further before we close the public speaking session?

(No response.)

CHAIRMAN FRYER: All right. Ms. Gundlach nodded no.

So with that and without objection, we'll close the public portion of this application, and we will commence our deliberation. Excuse me. Go ahead, Commissioner Shea -- Commissioner Fry. Sorry.

COMMISSIONER SHEA: I'll go next.

COMMISSIONER FRY: I'll just go ahead and lay out my thoughts and just -- I have an open mind until I hear everybody's viewpoints. But I guess after hearing, I think my mind has evolved during this long proceeding.

My final reaction as of now is that rejecting the application is a violation of private property rights and imposes additional financial and liability burdens on The Quarry Community Association. As such, I think it could reasonably be considered a taking.

With regards to interconnection, in my two years on the Planning Commission, I've never seen interconnection to be defined as requiring public access from outside a PUD to the PUD. It's always been internal connection, unless specifically stated internal connection of the developments to the commercial that's within that PUD or adjacent to it. So I believe that requirement is already met.

Somehow The Quarry and Heritage Bay passed all the county approvals, and traffic access patterns have been as they are now for many years with acceptance of both developments, as evidenced by the fact there's nobody here from Heritage Bay on the phone or in person objecting to the fact they don't have access through. So we're really looking at the -- demanding the access through -- demanding that The Quarry open their gates to Heritage Bay as a greater-good type of an

argument.

I don't find -- I don't find that's within what I feel comfortable as being my -- you know, our rights up here because we are -- by doing that, we're imposing a significant financial burden on one of these two parties. A great benefit to Heritage Bay, significant financial burden, 1,200 additional potential vehicles coming back through their roads that they have to maintain, liability, accidents, safety, all those things, without any kind of compensation in return.

If that requirement had been specifically stated in any of the approvals for any of the projects -- I know we have an aspirational statement by Bruce Anderson, and I believe that probably was the intent. We don't have any hard evidence that's codified to the extent that that was a specific requirement. And here we are many years down the road. It's already in place.

So I have a hard time backing into that requirement. I think that's a violation of private -- I think it's a private matter between Heritage Bay and The Quarry.

I do believe Heritage Bay residents will benefit from the new light even though -- putting the gates on Limestone Trail, if the light proceeds and if the gates are put up, it does gut much of the benefit to public access to the activity center eastbound on Immokalee and coming in. Just making an easier in and out for the activity center, but for Heritage Bay people it does ease their path, smooth their path to get home. They now can travel Limestone Trail, which they will have access to, go out to the light at Quarry, make a left and a very quick trip on Immokalee and a shorter route back into Heritage Bay. So a very short impact on Immokalee Road. So I do think it does -- this does -- even with the gates, it does help the Heritage Bay residents somewhat.

I'll be voting -- unless I hear something different, I'll be voting to approve the application without condition, and I -- frankly, after hearing everything, I believe the only solution that provides the desired benefits for visitors to the activity center and travelers on Immokalee Road, meaning some relief from additional traffic having to go on Immokalee Road when it would not have to otherwise, would be for the county to acquire the property and assume all maintenance and liability of the road, possibly modify the intersection at The Quarry and Limestone Trail to ease traffic making the turn as well as backing up service vehicle traffic into The Quarry, and to buffer the residents to the north that are along that Coastline Court, you know, because of the additional traffic.

So I'm certainly still open to suggestions, but that's where I stand as of now.

CHAIRMAN FRYER: Thank you.

Commissioner Shea.

COMMISSIONER SHEA: Wow. You just said everything I was going to say except much better. So I agree with all of your points.

I will harp on the condition. I'm -- as far as trying to protect the property rights for returning of Heritage Bay staff [sic], I'm with you, they had their -- they're not here. And, quite frankly, I don't remember ever reading anything from Heritage Bay in all of the letters that we got saying that we disapprove of this. So to me silence is approving of it.

I don't think it's in our purview to go in and try and go back to something we think was said years ago and impose it today. I think everybody's comfortable with the proposal, and I, for the same reasons that Commissioner Fry said, would fully support approval of the proposal without condition.

CHAIRMAN FRYER: Thank you.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Well, I second everything that's been stated. So I support it. My only condition would be that -- well, I'll discuss it, basically, with the Chairman. Requiring interconnect through -- what's the name of that road again?

COMMISSIONER FRY: Weathered Stone.

COMMISSIONER SCHMITT: Yeah, whatever. Weather Stone Road -- Weathered Stone Road. And I would leave that up to the residents to pursue that and negotiate between the two communities. I think for government to force that -- we could state it, again, as an

amendment to the PUD, but it already is in the PUD. If it -- if it needed to be enforced, it could be enforced by the county, and it would require some kind of negotiation between the two communities as to sharing of costs and access.

But I agree, there's -- we've heard nothing from the residents of Heritage Bay, and they certainly have an opportunity to voice their opinion prior to this going before the Board of County Commissioners. And if that's the case, then I think the Board of County Commissioners can address the issue of interconnectivity. We can state it as a -- as a possibility or even leave it up to the attorneys to discuss and negotiate with Heritage Bay, but I'll support -- I do support the petition, and we'll wait for a motion and see where it goes.

CHAIRMAN FRYER: Thank you.

Commissioner Vernon or Commissioner Klucik or Mr. Eastman? Mr. Eastman's gone. Anything from you, gentlemen?

COMMISSIONER VERNON: Commissioner Vernon. I had a few pages of notes. I'm just trying to think of what I might have to say that hasn't already been said, because I agree with pretty much everything.

I guess I view, big picture, that there is a problem here, and I think the Chairman's identified the problem, but I think denying the petition is not going to solve the problem.

I think when you -- the old saying in the law, you know, bad facts make bad law and also, you know, I think in a case like this, we should decide issues narrowly. So those two factors kind of -- those three factors make me fall on, let's just -- let's just approve the petition. Not really -- I'm not fond of any amendments I've heard.

I'd love to see the parties, the staff, get together and come up with something more creative than what we've heard and some solutions, but I think I'm viewing this as narrowly deciding a petition in favor of it.

And then one thing that I'm just going to say, Jeff, because it's not a conflict, it's not even a disclosure, but I've got to say, in 2021 I am looking at maybe buying some residential property, and I do have in the back of my mind after sitting here listening to today, I may go look at something at The Quarry.

So I just want to tell people, a year from now if I own a piece of property in The Quarry, I wanted to disclose that in case it impacts the influence of what I just said.

CHAIRMAN FRYER: Thank you.

COMMISSIONER VERNON: Thank you, Mr. Chairman.

COMMISSIONER KLUCIK: Are you trying to get a discount?

COMMISSIONER VERNON: I am a good negotiator. I'm starting right now.

CHAIRMAN FRYER: Commissioner Klucik, would you like to weigh in, sir?

COMMISSIONER KLUCIK: Yes, yes. Thank you, Mr. Chairman.

I guess I would say I agree with this -- the hesitancy to get more involved in what the -- than what the petitioner has asked for.

I do think that if that -- that other issue is an issue, it can be raised. I also, you know, see that we haven't really heard anything from the neighbors who are -- who would be affected by that, and I think it -- for us to come up with a solution and impose it, I think it would be better to have a solution, you know, get worked out or, you know, if someone proposed a solution, who would benefit from it, and let us decide on that at a future date. So I would prefer to just vote raw on this without any -- you know, any changes.

I would say that I think Section 9.3 is vague and should be, you know, amended to not be vague. You know, obviously, we've hemmed and hawed on what it really means. And so I would hope that that's something that the Commissioners will consider, and I think, you know, we should try to make -- make that -- I'm going to make that known, you know, certainly to Commissioner McDaniel who I -- you know, who I -- I always say his name because he's the one that I know and will take my call. But I think that would be good for the Commissioners to consider something like that or even the staff when they are making recommendations to modify,

you know, the land code and the GMP, that that would be something to look at.

And I'd also say that my main reason against this is I don't -- I don't see that you can achieve a goal that is listed in 9.3 that is vague. I don't see that the basis to do it is what -- the equivalent of a taking. And that might be a necessary solution because, you know, if the traffic here is going to be, you know, ever increasing and we're going to have a flyover, et cetera, et cetera, but that's -- that needs to be resolved more directly as an issue where there's compensation and, you know, if it needs to be a, you know, condemnation for eminent domain, then so be it, but that's not what we're here for.

CHAIRMAN FRYER: Thank you, sir.

Vice Chair Homiak.

COMMISSIONER HOMIAK: Yeah. There were letters in our packet from Heritage Bay owners and the association who do not want to see this gated, and the businesses in the activity center are opposed to it also, so -- and I'm -- to say that you didn't hear anything and they're not in the room, they don't count, is -- doesn't sit well with me, so -- and I am agreeing with the staff on this. So if you're all voting one way, I'm going to vote the other.

CHAIRMAN FRYER: Okay.

COMMISSIONER HOMIAK: This is about interconnection, and it's been here for all this time, and that road is there for that reason.

CHAIRMAN FRYER: Okay.

COMMISSIONER HOMIAK: You're going to gate it, and it won't be interconnection anymore.

CHAIRMAN FRYER: Okay. Commissioner Fry.

COMMISSIONER FRY: Karen, to your point, which I think is well taken -- and I'd like to, I guess, issue a request -- regardless of how this goes -- and if it goes where you get your gates where this is approved, my neighborhood recently had a -- the Naples Senior Center, a large two-story building, 30,000 square feet put inside our neighborhood, and it was approved. It was a bitter pill for many of our residents to swallow. Wonderful mission but a big thing in a residential lot.

I think it's time -- and I guess my request for you is, I think we all have to look beyond our insular interests at, in some cases, how to balance those with what's best for the county, and the county has a problem. Immokalee Road is a mess and getting worse, and that Limestone Road would be an excellent value for the traffic system. That's why the light was warranted. They were certainly counting on that section being part of the traffic system.

So if these gates are approved, I would just ask that your board negotiate in good faith -- if the county does express interest in working something out with you, whether it be eminent domain or shared whatever, that you work in good faith and try to help solve -- be a partner to the county in solving this issue. Thank you.

CHAIRMAN FRYER: Thank you.

Any other questions or comments?

(No response.)

CHAIRMAN FRYER: I -- I am conflicted here but most influenced by the fact that private property rights are involved. Interconnectivity is very important to me, smart growth is very important to me, but I'm not going to prevail on that issue; I can see that. And I don't want, personally, to be in a position of voting against the property rights, the private property rights of the owners of Quarry.

So I'm going to be voting in favor of the application although -- well, I think I have had a sufficient opportunity to explain to everyone why I feel the way I do. I haven't yet, at least today, said that I generally like to support staff when I can, and I thought that Ms. Faulkner said it very well, and she's the Growth Management Plan expert, that her concerns as an expert would have been resolved if that back gate had been removed and there had been full bilateral access, but that is not to be, and the votes are not there for that.

So I'm going to be voting in favor of the application, and with that, unless --

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, sir. Go ahead, Commissioner Klucik.

COMMISSIONER KLUCIK: I just wanted to say, you know, I as well was conflicted. I wanted to support the staff, and I also personally would benefit from this. I just would. I mean, I explained a little bit about that. It would be great for me personally. So I just tried to figure out a way to think that it would be good for me to vote against this and what I could hinge it on, and in the end I didn't think that I had enough, especially that would overcome the taking aspect of this. And I would be happy to entertain a motion for approval.

CHAIRMAN FRYER: Are you making that motion, sir?

COMMISSIONER KLUCIK: I'm happy to make -- I'm making the motion for approval of the petition.

CHAIRMAN FRYER: Okay. And that's subject to Commissioner Schmitt's condition with respect to the gates being open during emergency times?

COMMISSIONER KLUCIK: Yes.

CHAIRMAN FRYER: Okay. Is there -- Commissioner Vernon.

COMMISSIONER VERNON: I just want to make one more comment going forward to tag on to what Mr. Klucik said, is that -- it's not going to change my vote, so we don't need to get into it. But I have a little confusion on whether the staff's position is that they need -- there needs to be interconnectivity between the north side and south side of Immokalee Road or we need to protect Heritage Bay. Those are two different arguments. I think one argument's better than the other. I don't think either one's persuasive. But if this is going to go further before the Board of County Commissioners, I just -- I'm just helping the staff -- say to me those are two different issues, and you should pick the one you're arguing, and maybe you're arguing both. So I just wanted to make that comment to be helpful to the staff.

CHAIRMAN FRYER: Well, we have it within our right to reopen comment and ask for staff to answer your question.

COMMISSIONER VERNON: No. I don't need it answered because I've factored in both of them.

CHAIRMAN FRYER: Okay. All right. Thank you.

Commissioner Schmitt, did you have something?

COMMISSIONER SCHMITT: Well, just only from the fact that typically historically it's been -- and I would even attribute the comment that Bruce Anderson made during the petition was for interconnectivity for the development in itself. Very rarely do we, in DRI-type developments, get into requiring interconnectivity between communities that are essentially gated. But certainly it's a noble cause, but it's not something that is desired by the communities nor is it something that is desired from a marketability and development, but it certainly complicates life for everyone else in the county because you've got these enclaves that are islands that are surrounded by four- and six-lane highways. That's because there's no interconnectivity, and that's a problem throughout the county. It's been like that for 25, 30 years.

CHAIRMAN FRYER: Okay. Commissioner Klucik has made a motion. Is there a second?

COMMISSIONER VERNON: Vernon seconds.

CHAIRMAN FRYER: Vernon seconds.

Any further discussion?

MR. PIRES: Mr. Chairman.

CHAIRMAN FRYER: Yes, sir.

MR. PIRES: May I just briefly -- I just wanted to correct in the record, that guardhouse graphic was part of a building permit application. I wanted to make sure. There is a Site Development Plan approval that that was part of, and I will make all these part of the record, and that Site Development Plan approval is reflected as being SDPAR5360. I apologize. It was a

building permit, architectural plans.

CHAIRMAN FRYER: Okay. Thank you. The record is made. Is there paperwork you need to give to the court reporter?

MR. PIRES: I will forward it to Terri. I know exactly where she is.

CHAIRMAN FRYER: She's right there.

MR. PIRES: Yes.

CHAIRMAN FRYER: Any further discussion, comment?

(No response.)

CHAIRMAN FRYER: If not, we've got a motion and a second to approve the application.

All those in favor, please say aye.

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: Aye.

CHAIRMAN FRYER: Opposed?

COMMISSIONER HOMIAK: Aye.

CHAIRMAN FRYER: It passes 6-1. Thank you very much.

MR. PIRES: Thank you very much.

CHAIRMAN FRYER: Thank you, applicants. Thank you. Thank you.

Let's see. I don't think it would be useful for us to begin the workshop, and I see that the County Attorney is in agreement with that.

COMMISSIONER FRY: But we're fresh as a daisy.

CHAIRMAN FRYER: We are absolutely fresh as a daisy.

MR. KLATZKOW: You guys would be way too ornery now.

CHAIRMAN FRYER: Yeah. Any new business to come before the Planning Commission?

COMMISSIONER VERNON: Not with me.

CHAIRMAN FRYER: All right. The new business that we had on our agenda is the workshop, and we're going to continue that to January 21st, and it's going to be heard after the companion PUD/GMP going under two names, Camden and Meridian, I think. And we will take as much time as the Planning Commission wishes to pursue that workshop and get all questions answered, and if we have to -- if we can't get it done on that date, we'll just keep continuing it until everybody has had a chance to have matters explained and to be heard.

Is there any other old business?

(No response.)

CHAIRMAN FRYER: Any public comment at this time?

(No response.)

CHAIRMAN FRYER: If not, 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 4:08 p.m.

COLLIER COUNTY PLANNING COMMISSION

EDWIN FRYER, CHAIRMAN

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

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