

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida  
November 4, 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  
Joe Schmitt  
Paul Shea  
Robert L. Klucik, Jr.  
Tom Eastman, Collier County School Board Representative

ABSENT:

Karl Fry  
Christopher T. Vernon

ALSO PRESENT:

Raymond V. Bellows, Zoning Manager  
Mike Bosi, Planning and Zoning Director  
Jeffrey Klatzkow, County Attorney  
Heidi Ashton-Cicko, Managing Assistant County Attorney

PROCEEDINGS

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

CHAIRMAN FRYER: Thank you, Mr. Bosi.

Good morning, ladies and gentlemen. Welcome to the November 4, 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.)

CHAIRMAN FRYER: In the secretary's absence, I will call the roll.

Mr. Eastman.

MR. EASTMAN: Here.

CHAIRMAN FRYER: Mr. Shea.

COMMISSIONER SHEA: Here.

CHAIRMAN FRYER: Mr. Fry?

(No response.)

CHAIRMAN FRYER: I'm here.

Vice Chair Homiak?

COMMISSIONER HOMIAK: Here.

CHAIRMAN FRYER: Mr. Schmitt.

COMMISSIONER SCHMITT: Here.

CHAIRMAN FRYER: Mr. Vernon.

(No response.)

CHAIRMAN FRYER: Mr. Klucik.

COMMISSIONER KLUCIK: Here.

CHAIRMAN FRYER: We have a quorum of five.

Thank you.

Addenda to the agenda, Mr. Bellows?

MR. BELLOWS: No changes.

CHAIRMAN FRYER: Thank you very much.

Planning Commission absences. Our next meeting is on November 18, and I want to point out that that will happen in two sessions. The first session will start at 2:00 p.m., 2:00 in the afternoon, and then we have got an evening session that starts at 5:05 p.m. on November 18.

Does anyone know if he or she will not be able to attend either or both of these sessions?

COMMISSIONER SCHMITT: I will not be at that meeting.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SCHMITT: I'll be traveling.

CHAIRMAN FRYER: Thank you. Anyone else?

(No response.)

CHAIRMAN FRYER: All right. We hope to have at least four, possibly more.

Our next meeting after that is December 2, 2021. And that's just a daytime meeting. Of course, same question, anyone know if he or she will not be able to attend?

COMMISSIONER SCHMITT: Still up in the air with me. Just for those who knew Phil Brougham, Phil Brougham was a long-standing member of the Planning Commission and has been involved with the county for several years on the parks committee. Passed away about a week-and-a-half ago; that's the day they're scheduling the celebration for life. So just -- I'll express our condolences to the family of the Brougham family. And so it's still questionable. I may come in and then leave shortly afterwards.

CHAIRMAN FRYER: Thank you. Understood completely. And we'll have a moment of silence in memory of Mr. Brougham.

(Moment of silence observed.)

CHAIRMAN FRYER: Thank you.

COMMISSIONER SCHMITT: Thank you.

CHAIRMAN FRYER: Approval of minutes. We have before us the minutes of October 7, our October 7,

2021, meeting. Any corrections, changes, or addition to those minutes?

COMMISSIONER HOMIAK: I'll make a motion to approve.

CHAIRMAN FRYER: Is there a second?

COMMISSIONER SCHMITT: Second.

CHAIRMAN FRYER: Any further discussion?

(No response.)

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

COMMISSIONER SHEA: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: (No verbal response.)

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: They pass unanimously. Thank you.

BCC report and recaps. Mr. Bellows.

MR. BELLOWS: Yes, on October 26th the Board of County Commissioners heard the Estates Shopping Center PUD amendment and companion Growth Management Plan along with the service station distance waiver, and that was approved by a vote of 4-1 with Commissioner Taylor opposed.

They also approved on their regular agenda the Randall Curve PUD and Growth Management Plan. That was 5-0 subject to the Planning Commission recommendations.

And then on the summary agenda there were two items, the Shoppes at Santa Barbara, that was a PUD amendment, and the Creekside PUD amendment.

MR. BOSI: Mike Bosi, zoning director, as well as RCMA of Immokalee was approved as well as the Community School of Naples. It was a busy day.

CHAIRMAN FRYER: Busy day for the BCC. Okay. Thank you very much.

Chairman's report, none today.

Consent agenda, nothing before us today on consent, which takes us right into public hearings advertised.

\*\*\*The first matters are companions. They are PL20190002859. That's the 4111 Green Boulevard Tower CU, and its companion, PL20190000721, and that's the 4111 Green Boulevard Tower variance. Both are quasi-judicial. We'll hear them together and vote on them together unless the Commission, before voting, elects a division of the question.

All persons wishing to testify, please rise to be sworn in by the court reporter.

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

CHAIRMAN FRYER: Thank you very much.

Ex parte disclosures from the Planning Commission, starting with Mr. Eastman, please, sir.

MR. EASTMAN: No disclosures.

COMMISSIONER SHEA: Staff materials only.

CHAIRMAN FRYER: Thank you. Let's see. I've had email and communications with staff and material of public record. I've also done a site visit, took some photos there, and I visited another site, the property located near the intersection of Airport-Pulling and Poinciana where one of these monopine towers has already been erected. So I've seen one that's up and running.

Vice Chair.

COMMISSIONER HOMIAK: Nothing for me.

COMMISSIONER SCHMITT: Nothing for me either.

COMMISSIONER KLUCIK: Nothing. I just spoke with staff and looked at the agenda.

CHAIRMAN FRYER: Thank you. We'll begin, then, with the applicant's presentation. Ms. Jahn, you may proceed.

MS. JAHN: Good morning, Mattaniah Jahn, 935 Main Street, Suite D1, Safety Harbor, Florida, 34695. I have a PowerPoint presentation, so if you'll give me a moment to pull that up real quickly.

CHAIRMAN FRYER: Certainly.

MS. JAHN: All right. Thank you for your patience.

And, again, good morning. I'm Mattaniah Jahn, and I come before you today on behalf of SBA Towers 9, LLC, Verizon -- or T-Mobile and Verizon Wireless to discuss a 147-foot-tall monopine style communication tower. I have taken an oath. I have in the chamber with me Maria Jimenez with Verizon Wireless should you have questions about Verizon's RF need. She has taken an oath as well.

I also have in transit Mr. Patrick Keane from T-Mobile. He has not reached the building yet, but if he appears -- or if he's able to make it in time with traffic concerns, he will be available and we'll have him take an oath at that time.

So I come before you today with staff recommendation of approval for a conditional use and variance to allow a 147-foot-tall monopine style communication tower at 411 [sic] Green Boulevard. The parent parcel is partially wooded land in Eagle's Meeting Hall and outbuildings. This is Property Appraiser aerial of the vicinity around the monopine. In this aerial, up is north. The yellow arrow points to the parent parcel in question.

This is located at the fringe of the Urban Estates and north of Golden Gate City near the intersection of Green Boulevard and Collier Boulevard, two major roads. So the idea is to put it at the edge of lesser intense uses.

This is a closer view. Again, the parcel that is in question is highlighted yellow, and I have an arrow here on it. So to the north is 15th Avenue Southwest. Then you have two FP&L substations. You can see those on the north end of our aerial. And then Urban Estates and commercial uses along Collier Boulevard. To the south is Green Boulevard, apartments and commercial uses. To the east are a post office, a medical services building, and then Collier Boulevard. To the west is a mixed-use developed parcel with a business on the southern end and a non-homesteaded residence on the north end. Urban Estates residential properties extend to the northwest as you move further away from the site.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, Commissioner Klucik.

COMMISSIONER KLUCIK: I just want to ask staff -- sorry for the interruption. Once again, the WiFi isn't working for me, as seems to be that's always how it is. So if we have someone on staff to assist me.

CHAIRMAN FRYER: Is that for Mr. Miller?

COMMISSIONER KLUCIK: Thank you. Sorry for the interruption.

CHAIRMAN FRYER: He'll be in here in a flash; he always is. Thank you. Please continue.

MR. EASTMAN: What's the current use of the property, the subject property?

MS. JAHN: The current property is used as an Eagle's Meeting Hall on the southern end, and then the northern end is undeveloped and is required to remain undeveloped pursuant to its provisional use, which you now call a conditional use, for the meeting hall. So that wooded area to the north will remain undeveloped. I apologize if I gave you a \$5 answer for a \$1 question.

CHAIRMAN FRYER: Where's the change?

MS. JAHN: All right. As you heard, the property's located on the fringe of the Urban Estates in mixed uses.

Mature natural vegetation exists on the parcel to the north. That's that area that's required to be preserved from the original provisional use, and then you'll notice that to the northwest the Urban Estates exists under dense urban canopy.

The parent parcel is zoned Estates with a future land-use designation of Estates. In front is Green Boulevard, which is a major road.

Communication towers are allowable via conditional use within the Estates on parcels that are 2.25 acres in size and front collector or arterial roads.

CHAIRMAN FRYER: May I ask someone from staff to just pop into Mr. Troy Miller's office and find out if he's able to assist Commissioner Klucik in getting electronic issues resolved?

MR. YOUNGBLOOD: Mr. Chairman, we've --

MR. MILLER: IT is on their way.

CHAIRMAN FRYER: Thank you very much. IT on its way, Commissioner Klucik. Sorry, Ms. Jahn.

MS. JAHN: So this is your zoning map, and this just shows that this is Estates zoned with a provisional use,

which is what you now call a conditional use. And then this is your Future Land Use Map. This is Sheet Z1.1 from the plans that you have on record. The monopole is located near the south center portion of the lot on its eastern side. And when you're looking at that map, they depicted it sideways because engineers do that. They're trying to fit it into the sheet. So in this aerial, to the right is north. You can see the -- can you see my mouse?

All right. So this right here is where the monopine will be located. This purple arc is your standard residential separation of 2.5 times tower height. This is what is creating the variance. And then there's another arc to the south. That is a nonresidential separation variance. We are requesting that one to maximize separation from the Estates-zoned parcel to the west.

MR. EASTMAN: Do you know the distance from the proposed tower to the edge of that house?

MS. JAHN: Yes. It is 242 feet, 1.6 times tower height.

So variances like these, and particularly the western one, I would respectfully submit are to be expected as you move into tower development in the Estates. When you look at the general platting of your parcels in the Estates, they can't -- when you look from side to side, because they're generally these rectangle parcels, they can't meet the separations.

We are not requesting any other variances from your code. We meet the tower code and the Estates code and all requirements.

We also meet the required separations to the south and the northwest. So this is the -- this is Sheet Z3 from the plans, and you can see the elevation on the right. And when I say a monopine, I'm describing a type of communication tower that has a single support pole with no guy wires or ironworks extending out from it. The monopine is engineered with an oversized support pole or trunk so that way it can support pre-engineered foliated branches that are mounted on the monopine.

The branches extend from the treeline to the top of the monopole creating a canopy, and these branches are able to sway in the breeze. They have foliage on them. The branches are brown, the foliage is green, the support pole is brown to emulate a trunk, and then all cabling is located within the monopine itself.

The antennas are mounted on headframes that are nestled into the canopy at the top, and then, as necessary, they'll be covered with socks, so that way they actually have foliage on them as well.

There is an existing example of this actually constructed by SBA, which is the company that is proposing this tower, at the Wilson Professional Center off of Airport-Pulling Road.

All right. I'm going to move through simulations. This is just Sheet Z1. This just runs through the photo simulations now. We're going to go clockwise from the northwest -- or from the northeast around to the northwest.

So this is the view from south -- 15th Avenue Southwest and Collier Boulevard. The existing view is on the left, and the proposed view is on the right. You can see the monopine. The canopy is visible. The base is not. And you can see at this distance it scales down to objects that are in the viewshed, such as the power pole off to the right and the lamp post that -- I mean, off to the left, and the lamp post that's off to the left as well. And you can also see that vegetation in the midground along Collier Boulevard would be able to predominantly buffer the monopine.

This is the view from the intersection of Green Boulevard and Collier Boulevard. Again, you can see that the canopy extends up so that way it is continuous from the treeline. You can see from a bulk perspective its scaling down to similar bulk sides which you would see with that traffic light. Scale is getting similar to the power pole that you're seeing on the right-hand side. And you can also see that vegetation in the foreground, such as tree on the left-hand side, would be able to completely buffer it at these distances.

This is the view from Green Boulevard and Maiden (phonetic), and this is what I was talking about with the urban canopy that's in the area. You can see that the visibility, the viewsheds get cut down very quickly, and here you cannot see the monopine at all.

Last is a view from 15th Avenue Southwest, and you can see that there is visibility here where there's breaks in the trees; otherwise, you're fully buffered from 15th Avenue. And then also keep in mind that I don't have sightlines from the building there, but it has a very close tree canopy as well. So you can see the monopine will be located down near the shed, and you have tree canopy that runs very close to here. Down here is the nonresidential use that's on that parcel.

All right. Moving on to RF need. And I'm going to present Mr. Keane's RF package since he's not here at the moment. The monopine will be designed to support up to four carriers. It's a little -- it's a little unusual outside of Collier County for me to come before a jurisdiction with two initial carriers, but I do have T-Mobile at the top. They dictate the height because it's their RF need. And then I have Verizon collocating immediately below this.

Modern communication towers serve two functions. They fill gaps in coverage, and they offload capacity strain, and that's important because even if you had strong coverage, if you can't connect to the tower, you don't have service. And the FCC actually weighed in on that on Order 18-133 at Paragraphs 37 through 40 saying that a significant gap, which is something that's protected under federal law, can arise from a lack of capacity. Here we have both, the lack of coverage and a lack of capacity.

All right. So this is T-Mobile's existing coverage map from the RF package that you have on file. And in this map, up is north. And you can see that there's three colors on there, a red, a yellow, and a green; and these represent different coverage strengths. So green is reliable indoors, yellow is reliable in vehicle, and red is unreliable even outdoors. So you can see, as you extend into the Urban Estates, they just have unreliable coverage, period.

You'll also see on this map some different colored dots. The purple one is the proposed monopine. There are two green dots down in Golden Gate City. One is in the flagpole in the Señor Tequila parking lot, and the other one is a flagpole located at one of your fire stations. T-Mobile is collocated on those two towers. There are two additional towers that are further away, a very short one in a plaza off on the western side, and then one down on a golf course property.

If you'll notice, those towers are physically further away than the existing towers that already can't reach that far. And this arrow just points to the proposed tower. You can see the two that T-Mobile's collocated on with the orange arrows.

This is a streets map. Again, up is north. It correlates -- yes.

MR. EASTMAN: Do you have a similar map -- if you could back up one slide, please. Do you have a similar map, if this were approved, what your coverages would look like with that, good, average, poor, if this were installed?

MS. JAHN: Yes, sir. That is -- I will be getting to that. I'll go ahead and skip to that. So this is the handoff towers just showing the neighboring towers. You can see that right now T-Mobile's trying to service this area with two towers in Golden Gate City that are .85 five to a mile and a half away and then the other towers that are trying to serve the area are four miles away, and they currently cannot reach the Urban Estates. And then those are the two additional towers that are further south away from our target area.

All right. This is a map -- when I was talking about capacity, that's something that's hard to map. So the best way that T-Mobile has to do that, unless they just show you graphs, which -- is to take and show a map like this. And what it does is it shows census data that they've imported with population density, and then a block representing the closest area to the monopine where it will absorb the most capacity traffic.

Remember, there's two parts to this: Coverage in the Urban Estates; absorbing traffic from Golden Gate City, which makes the existing towers work better.

And when you are on the left, Figure C, that is the current proposed location, and at that point the monopine is able to serve over 11,000 people. You can see that on the right in the lower-hand corner. And just the plotted two example properties to the north, just -- they picked nonresidential properties just to show what the capacity offload would be like. That's Figures D and E. And you can see that the number of people served drops very quickly to 3,600 people and then 2,400 people that are served.

And then here's the coverage that is -- that will be provided after the monopine is brought online. So as you can see, reliable indoor coverage extends far north of Pine Ridge Road. You can also see that reliable in-vehicle coverage extends further than that, and then you can see that the unreliable coverage is severely decreased, so...

All right. I'm going to take and present Verizon's materials as well since I'm going to shorten the actual presentation, instead of running you through a longer one, but I will have Ms. Jimenez come up so that way she's available should you have any questions for her.

Hey, Patrick. I'm sorry.

Before I bring Ms. Jimenez up, Mr. Keane did walk in. He can take an oath. Do you have any questions for Patrick Keane? He's sitting here. Would you please stand real quick for the Commission. This is Patrick Keane. And if you have any questions for T-Mobile, he is available right here.

CHAIRMAN FRYER: Thank you.

MS. JAHN: All right. Thank you.

CHAIRMAN FRYER: Yes, Mr. Eastman.

MR. EASTMAN: You spoke about the -- it's basically a fake pine tree. And what's the maintenance on that? How long does that last? Obviously, stuff like that would maybe blow down in a hurricane, but just how soon do you have to replenish those fake limbs and so on and so forth?

MS. JAHN: So I don't have the exact replacement schedule. It is a long lifespan. So the monopine that is at Wilson Professional Center we constructed in, I want to say, 2016.

MR. EASTMAN: And it still looks good.

MS. JAHN: Yes.

MR. EASTMAN: I've seen it within the last week.

MS. JAHN: And that's having had multiple hurricanes and tropical storms pass through the area so, as you can see, they're pretty resilient.

CHAIRMAN FRYER: I'm going to follow up on that, if I may. Were you finished?

MR. EASTMAN: I was going to ask if you'd be amenable to a condition that you would keep it maintained, you know, in the event that you're approved.

MS. JAHN: Yes, sir. SBA would be amenable to such a condition.

CHAIRMAN FRYER: Very close to the question I was going to ask. Is there a regular review or inspection on these, just as a matter of business policy?

MS. JAHN: Mattaniah Jahn, again.

Yes. So SBA, like any sizable tower company, has a facilities maintenance department that goes around and ensures that for painted towers the painting's maintained. For foliated towers, camouflage towers like this, they're in good shape. There are still towers that they have in their inventory that have flagpoles, so you have to do things like make sure the lights work, and the flag -- the American flag's not getting torn, things like that. So they do have a department with infrastructure for that.

CHAIRMAN FRYER: Okay. So in other words, they -- they'll go out there once every, whatever; once every month, once every quarter, something like that; they have a schedule, rather than needing to be called by someone?

MS. JAHN: Correct.

CHAIRMAN FRYER: Thank you.

MS. JAHN: All right.

CHAIRMAN FRYER: Commissioner Schmitt, sorry.

COMMISSIONER SCHMITT: Well, since we're talking about aesthetics, what's the determining factor to say I want it to look like a pine tree versus a palm tree versus a flagpole? I mean, are there height limitations? If you wanted to make it a flag pole, is it too high? I'm just curious as to what was the motivating factor for the pine tree versus some other entity -- other, I guess --

MS. JAHN: So particularly with a flagpole style communication tower --

COMMISSIONER SCHMITT: Yeah.

MS. JAHN: -- the problem is physics. So modern antennas -- and if you'd like, I can have Mr. Keane come up and discuss these antennas. But they're roughly eight feet tall -- they're com scope antennas -- by 24 inches wide by, like, 10 inches deep, and that's not including the mounting.

So when you take and try to fit that into the canisters that they have to be put in, certain models just don't fit the units that they use. The other problem that happens is that these antennas require top-end equipment, things like remote radio units, and those also have to be placed inside the canisters. And then you have to have airflow which unipole canisters do not provide. Older antennas did not need active airflow. So you would be able to replicate this. If you stuck your WiFi router inside your attic, you would cook it. That's what happens to this equipment.

Finally, when you look at these deployments, they are three -- they are typically three to four antennas per

side. So there are -- for each level, T-Mobile will have nine antennas starting off with. You can fit one antenna per side in a unipole canister, and you can design the unipole canister -- a unipole with four to six canisters total.

So let's say that you converted this to a flagpole and you were able to fit the antennas inside it. You would then take up four of the upwards of six canisters with just T-Mobile, and you haven't even gotten to Verizon yet, and you haven't gotten to any future co-locators yet, so now you're going to be sparking the need for additional future towers. You're sparking it now with Verizon.

COMMISSIONER SCHMITT: I guess, I just heard the easy answer is the flagpole, everything's internal. There's no -- nothing actually externally mounted. Here you've got the capability to mount the external antennas that are camouflaged by the -- by the -- I guess, the fake foliage. So I guess that's the simple answer. Did I just --

MS. JAHN: The simple answer is antennas don't fit, and they cook.

MR. EASTMAN: And collocation. With the pine tree you get greater collocation so we can have fewer towers.

MS. JAHN: Yes, sir.

COMMISSIONER SCHMITT: Okay.

MS. JAHN: All right. I'm going to run through Verizon real quick. So this is Verizon's RF package, and they're going to be immediately below. This is their current coverage. And you can see that it pretty much corresponds to what T-Mobile has. They're on the same towers to the north. This is our proposed tower with the purple arrow, and then you can see the orange arrows are Verizon's collocating towers. Green is reliable outdoor service. So we're not talking in-vehicle or indoor like you have with T-Mobile. This is just does your phone work if you step outside and try to make a call. And then red is unreliable. So you're looking at not just layers of gap; you're looking at just the bottom line absolute gap. If you were to show in-vehicle or indoor coverage, these green areas would shrink down.

This is a map of their hand-off towers. Again, this corresponds to what you saw. So up is north. This corresponds to the RF coverage map that you saw. And you can see that Verizon is on the golf course tower down in the Golden Gates Estates -- I'm sorry -- Golden Gate City. And then you can see the other towers that are down there.

The Señor Tequila tower and the fire station tower are the two green arrows to the left, and then you have one off screen, which is the very short tower in the shopping plaza. And then this is the proposed coverage. If you'd like, I can have Ms. Jimenez speak on the -- their collocation down in Golden Gate City and on the two flagpole towers why they cannot use them. You're going to run into the same situation where the antennas do not fit. But I do have her here, and she has taken her oath.

CHAIRMAN FRYER: Thank you.

Commissioner Klucik.

COMMISSIONER KLUCIK: Yes. Thank you, Mr. Chairman.

So I was just wondering -- you have -- you mentioned that -- I think you mentioned it, but I also read it in the material that there's no -- there's really no viable place that you could do a tall tower that would meet the requirement and not have to have the variance for the height.

MS. JAHN: Correct.

COMMISSIONER KLUCIK: Okay. As part of that process of site location, did you consider, you know, several towers of shorter height? I mean, did you actually seriously consider that? So towers that would not need a variance, you know, that could be placed -- you know, same kind of thing -- monopine where it's, you know, unobtrusive and probably not all that objectionable but shorter?

MS. JAHN: So I can bring my RF engineers up, but by the time you get a tower down to the height that meets your separation requirements given the platting size --

COMMISSIONER KLUCIK: Because of the narrowness of the lots?

MS. JAHN: Correct -- I'm going to need to go off streets that are -- I wouldn't be able to put towers in compliance with your code because I'm limited to arterials and collectors, and then I'm putting several towers instead of one.

COMMISSIONER KLUCIK: Right. So you're bumping up against a restriction either way, and the issue



is do you resolve it by what variance. If we're going to approve something, which kind of variances are we going to grant, either the height variance or the variance of usage.

MS. JAHN: Correct. So I will defer.

MR. BOSI: And just for clarification, Mike Bosi, Zoning director. We do not have use variances in the county, so we only have --

COMMISSIONER KLUCIK: For zoning change.

MR. BOSI: Yes, yes.

COMMISSIONER KLUCIK: Yeah. So you either do a zoning change, which probably would even cause more furor, or you do a variance and, obviously, I guess, if you're right next to this property -- I have no idea if the people that are, you know, neighboring -- I'm sure they'll speak if they are -- someone will let us know how opposed they are to this. But that's the choice we have, I guess, as commissioners. Thank you.

CHAIRMAN FRYER: Thank you. Anything further at this time, Ms. Jahn?

MS. JAHN: Since you do have a full agenda, I could run through the variance and conditional-use factors if you'd like but, otherwise, in the interest of time, I will defer to your expert staff's analysis finding compliance with your Land Development Code and also defer to the project narratives that I have put in the record as substantial evidence of compliance.

CHAIRMAN FRYER: Thank you. No one is signaling at this point, so I'll ask a couple of questions or make a comment or two, if I may.

First of all, with respect to the 3-foot shortening from 150 to 147, it's my understanding that that brought about or obviated the need for lighting; is that correct?

MS. JAHN: It does, and it also obviated a very small variance to the northwest. So we are able to adjust the tower's location and height and reduce its presence in the area.

CHAIRMAN FRYER: Okay. Thank you.

My second question has to do with what is the expression -- I don't know if it's fall radius or what, but I know that it's calculated, and the engineers up here can also help me out. But if a wind were to cause the tower to fall, it's designed to fall in a certain way and not to extend beyond a certain radius. Could you say a little more about that, and then also tell me specifically what studies were done and by whom and what the findings were with respect to this tower in relation to the neighbors to the east and west.

MS. JAHN: All right. So to begin with, the monopine's designed with a 40-foot-fall-zone radius. That is committed to on the plans, and you also have a sign and sealed fall-zone letter in the record. This is proven technology. If you'd like, I can pull the document camera up and show a picture of a tower that had been hit by Hurricane Michael and actually bended over upon itself, and it was all in one piece, just bent over because of the hurricane. That's fall-zone technology in action.

The federal government has also used it on interstate lamp posts for years. When I was a child coming down I-75 with my father after Hurricane, gosh, Charley, I'm sorry, we reached the King's Highway exit in Charlotte County, and you could see all the lamp posts were folded over each other because Charley went up the Peace River valley. That's fall-zone technology in action protecting the interstate lanes from the lamp posts.

CHAIRMAN FRYER: So am I correct -- and this is a layperson's mental image -- that maybe there is an intentional weakening at a certain point on the tower so that that's where it would collapse on itself?

MS. JAHN: Correct. There's a pre-engineered crimp point, and then after that it's just a question of levers, because once you make the monopole shorter, it's stronger than the wind.

CHAIRMAN FRYER: Okay. I'm doing some diligence here, or we are, because of potential safety issues, so that's why I'm asking these questions. And what you're saying is that this is -- this is not a new technology. It's been around for a while, and it's been proven in relation to hurricanes and probably other natural disasters, so it's something that's reasonable for us to rely upon that's safe; is that correct?

MS. JAHN: Yes, sir.

CHAIRMAN FRYER: Okay. Thank you.

Anybody else? Commissioner Eastman -- Mr. Eastman.

MR. EASTMAN: Really, it's just one house that falls within your radius, correct?

MS. JAHN: There is one house. There's a property next to it that technically is within the radius as well,

sir.

MR. EASTMAN: What's the purpose of the radius? What's the policy of setting the radius? With this variance, what risk are we potentially taking here?

MS. JAHN: So I don't know if --

MR. KLATZKOW: That's a staff question.

MR. BOSI: Mike Bosi, Zoning director.

The original telecommunication amendments to the LDC establish separation requirements, and it was a recognition of, you know, making sure that residential properties were -- were provided adequate buffering from the locations of towers. So two-and-a-half times the height of the tower was the number that was selected. I don't know the specific science behind that number of why they arrived upon that, but that's what's been in the code for as long as I've been here for the last 20 years, and I think since '96 when it was enacted.

COMMISSIONER SHEA: Wasn't that more aesthetically based than physically? Now with the new break technology, the danger zone is a lot shorter from fall.

MR. BOSI: I am 100 percent that it's more about aesthetics than it is about safety of the tower falling. Towers don't fall and bounce, and it's more about aesthetics.

MR. EASTMAN: And we have three concerns, I think. It's the fall radius, it's the aesthetics, and it's also the RF. And --

CHAIRMAN FRYER: We can't consider that --

MR. BOSI: Environmental -- environmental health concerns are not allowed to be utilized as a reason for denial of a tower. The 1996 Federal Communication Act has clearly stated that you cannot use health effects as a reason for denial of a telecommunication tower.

MR. EASTMAN: And I apologize, because we at the school district do consider that, but we're not the zoning authority like the county is.

CHAIRMAN FRYER: Also it's -- I think it's a balance test that drives the edict from the federal government that we can't consider RF and radiation and the like, because so many people -- 80-something percent of people in many areas, including this one, rely exclusively on their cell phones to call 911, so it's really an essential service.

MR. EASTMAN: Yeah. And, I mean, RF from radio towers, which are much more powerful, have been around for many, many years across the globe. And it's my understanding that there's been no epidemiology study that shows a risk from a more powerful radio tower.

MS. JAHN: That's my understanding as well.

I can have my RF engineers tell you that -- I grew up in radio stations, for what it's worth. My mentor actually took -- and when she was pregnant, she was working at the base of cell towers on site walks and stuff like that for whatever that anecdotal experience is.

MR. EASTMAN: And the purpose of my question is not to stir up scare. It's the opposite of that; it's to provide comfort for the safety of it. So that's -- I think it's somewhat worthwhile to talk about a little bit.

MR. KLATZKOW: But it's not relevant for this discussion.

COMMISSIONER SCHMITT: Right.

MR. KLATZKOW: I understand what you're saying, Tom, and if I was designing school buildings, I would think the way you do, but for this particular body it's not a consideration.

MR. EASTMAN: Fair enough. I'll discontinue all that question.

CHAIRMAN FRYER: Okay. Thank you.

MS. JAHN: This is Mattaniah Jahn again. If you would like, I could have my RF engineers testify that they maintain -- their carriers maintain their deployments in compliance with FCC safety federal regulations, if you would like. That is the one question that you can ask.

CHAIRMAN FRYER: I think we're pretty satisfied with the presentation you've made --

MS. JAHN: Okay. All right.

CHAIRMAN FRYER: -- the signals I'm getting from the Planning Commission. Anything further?

MS. JAHN: And just to follow up on the observation you made, Chair Fryer. My -- the application file includes statistics from your Sheriff's Office showing that in your 2017/2018 year -- so that was quite a bit

ago now -- we are at 80 percent of 911 calls received by the Collier County Sheriff's Office came from wireless numbers, so --

CHAIRMAN FRYER: It's staggering.

COMMISSIONER HOMIAK: A lot of people don't have landlines anymore.

MR. BOSI: Mike Bosi, Zoning director.

And just for clarification, the Land Development Code does classify any telecommunication tower that provides E911 service as an essential service, and all carriers are required by their FCC license to provide E911 service. So all telecommunications towers are considered essential services, and it's directly related to the abandonment of landlines and the need for public health, safety, welfare related to being able to access emergency services.

CHAIRMAN FRYER: Thank you.

Anything else, Ms. Jahn?

MS. JAHN: I would ask you to keep in mind that when your original code was written, it was in the early '90s, and that was before you even allowed communication towers in the Estates. So it was written for -- it was written before we even had the rise of modern wireless telephony, before we started using these devices as a piece of our everyday infrastructure and before we were trying to specifically serve the Estates area.

MR. KLATZKOW: It was written when you had towers with guylines --

COMMISSIONER HOMIAK: Yeah.

MR. KLATZKOW: -- coming out from them. And you may want to consider changing your code on this, because -- we've had this discussion, Mike and I, over the years. I don't know that your present code really mirrors what's going on in the industry right now.

COMMISSIONER HOMIAK: I don't think it does. I think it's something we really need to change and look at --

CHAIRMAN FRYER: Thank you.

COMMISSIONER HOMIAK: -- soon.

CHAIRMAN FRYER: Ms. Jahn, you'll have an opportunity for rebuttal if, when the time comes, there's anything further you need to say.

MS. JAHN: Understood. Thank you.

CHAIRMAN FRYER: Thank you very much.

Now we'll hear from staff, if we may. I know I have a couple of questions, mostly for the record.

MR. BELLOWS: For the record, Ray Bellows, planning manager with Zoning Services.

I am presenting this petition for our contract planner, Laura DeJohn. I worked with her on this. And, as noted in your staff report, we have found this conditional use consistent with the conditional use criteria as outlined in the Land Development Code, and it is consistent with the Growth Management Plan.

We are recommending approval of the conditional use as presented along with the companion variance as we find that it meets the variance criteria.

CHAIRMAN FRYER: Thank you.

MR. BELLOWS: I'd be happy to answer any questions.

CHAIRMAN FRYER: I'd like to ask you also to confirm, as we heard from the applicant's representative, the safety of the -- well, the state of the technology and the safety that has gone into assuring that when the towers do fall that they fall upon themselves so that we as a Planning Commission don't have any concerns with the representation from staff that the way these are constructed that if it's got a 40-foot fall zone, that that is reliable almost under any conceivable circumstance; is that a fair statement?

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

That is my understanding. They're engineered, and the documentations that are presented to the Building Department when these things are erected show that they meet those hurricane standards.

CHAIRMAN FRYER: Thank you.

Mr. Eastman.

MR. EASTMAN: Ray, is it still part of the code that the tower companies have to get these inspected by an engineer for structural integrity every -- periodically?

MR. BOSI: I believe it's every three years.

MR. EASTMAN: That's still in there.

CHAIRMAN FRYER: Thank you.

Any other planning commissioners wish to be heard on this? No one is signaling at this point.  
Anything further from staff?

MR. BELLOWS: No other --

CHAIRMAN FRYER: Thank you.

Mr. Youngblood, what do we have from the public?

MR. YOUNGBLOOD: Mr. Chairman, I have one speaker online. Robert Argenta. Mr. Argenta, are you with us, sir? You're being prompted to unmute your microphone.

CHAIRMAN FRYER: Mr. Argenta, are you there, sir?

(No response.)

CHAIRMAN FRYER: All right. Any other speakers?

MR. YOUNGBLOOD: I don't have any other registered speakers for this item.

CHAIRMAN FRYER: Okay. Do we have anyone here in person who has not registered but wishes to be heard? Now would be the time. Please raise your hand if you fall into that category. And I don't see any hands raised.

So with that, we will close the public comment portion of this hearing. Naturally, we as Planning Commissions can always ask for anybody else to come up and speak at any time, but as far as the public is concerned, seeing no further interest in speaking, we will close public comment.

And at this point, unless the Planning Commission -- anybody wants to be heard at this time, Ms. Jahn, I don't know that there's anything for you to rebut, but if you want to have a last word, it's yours.

MS. JAHN: No. Thank you for your time with patience on my presentation, so -- and, again, I and my RF engineers are available for any questions you may have.

CHAIRMAN FRYER: Thank you very much.

With that, we will enter our deliberation, and who would like to be heard first?

(No response.)

CHAIRMAN FRYER: No? I'll say a word here.

I think that much has been done recently to produce more aesthetically pleasing or less aesthetically offensive communications towers. They are an essential service, as we've heard, and it's clear that steps have been taken to make them more visually appealing, which I appreciate. And so I don't have any misgivings at this point about voting in favor of the application, both of them and would want to --

Mr. Eastman?

MR. EASTMAN: Going back to that commitment for maintenance and making it part of the approval.

CHAIRMAN FRYER: Yeah, that should be part of the -- when a motion is made, we want to make that a part of it.

COMMISSIONER SHEA: I would support the same feelings you have.

CHAIRMAN FRYER: Thank you.

At this point it would be appropriate to have a motion to approve. And we've got both the CU and the VA in front of us. We can act on them together unless the Planning Commission wishes a division of the question.

COMMISSIONER HOMIAK: I'll make a motion to approve both.

CHAIRMAN FRYER: Both? With the condition that Mr. Eastman raised?

COMMISSIONER HOMIAK: Sure.

COMMISSIONER SCHMITT: And I second.

CHAIRMAN FRYER: Any further discussion?

(No response.)

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

COMMISSIONER SHEA: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously.

Thank you, applicant.

Let's see. We've got time to start the next matter. So without objection, we will.

\*\*\*And that is Ave Maria. And this is PL2020002317, the Ave Maria SRA.

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

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

CHAIRMAN FRYER: Thank you. Disclosures from the Planning Commission starting with Mr. Eastman, please.

MR. EASTMAN: No disclosures.

COMMISSIONER SHEA: Staff materials only.

CHAIRMAN FRYER: Thank you. Pardon me. I'm looking for mine. In my case, staff materials, materials of record, communications with the applicant, and communications with staff as well.

COMMISSIONER HOMIAK: I spoke to Mr. Yovanovich.

COMMISSIONER SCHMITT: I also spoke to Mr. Yovanovich concerning this petition.

COMMISSIONER KLUCIK: Yes. I actually have completed Form 8B, and I have handed it to our court reporter, and I would like that entered into the record. And that is a form that there's a conflict that I have, and so I have submitted that. I would -- my understanding is that since I'm an appointed officer, I am able to participate in all the deliberations; I am not able to vote.

CHAIRMAN FRYER: Thank you very much. And --

COMMISSIONER SHEA: Does that prevent us from voting?

CHAIRMAN FRYER: -- Mr. County Attorney, is everything sufficient in that regard?

MR. KLATZKOW: I'm sorry. I was talking with Nancy. I did not hear.

CHAIRMAN FRYER: The 8B form.

MR. KLATZKOW: Yes, the 8B form is fine.

CHAIRMAN FRYER: And it's my understanding that Commissioner Klucik will be permitted to be heard, but --

MR. KLATZKOW: My recommendation is if you're going to stand down, you stand down and you leave the room. Now --

(Simultaneous crosstalk.)

MR. KLATZKOW: May I continue, sir? Technically you are allowed to sit up there and participate. I think that's a terrible idea. You're subjecting yourself to criticism, and my counsel of all these years is if you're conflicted on something, just walk away from it. But you don't have to. I just think it's more prudent to do it that way.

COMMISSIONER KLUCIK: And I certainly appreciate what you're saying, and I certainly don't discount it. I have thought about that, and I'm -- I am going to participate.

CHAIRMAN FRYER: Thank you. All right. Let's see. Anything further before we proceed? If not, Mr. Arnold, you have the floor, sir.

MR. ARNOLD: Good morning. I'm Wayne Arnold, certified planner with Grady Minor & Associates. And with me this morning is Christopher Wright. He's with Peninsula. I'm sorry. Chris Scott, I'm sorry, with Peninsula Engineering; and Rich Yovanovich, our counsel on the matter.

We're here representing Ave Maria Development, and we're proposing a number of changes, some of which are cleanup. We're also inserting a new dwelling unit type, and probably most importantly for some of you is that we're withdrawing the deviation we had requested related to the buffering.

CHAIRMAN FRYER: That was, indeed, important to me, and I was glad to learn of that yesterday.

MR. ARNOLD: Yes. We decided that its application was going to be so narrow that it just didn't make sense to pursue the deviation that staff wasn't supporting, and we had some --

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: I did not know that. Is that something that we should have been -- well,

I'm not going to delay the petition, but staff never sent out an email informing us of --

MR. BOSI: I was just informed a second ago.

MR. YOVANOVICH: Mr. Schmitt, we -- after you and I had our meeting, we had further discussions internally where it was worth pursuing, and we made the decision last evening or yesterday afternoon.

COMMISSIONER SCHMITT: Okay. That's good. Thanks.

MR. YOVANOVICH: It was nothing to do with your staff.

COMMISSIONER SCHMITT: Thanks.

CHAIRMAN FRYER: Thank you.

MR. ARNOLD: Thanks, Rich.

CHAIRMAN FRYER: And I completely respect Commissioner Klucik's decision, although the record has been made about our County Attorney's recommendation and advice.

My question, Commissioner, is, with the -- and I -- obviously, we haven't discussed, so I don't know what your concerns are, and I expect I may find out today. But if your concern was only Deviation 3, that might remove your feeling of need to participate in this. I'm just testing the water.

COMMISSIONER KLUCIK: And Deviation 3 was what? And you said you've withdrawn it?

MR. ARNOLD: It was related to the buffers between different subdivisions.

COMMISSIONER KLUCIK: That is probably the one thing that I would be weighing in on, you know, where I have a strong opinion, just based on the feedback that I've gotten from people in the community.

MR. ARNOLD: Yes.

CHAIRMAN FRYER: That -- well, again, the County Attorney's indicated the decision is yours, but it might -- you might consider it a little bit cleaner to absent yourself or at least if you --

COMMISSIONER KLUCIK: In a way I feel like I owe it to the -- you know, to my community to be here, especially if any questions come up that I can, you know, fill in. But I understand that there's reasons to urge me to not participate, but I also feel I'm complying with the law by being here.

CHAIRMAN FRYER: Thank you. I just wanted to give you an opportunity to consider that. I understand your position.

All right. Mr. Arnold, please continue.

MR. ARNOLD: So on the visualizer you have a location exhibit. This affects all of Ave Maria. And as you can see that to the south is Oil Well Road, to the far east is Camp Keais Road, and there are portions of this related to both.

And as I mentioned, we're making changes to reconfiguration of one of the town centers that's located near Camp Keais Road and Pope John Paul. So we've highlighted a couple of changes. On the top part of the visualizer is the existing town center that's near Camp Keais Road and Pope John Paul. It is adjacent to a neighborhood center, and to the right of the screen is a new access that we're showing that's technically outside Ave Maria, but it's a maintenance road for the golf course.

So in a little bit more detail, this is how we're reconfiguring the town center. It's right now currently all along Pope John Paul. We're shrinking it along Pope John Paul and opening up a window for the neighborhood general. There's no net change in the acreage of that neighborhood center, and there's no development adjacent to it.

And then on the south you can see we've ghosted in the maintenance road that goes only to the Del Webb golf maintenance facility. We were asked to depict that, so we are now depicting that on the master plan. This is a little more closeup image of the change to that town center, 2A. And you can see that no net change in acreage but reconfigured to allow a window opening for the neighborhood general that will be residential.

This, again, is the access road that's to Oil Well Road but only serving to the golf maintenance center. It's not a through road. It will not become an access point for the general public to Ave Maria.

COMMISSIONER KLUCIK: Excuse me. Can I just ask the --

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: So the SRA isn't changing on this slide. That's just a change in the map so that it's depicted so that -- just for awareness?

MR. ARNOLD: That's correct.

COMMISSIONER KLUCIK: Okay.

MR. ARNOLD: So the next request is a minor change in Town Center 1. There's not a specific reference that there can be certain common open spaces within the neighborhood center, so we're adding a reference to that. I think -- it's innocuous but it's odd; it doesn't make any provisions for outdoor courtyards and things, and that town center probably will have some outdoor areas for the pedestrians to gather.

Another change we're making is something that's kind of an obscure part of the code because unless you deal directly with the university and the core of the university, these grid lines don't really mean much. But there are -- these are not to-scale drawings anyway, but there are dimensions associated with them on the approved exhibit on the left. We're changing the grid line exhibit to reference in reality what they were established to be. They're surveyed points out in the university. So when we work on the university campus, for instance, we have to adhere to grid-line setbacks, and they're lines that are surveyed lines. You know, they're not depictions of anything that you can see physically. But the strong orientation of the university and the church were related to these grid lines. So we're cleaning up something that was a scrivener's error from the very initial submittal of the SRA.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: First of all, Commissioner Klucik.

COMMISSIONER KLUCIK: Yes. So I think what I'm hearing you saying is there was a unique orientation and the grid lines never meshed with that and now they're going to?

MR. ARNOLD: That's correct.

COMMISSIONER KLUCIK: Okay. Thank you.

MR. ARNOLD: This simply puts in place --

COMMISSIONER KLUCIK: It has to do with the oratory's orientation?

MR. ARNOLD: It does.

COMMISSIONER KLUCIK: Right. Okay.

MR. ARNOLD: Yes. The other change that's depicted on this slide is to change the root protection standards. Your Land Development Code has been amended over the years to have root protection standards for trees that are different than the standards we have in Ave Maria. We're asking to simply be subject to the Land Development Code root barrier protection standards. It's something that it's just a little different, and I think where your code is today is a more appropriate use of root protection standards than are in the old SRA document.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Wayne, what precipitated this requirement years ago? Was there -- of course, there are concerns of root damage or what -- tree roots can cause damage, uplift sidewalks, streets?

MR. ARNOLD: Yes.

COMMISSIONER SCHMITT: I live in Fiddler's Creek. We have some problems there after 20 years, 25 years.

I just can't remember what -- why this particular point was added. Was there a concern 20 years ago that as the trees became mature that it was going to be causing damage, so they required the root guards or root barriers?

MR. ARNOLD: I don't know, Mr. Schmitt, the original intent for that. But your code -- we knew there were going to be a series of street trees in Ave Maria, and you didn't have street trees, necessarily, prescribed throughout the rest of Collier County, so there were root protection standards that were written. You've since now added those standards to your Land Development Code, and we simply would just like to be subject to those same standards. It's easier for maintenance. It's easier for installation for contractors to deal with.

COMMISSIONER SCHMITT: What are the standards in the code? I didn't look it up.

MR. ARNOLD: I can find that code standard, and we can -- if I can come back to it.

COMMISSIONER SCHMITT: Because that's -- I mean, obviously, there was a concern, because that's why it was added, and I have no problem if that's -- there's no objection from the community, and they remove this requirement. The requirement is then -- it falls to the LDC requirements, which is fine. I just don't know if there -- if there's a problem today. I guess we will wait to hear from the public if they seem to think

this is a problem.

MR. ARNOLD: And we will try to find the Land Development Code provision and read it for you.

COMMISSIONER SCHMITT: Okay. Commissioner Klucik.

COMMISSIONER KLUCIK: Yes. And on that point, I guess what I would say -- you know, I just know, you know, on the street in front of my house, which is Ave Maria Boulevard, the district out there owns those sidewalks, and we've spent a lot of money replacing sidewalks due to root problems. And so, you know, my -- and I know we have the problem in my HOA on a -- you know, on one of the smaller streets that people are starting to be concerned about. And so, of course, my reaction -- you know, my question with staff was okay, well, what does this mean? And they said, well, it's just adopting, you know, the root barrier standard.

I do think that it's a less robust standard, I guess, is maybe a way to describe it, and so to that end, I'm just scratching my head saying, why would we be advocating -- you know, why would even you as the petitioner be advocating to have a lesser standard when we already have problems with the standard that we're using? And if it's not a lesser standard, that's fine. That's why I think it's a good discussion to have.

I just -- as a logical -- you know, it's a very rational question that anyone would have who's had this issue, you know, near their home. Why would we say we want to have a lesser standard when we have problems -- when we've supposedly been using -- you know, I'm assuming everyone has been following, you know, the standard that's in the code, and if we're following that and having problems, why are we changing it?

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Is there -- the one -- the issues you cite, all -- the root barriers are in now for those years that were constructed, the root barriers --

COMMISSIONER KLUCIK: Yes. I'm nodding my head. That's my understanding.

COMMISSIONER SCHMITT: So the root barriers are in. Those are there. This is only for new construction?

MR. ARNOLD: This would apply going forward, yes.

COMMISSIONER SCHMITT: Going forward, okay.

MR. ARNOLD: I'm going to move on, and we'll try to find that language and come back to it.

So one of the other requests we have is to insert a new dwelling unit type. And this is a cottage court. And this, essentially, is a horizontal rental, if some of you have seen some of the newer versions of rental communities. I don't think you have any constructed currently in Collier County. I'm working on one in Lee County currently, and this is a large trend in a lot of our communities.

It offers an alternative to having a four-story apartment building where you can have actual attached and detached rentals, if you will. So you end up almost an independent living space so you don't have somebody living above you and maybe nobody even next to you. But in some cases, as we've depicted on this exhibit, there could be an attached unit. There could be a detached unit, and they're not for sale. These are commonly owned properties. And we've added development standards for those with basically separations and setbacks from the perimeters.

And then this is kind of a larger depiction of what a community like that can look like. And you end up with common parking in the community. They're designed to be adjacent to courtyards and open space areas. But, again, it's an alternate to homeownership in an area that would allow you to have your own physical space as opposed to common space above and below you in many cases.

CHAIRMAN FRYER: Would you assume that the majority or maybe the vast majority of occupancies of these would be on a rental basis?

MR. ARNOLD: Yes, sir.

CHAIRMAN FRYER: Because of their size?

MR. ARNOLD: Well, not just because of their size. We've written standard so that it has to be a commonly owned unit. The cottage court product itself is a common ownership. It wouldn't be individually owned cottages, for instance. You and I couldn't purchase one, but you and I could rent one.

CHAIRMAN FRYER: I see. Okay. Thank you.

MR. ARNOLD: Again, reflecting that we've deleted Deviation 3. And as Mr. Yovanovich indicated, we



made that decision very late in the afternoon yesterday that we would just drop that rather than pursue something staff wasn't supporting and that we didn't feel that there was community support for it as well. So with that, that's, in a nutshell, our presentation.

Chris, I don't know if you were able to find the root barrier standard. Do you want to read that into the record? Okay.

I'll let Chris show you that.

CHAIRMAN FRYER: We're going to also want staff to weigh in on the same question.

But go ahead, sir. Identify yourself and then proceed. Have you been sworn in?

MR. SCOTT: Yes. For the record, Chris Scott, planning manager with Peninsula Engineering.

In regards to the discussion regarding the changes to the root barrier standards, it's really twofold. One, to be consistent with the county's requirements. The Ave Maria standards include root barrier requirements for small trees which typically don't have the root issues that damage sidewalks. The county LDC does not --

COMMISSIONER KLUCIK: Can I interrupt?

MR. SCOTT: Certainly.

COMMISSIONER KLUCIK: When you say "small trees," trees that are expected to remain small?

MR. SCOTT: Yes. The county --

COMMISSIONER KLUCIK: If you plant a small live oak -- if you plant a small live oak, do you still have to have the root barrier knowing that it's going to get big?

MR. SCOTT: When I say "small tree," I mean at maturity.

COMMISSIONER KLUCIK: Got it. Thank you.

MR. SCOTT: Those would be, like, the ornamental trees that would have some root barrier protections.

The county standard specifically identifies barrier standards for large shade trees such as the live oaks.

Their actual requirements are a little bit more stringent than what are currently in the Ave Maria as far as if you're within 10 foot of a sidewalk you would need a root barrier. I believe Ave Maria's is currently, if you're within 15 feet, you would need the root barrier.

So it becomes a little more strict as it relates to the large shade tree root barriers, but it eliminates the areas where you would not necessarily need a root barrier because of the root systems of the small ornamental trees.

COMMISSIONER KLUCIK: Can you go -- like, that distinction that you just mentioned where it's more strict -- so you're saying the county standard is less stringent than the current Ave Maria standard, the SRA that we're changing, for when you get to the larger trees?

MR. SCOTT: No. For the larger trees, the county standard is more stringent.

COMMISSIONER KLUCIK: Is more stringent?

MR. SCOTT: Correct.

COMMISSIONER KLUCIK: Okay. So there's nothing -- the only distinction where it would say there's less restriction or less of an imposition or less of a requirement is as to the smaller trees?

MR. SCOTT: That is correct.

COMMISSIONER KLUCIK: So smaller trees where there really, probably, is not a problem, we had a -- we have a standard now, and we would be eliminating that because the county standard doesn't require that. Okay. So -- and I know, like -- I'm just going to say, like, this makes me feel very comfortable with it, so, you know, I'm -- not time for deliberation now, but -- so I'll let you go on. Sorry.

CHAIRMAN FRYER: I will, without objection, ask staff if they can also weigh in on the following question: Is staff satisfied that the entire universe of large trees, canopy trees, live oaks, and the like, are still going to require a root barrier?

MR. BOSI: Mike Bosi, Zoning director. And, yes, the current code, as -- it's 4.06.05.H.2.a within the Land Development Code specifically says, you know, in terms of when large trees are planted closer to 15 feet to a building or within 10 feet of sidewalk, underground utilities, they all require to have a root barrier. And the applicant is correct, there is no requirement for small trees to have root barriers within the current Land Development Code.

CHAIRMAN FRYER: And we say "small trees" and "large trees"; that is a vernacular but not a scientific term.

MR. BOSI: They are defined by our Land Development Code.

MR. ARNOLD: I think they're defined as 20-foot spread, and they're considered canopy trees that require those barriers.

CHAIRMAN FRYER: Okay. But you're satisfied that there's not going to be an increase in root problems in Ave Maria if they go to the standard that the rest of the unincorporated county follows?

MR. BOSI: Yes.

CHAIRMAN FRYER: Thank you.

Mr. Arnold.

MR. ARNOLD: We have nothing further. I'm happy to answer any other questions.

CHAIRMAN FRYER: Okay. Any questions from the dais?

(No response.)

CHAIRMAN FRYER: If not, thank you, sir.

We will now turn to staff's presentation, please. And it looks like that will be given by Mrs. Gundlach.

MS. GUNDLACH: Good morning, Commissioners. I'm Nancy Gundlach, principal planner with the Zoning division, for the record. And staff is recommending approval of the Ave Maria SRA.

We do have two clarifications we'd like to make. And the first one is in our staff report. We discussed the 10-foot side, rear, and front yard setbacks for the proposed cottage courts. There is actually an internal setback of five feet from a driveway, from an internal driveway as well for the cottage courts.

And this came to our attention this week as we were diving in deeper. The common open space courtyards state that the courtyards shall be -- shall -- may -- they may include sidewalks, pathways, benches, trellises, and similar amenities. "May" is a word that means nothing. It's not required. So we are respectfully requesting that that word "may" be changed to "shall."

CHAIRMAN FRYER: Thank you. Does the applicant have any objection to that?

MR. ARNOLD: Wayne Arnold, again. The only thing that we would probably add to that is some clarification because, when it says "shall," the sentence reads, includes sidewalks, pathways, and -- it says sidewalks, pathways, benches, trellises, and similar amenities. I think there needs to be some clarification that we're not -- we're not "shall" requiring all of those. So I think it might be more clear to say that it shall include --

MR. KLATZKOW: It needs to be "may." How many benches are we talking about? How many sidewalks are we talking about? How many this? How many that? I mean, if you think "may" is vague, "shall" is even vaguer.

COMMISSIONER SCHMITT: Yes. I was going to say the same thing.

MR. ARNOLD: But I think we understand that we need to require those, but do we require all of those, I guess, is the clarification I would make. And I -- if it needs to be clarified, we're amenable to modifying the language. If it doesn't, it stands as written.

CHAIRMAN FRYER: All right. Well, Ms. Gundlach, what --

COMMISSIONER KLUCIK: Mr. Bosi wants to weigh in.

CHAIRMAN FRYER: Mr. Bosi?

MR. BOSI: I wanted to provide a clarification for what staff is trying to attain. What we are trying to ensure is there's a pathway from the parking spot within the internal courtyard of the cottage court to the individual units. We wouldn't want them to have to walk from their parking space through grass to their front door. And I would expect that the developer would not be against providing a pathway from an individual's parking spot to their front door, and that's what we're trying to attain.

CHAIRMAN FRYER: Mr. Yovanovich.

MR. YOVANOVICH: We tried to -- what Mr. Arnold and I and our team worked on yesterday was that very concept. We will make sure there are pathways. Our concern was you were going to tell us we were going to have to have a bench, a trellis, and similar amenities in every courtyard. That was our concern. So we don't have a problem with pathways.

CHAIRMAN FRYER: Okay. Staff, is the language sufficient as-is, or do we need to modify the language?

MR. BOSI: The language that Mr. Yovanovich presented, which we've just seen now, this -- that is exactly

what we're trying to do. We want to require that the sidewalks and/or pathway be provided. The benches, amenity trellis, similar amenities, those are ones we're comfortable with a "may."

CHAIRMAN FRYER: So will that language find its way into the ordinance without our needing to add a condition, or should we add a condition?

MR. BOSI: I would say the -- if you would make a -- if you were to make a motion for approval, I would say modification to the suggested language as presented by the applicant.

CHAIRMAN FRYER: Got it.

MR. YOVANOVICH: We would include it in the SRA document which is adopted by resolution, not by ordinance.

CHAIRMAN FRYER: Got it, thank you. So it looks like belt and suspenders if we --

COMMISSIONER SCHMITT: Yeah. I'm fine with that language. It clarifies it.

CHAIRMAN FRYER: Okay. Good. No one else is signaling at this point. Any -- Commissioner Klucik.

COMMISSIONER KLUCIK: Yes. I was just wondering, regarding landscaping, what are the landscaping requirements? I know we talked about buffers, but are there tree requirements or --

COMMISSIONER SCHMITT: Same requirements. Per the existing SRA, right?

MR. ARNOLD: Well, it is per the SRA. So the buffers would have vegetation in them, and then internal to the courtyard we still have to provide landscape islands with regard to the parking areas, just like any other apartment complex would.

COMMISSIONER KLUCIK: Okay.

CHAIRMAN FRYER: Thank you. Anything further from staff?

MR. BOSI: None.

CHAIRMAN FRYER: All right. Mr. Youngblood, do we have members of the public who wish to be heard?

MR. YOUNGBLOOD: Mr. Chairman, I have one speaker, Robert Argenta, who actually registered for this item, not the first item. So that was my mistake.

CHAIRMAN FRYER: Oh, no problem.

MR. YOUNGBLOOD: Mr. Argenta, are you with us, sir? You're being prompted to unmute your microphone.

CHAIRMAN FRYER: Mr. Argenta, are you there, sir?

(No response.)

CHAIRMAN FRYER: Well, we'll have to pass on him. Any other registered speakers?

MR. YOUNGBLOOD: I do not have any registered speakers.

CHAIRMAN FRYER: Any members of the public in the room who have not registered but nonetheless wish to be heard in this matter, please raise your hand.

(No response.)

CHAIRMAN FRYER: I see no hands raised, so without objection, we will close the public comment portion of the hearing and proceed to deliberation. I mean, there's nothing to rebut, correct? You don't need a rebuttal?

MR. ARNOLD: No, sir; no rebuttal.

CHAIRMAN FRYER: Okay.

MR. YOVANOVICH: Are you going to do a motion to approve?

CHAIRMAN FRYER: Discussion -- deliberation from the Planning Commission, please.

COMMISSIONER SCHMITT: I would make a motion to approve as amended using the language as just proffered for the definition of the requirements within the rental area -- the cottage area. Other than that, I would recommend approval as presented subject to the petitioner removing the -- was that Condition 3 -- Deviation 3, sorry.

MR. YOVANOVICH: Deviation.

CHAIRMAN FRYER: Is there a second?

COMMISSIONER HOMIAK: Second.

CHAIRMAN FRYER: Okay. Further discussion from the Planning Commission?

(No response.)

CHAIRMAN FRYER: So what's before us is the SRAA, the amendment, with the language that's been proffered, the common open space courtyard that's on our screen, that would be included in the ordinance. Any further discussion?

(No response.)

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

COMMISSIONER SHEA: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: (Abstains.)

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously.

COMMISSIONER KLUCIK: With my abstention.

CHAIRMAN FRYER: Abstention noted. Thank you.

All right. It's quarter after 10:00. This would be a logical time for our midmorning break, unless there's an objection from the dais. If not, we will take a break until 10:30.

(A brief recess was had from 10:15 a.m. to 10:30 a.m.)

MR. BOSI: Chair.

CHAIRMAN FRYER: Thank you, Mr. Bosi.

\*\*\*The fourth matter today is PL2020000115. It's the Lord's Way -- Lord's Way large-scale Growth Management Plan amendment. It's before us on transmittal. It's not accompanied by a PUDA at this time. We'll see that for the first time at our adoption hearing. And since the GMPA by itself is legislative in nature, we can dispense with the need to swear in witnesses and to make ex parte disclosures.

Mr. Yovanovich, you have the floor, sir.

MR. YOVANOVICH: It's still good morning. For the record, Rich Yovanovich on behalf of the applicant. David Torres is the applicant's representative, and then you have myself, Paula McMichael, and Norm Trebilcock to present this item. I'll do a brief overview, but we're all available to answer any questions you may have regarding the proposed request.

The request is to do a Growth Management Plan amendment on approximately 69-acre parcel of property located on the east side of Collier Boulevard, which you can see, and north of Lord's Way. If you're familiar with the property, there's an existing apartment complex on the rear portion of the property. That apartment complex included an essential service personnel housing commitment as part of those 296 units as well as income restrictions on a certain portion of those 147 units that were to be set aside for essential service personnel.

On the front portion of the property, you have an existing church that I think it's fair to say has struggled with many different churches in that building over the past many years that that church has been there. It looks like an incomplete project when you drive by it, and I think what the property was originally envisioned to be was a 2,000-seat church, 200-seat chapel. It included certain institutional uses such as a residential drug and alcohol rehabilitation center for 269 beds. It also allowed for daycare, and it had a private school use. That was a vision of Reverend Mallory who was in Collier County and had that vision to occur on this property. That vision did not come to fruition.

So the property has basically been sitting there for the past several years, and Mr. Torres, who you're all familiar with, is the developer of Hacienda Lakes and has been acquiring other properties in this area and has a different vision for the property as we move forward.

The property, the subdistrict, is surrounded by Urban Residential Fringe under your Future Land Use Map. Urban Residential Fringe, as you know, is -- to be candid with you, I don't know why it's still in our Comprehensive Plan. When it was originally adopted, it was intended to be a transition from the urban area to rural area, but we came up with Rural Fringe Mixed-Use District, and basically the landscape, if you will, has changed. And you've seen several petitions come before you because this is really in the urban area on a

major roadway to come back to the more typical urban densities that you would find in the urban area, and that's why you have seen several subdistricts come forward within this district.

I already mentioned the existing uses and the existing apartment complex that is on the eastern portion of the property.

The property has a PUD on it. You will see the changes to the PUD at your -- hopefully at the adoption hearing for the Growth Management Plan amendment as well as the PUD amendment. But, essentially, what we're doing is we're eliminating those institutional uses that could occur on the property and replacing them with residential uses, another 384 dwelling units on the front end of that property.

As part of the neighborhood information meeting, we committed to the additional dwelling units being for-sale product, not rental multifamily units. We're in a little bit of a dilemma because, at the time we made that commitment at the neighborhood information meeting, we were not advised that we were going to receive a staff report that now wants to have a condition that we provide more affordable housing related to these additional units.

So, candidly, if an affordability requirement is going to be imposed upon us for these additional 384 units, we're going to have to do a multifamily rental project because the affordable housing process is a 30-year commitment, and I don't think there is a market for for-sale product where the buyer who buys the unit, for the next 30 years, is committed to a limit universe of who they could sell the house to should they have a reason to sell the house.

So we're going to have to go back and have another neighborhood information meeting to tell the residents that the commitment we made to for-sale product is no longer a commitment, and we will -- frankly, we're already working to schedule another neighborhood information meeting before the Board of County Commissioners considers this at transmittal.

I want to, as part of this process -- some of you are new to the Planning Commission. East Naples has historically been the recipient of affordable housing projects throughout the years. And the former commissioner in that district -- and I'm sure Mr. Schmitt remembers this from his days as an administrator here, and I know Ms. Homiak is aware of all of the several projects that have come through in East Naples. And your Comprehensive Plan -- I'm going to switch over to the visualizer, assuming Ray will help me -- specifically provides that we're to avoid the concentration of affordable housing units in specific areas of Collier County. We're not -- and the Board has recently, and you have also, as the Planning Commission, started to spread out affordable housing as it relates to density increases related to Growth Management Plan amendments. You did it for I think it's Blue Coral; I think that's the name of the project that was up on Immokalee Road. They came in asking for 25 units per acre on a 10-acre parcel, and in order to get that, they agreed to provide a certain percentage of those units at an income restriction.

The Board, at the adoption hearing for Randall Curve, required 40 of the 400 units to be set aside at a certain income threshold. So it's starting to -- in order to get densities above the current Comprehensive Plan, the Board is starting to require income restriction related to those density increases.

You just recently changed the village requirements and the town requirements out in the Rural Land Stewardship Area to require set-asides for income-restricted property. So it's starting to be spread out away from and not only in East Naples.

If you look at East Naples, just near this project, you have several projects that are income restricted in the lower income thresholds. You have Regal Acres and Charlie Estates and Trail Ridge. Those are projects that are being developed by Habitat for Humanities; very important organization serving a very important need.

You have Victoria Falls, you have Whistler's Cove, which is an apartment complex, that also is affordable housing, and then you have the Naples Manor community itself that has historically been at price points that service people with -- who need reasonably priced housing.

So we think --

CHAIRMAN FRYER: Commercial Klucik, please.

COMMISSIONER KLUCIK: Yeah. Where is your project on this map? I mean, I realize it's --

MR. YOVANOVICH: It's, like, right -- the scale's horrible, so I may be off by a little bit, but we're right about there.

COMMISSIONER KLUCIK: Okay. And your purpose in showing this -- I realize you're showing us where the existing income-restricted housing is?

MR. YOVANOVICH: Is because there's a concentration, in our opinion, of more and more housing in this southeast portion of --

COMMISSIONER KLUCIK: You're encouraging us to say, well, why would we add more here when there's already so much in close proximity?

MR. YOVANOVICH: Yes, sir. The rationale for why we're not going to agree to the condition of including more affordable housing within this project, one, we already have some, and I don't think that the community in this area would like to see more of it. And I'm just explaining the rationale for why we don't think it's an appropriate request related to our particular project.

And we think that by converting the uses that are on this property today that are the only uses that could be developed are not uses that the community would like to see happen on the property, and I think the community would like to see this project completed with for-sale residential on the property and probably not more rental on this particular piece of property, because that would be 690 cumulative rental units on the property.

COMMISSIONER KLUCIK: And then I would just -- Mr. Chairman, when we talk to staff on this particular issue, to just -- you know, the genesis of adding the condition, I believe, is that -- or the recommendation that staff is adding is because it's the staff's understanding that that's a desire of the commissioners or even the Planning Commission and -- but I would like to kind of talk about that.

CHAIRMAN FRYER: And I think you will find when staff speaks that that is exactly the case. When you want the density that is being requested, there needs to be something in it either for affordable housing or perhaps mixed use. I mean, there are other ways of accomplishing it, but it's -- I think the density that is driving -- the density request is driving the need for something more to go along with the application that benefits the county.

Mr. Eastman.

MR. EASTMAN: Rich, there's existing commitments for affordable housing that you don't want to change.

MR. YOVANOVICH: We're not changing those. We can't. It's already built.

MR. EASTMAN: Right, okay.

MR. YOVANOVICH: That apartment complex is built and operating and meeting those conditions.

MR. EASTMAN: Okay, okay. So it's only the new that you want to be free from the --

MR. YOVANOVICH: Correct.

MR. EASTMAN: Okay. Thank you.

COMMISSIONER KLUCIK: In follow-up to that then, so am I right, then, that you could have put another little orange box where that is that's in your property?

MR. YOVANOVICH: I didn't even -- we didn't even include on this projects that had, you know, 10 percent of the units set aside for affordability. I could have put in -- and, frankly, if we go back to the master plan, you will see that that apartment complex that's on the east end of this development, that would qualify as income -- an income-restricted community, because it is income restricted for essential service personnel.

COMMISSIONER KLUCIK: Right. So I guess I need -- you know, I would like to understand, it would be helpful to know exactly what -- what is required now, so you already have a -- you know, this restriction, excuse me, this affordable housing. The issue is, is in order to get more density, generally speaking, you know, the commissioners will require that you -- you know, that you add -- that we have something -- you know, you're trading it for something or there's some consideration that makes it seem like, you know, there's a value to the community. I understand -- I'm not saying that's my view. I'm saying that that seems to be, you know, how it's framed.

And so right now you have a certain amount of affordable housing, and what would be the difference between what we're asking for to add to it and what we have now?

MR. YOVANOVICH: Well, I don't -- yes. Historically, recent history, has been an affordability or an income restriction requirement when you're asking for increases in densities. There have also been past instances where the Board of County Commissioners recognized that prior approved uses really are not the

uses you want to see on the property so that converting to a different use like residential was appropriate without a requirement to include income restriction.

This project -- and I'll give you the numbers. We have a --

COMMISSIONER KLUCIK: Just -- and while you're doing that, just -- and if you can tell me the genesis of how we got to the point where we're at now with the affordable housing that we have now. Was that just, you know, out of the good nature, you know, of the prior developers, or was that something that was also imposed for a density?

MR. YOVANOVICH: It was within the original subdistrict as this project was going forward. It included these apartments with income restrictions on it and then the church and those other uses. It was part of the original concept --

COMMISSIONER KLUCIK: That was what the original owner wanted to do?

MR. YOVANOVICH: That was part of the original concept.

In the 296 --

CHAIRMAN FRYER: Are you still answering his question, because Commissioner Schmitt --

MR. YOVANOVICH: Yeah. He wanted to know what was on the property today, and I was about to give him those numbers.

CHAIRMAN FRYER: Go ahead.

MR. YOVANOVICH: There's 296 apartments approved. Of those, 147 must be offered initially to essential service personnel. Of those, 35 of the 147 are income restricted to people making less than 150 percent of the median income.

CHAIRMAN FRYER: Not 150.

MR. YOVANOVICH: Yes.

CHAIRMAN FRYER: 150?

MR. YOVANOVICH: And then the other 25 --

CHAIRMAN FRYER: It's a different number.

MR. YOVANOVICH: The other -- the other 25 are 80 percent or less.

COMMISSIONER KLUCIK: So there's a high concentration, it looks to me, already, of what we would consider affordable housing or set-aside housing for -- I guess, for the benefit of the community to ensure we have housing for the people that are, you know, doing a lot of the work here that otherwise couldn't afford to be in the community.

So -- and I'm trying to understand -- balance this, because I see that as an issue, and I'm sure we'll all talk about that. You know, do we want to have an even higher concentration of that? If we're going to increase the density, do we want to, you know, have more of that or not? And, obviously, that's a discussion we'll have.

MR. YOVANOVICH: Right. And we will and it was --

COMMISSIONER KLUCIK: Yeah. And your petition -- your client is not -- is resisting that?

MR. YOVANOVICH: Well, I'm reacting to a commitment that was put in the staff report. No hint of that commitment when I'm making other commitments at a neighborhood information meeting to provide for-sale product versus rental, and now I've got to undo a commitment that was made at the neighborhood information meeting and say, sorry, we're going to go to a rental project because there is now going to be a commitment that a portion of those units be set aside for an income-restricted category.

And we don't -- we think that there is a need for people who are in these apartment complexes that are coming up and down Collier Boulevard to move to for-sale product.

COMMISSIONER KLUCIK: Did the discussion come up when -- you know, it seems like that would be a logical discussion, hey, we're putting this petition forward. Are we going to -- you know, we're asking for more density. Are we likely to -- you know, are you guys likely to recommend that we have a, you know, additional, you know, affordable housing or restricted housing?

MR. YOVANOVICH: The first hint I had that there was going to be --

COMMISSIONER KLUCIK: Well, no. My question was real specific.

MR. YOVANOVICH: I know. And I'm telling you, no, it didn't come up. And the first hint I had of it was when I got a staff report.

COMMISSIONER KLUCIK: Right. And all I'm saying is that it's -- that you know the environment that we're in, so it's not necessarily a surprise, but it wasn't something that --

MR. YOvanovich: I know -- Commissioner Klucik, I know going forward based upon the trend in other areas of Collier County, when I come in with a Comprehensive Plan amendment to go above the base density that I can get, I will advise my clients, expect an affordable housing commitment.

COMMISSIONER KLUCIK: And I say that as -- you know, I've only been on this panel for a year, and to me -- I get it. You've been doing this for a long time. To me it's just like, yeah, we all know that that's going to be part of the discussion.

MR. YOvanovich: We know that now based upon recent --

COMMISSIONER KLUCIK: Right, it's new. I get it. I understand.

MR. YOvanovich: I always joke, if I could predict the future, I would make sure I picked the six right numbers on the Power Ball, and that's the numbers that I would predict the future on.

COMMISSIONER KLUCIK: And I would tell you -- would you believe me if I told you that --

MR. YOvanovich: I do.

COMMISSIONER KLUCIK: -- that you're really good, and you serve your clients really well, and that I understand, if you had thought that that was going to be an issue, you definitely would have been thinking it.

MR. YOvanovich: There's no question we would have been having a conversation, and my client wouldn't have been shocked by this. And I never would have made the commitment at the NIM to do for-sale product.

COMMISSIONER KLUCIK: Thank you.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. Just for my colleagues up here, this -- Rich went over it rather quickly, but this area and this PUD has gone through a significant evolution over 20 years. The affordable housing which is shown here on the eastern portion of the property, that was added through a significant effort by the developer to bring that forward to the county. I was part of the staff at that time. And I recall that there were several requirements when this was built. The developer at that time, Bill Klohn, I believe was the one that developed some of this or most of it at that time.

And right now how many -- how many units are affordable? They're all -- these are all rentals that are there right now?

MR. YOvanovich: This is a rental --

COMMISSIONER SCHMITT: Rental.

MR. YOvanovich: -- apartment complex. As you remember, David actually fulfilled the vision of providing the essential service personnel --

COMMISSIONER SCHMITT: Yes.

MR. YOvanovich: -- and the units. It was someone else's vision. He acquired it, and we have 167 units set aside for ESP.

COMMISSIONER SCHMITT: Did David end up building this, then?

MR. YOvanovich: Yes.

COMMISSIONER SCHMITT: You finished it, okay.

MR. YOvanovich: He built it. David Torres built it.

COMMISSIONER SCHMITT: A little history, but wasn't it started -- Bill Klohn started this --

MR. YOvanovich: He did, I think, the church.

MR. EASTMAN: Yes. Bill was involved, and there was also a state grant for \$5 million that led to this project. So your recollection is exactly right, Mr. Schmitt.

COMMISSIONER SCHMITT: My next question is, are -- all the other financial ties all been resolved? The grants? Because they were impact fee deferrals. There were all sorts of things associated with this project when it was first proposed. Bill went under. Now I remember that. So -- but the bottom line is, this -- there is -- there are 47 units now that are deemed affordable, and they still are affordable?

MR. YOvanovich: No, they're income restricted.

COMMISSIONER SCHMITT: Income restricted. Thank you.

MR. YOvanovich: Okay. And there's actually 60 units --



COMMISSIONER SCHMITT: Sixty units.

MR. YOVANOVICH: -- that have an income restriction.

COMMISSIONER SCHMITT: Because some of them were set aside also for essential service personnel, if I remember.

MR. YOVANOVICH: One hundred forty-seven were set aside to be marketed to essential service personnel. Within that category of the essential service personnel, 60 of them I'm income restricted at different income categories.

COMMISSIONER SCHMITT: And just to explain, if you built for-sale units instead of for-rent and there was the affordable housing component, it becomes far more difficult for an owner, say, five years later to say now I want to sell this, because it's still -- there's still a requirement to sell it to another person to meet the same restrictions.

MR. YOVANOVICH: There's a 30 -- under the current code, it's a 30-year commitment.

COMMISSIONER SCHMITT: Thirty-year commitment.

MR. YOVANOVICH: Thirty-year commitment.

COMMISSIONER SCHMITT: Now, whereas, when Habitat for Humanity builds, many of the ones that you showed originally on your -- there are many other ways that Habitat controls that.

MR. YOVANOVICH: Sure.

COMMISSIONER SCHMITT: Second deeds -- or second mortgages. All the other kind of things that they do. Now, whether -- I won't get into whether or not they're enforced, but that's a different story.

MR. YOVANOVICH: Sure.

COMMISSIONER SCHMITT: But the issue here becomes that if there's an affordable housing component, it becomes -- you're forced into making pretty much a rental project rather than a for-purchase project.

MR. YOVANOVICH: Correct.

COMMISSIONER SCHMITT: A fee simple type project.

MR. YOVANOVICH: Correct.

COMMISSIONER SCHMITT: Well, it could be fee simple, but it would still be rental. It wouldn't be --

MR. YOVANOVICH: Well, no, because remember if it's fee simple, the person who owns it and occupies it has to meet the income threshold.

COMMISSIONER SCHMITT: Has to meet the income requirement as well, okay.

So -- but the bottom line is, the site already has an affordable housing component. I'll wait to hear from staff, because my -- I'm curious, just for staff -- and I don't know who's going to be presenting this, but what is the motivating factor for staff to require additional affordable housing?

And just for the history, Mr. Yovanovich is absolutely correct there's been a long history of discussion about the concentration of affordable housing in East Naples, whatever you want to define as East Naples. But just for the term "East Naples," it's always been a source of contention. A lot of reasons for it going back maybe 15, 20 years when this was the last area of the county to be developed, but prior to that, the land was far less -- or more affordable, far less expensive than other areas of the county, which became, really, the motivating factor for -- to draw affordable housing, even for Habitat for Humanity, because it became affordable for them to go out and purchase property.

Now, just along Collier Boulevard, there are also already rental projects existing and being built right now; is there not?

MR. YOVANOVICH: Yes. And there's -- look, there's a market for plenty more rental.

COMMISSIONER SCHMITT: Rental, right.

MR. YOVANOVICH: So we'll -- you know, if we have to do rental, we'll do rental. But it's the -- at the NIM we were asked to do for-sale on this piece of property.

COMMISSIONER SCHMITT: And Sapphire Cove is --

MR. YOVANOVICH: Yeah, that's a for-sale project. It's part of Hacienda, right? David, it's part of Hacienda?

COMMISSIONER SCHMITT: Is Hacienda built yet?

MR. TORRES: It's a separate PUD. It's the Lord's Way 30 PUD.

COMMISSIONER SCHMITT: It's the Lord's Way, but it's a different PUD.

MR. YOVANOVICH: Correct, correct.

MR. TORRES: It's a different PUD. It's for-sale homes, single-family.

COMMISSIONER SCHMITT: In the future -- I guess, whatever happens in the future with the Florida Sports Park is yet to be determined, but that's certainly another opportunity for growth and development down in that area. Probably the last areas in the rural fringe.

MR. YOVANOVICH: As you know, there's -- another thing you would think you would want to do is you have very little acreage left --

COMMISSIONER SCHMITT: Right.

MR. YOVANOVICH: -- in the urban area. You would think based upon the fact that we're on Collier Boulevard, that's a six-lane road, has sufficient capacity to serve that, you'd want to fill in the urban area first before we start going further to the east, and we believe that this is an appropriate infill on basically an urban piece of property. And that's our request. It's a conversion of uses that I don't think people really want to see happen on that property anymore, and we think it's a beneficial -- for-sale is a beneficial use of this property.

CHAIRMAN FRYER: Finished, Commissioner?

COMMISSIONER SCHMITT: Yes. For now, yes.

CHAIRMAN FRYER: Mr. Eastman.

MR. EASTMAN: Rich, I worked with Bill Klohn as the school district's representative, in trying to get the state grant and trying to get this project off the ground.

I want to thank you for pointing out the inconsistency between the staff requirement and what you had said at the NIM. I also want to thank Mr. Torres for building this out and giving those opportunities to the essential service workers.

When we were discussing this, the essential service workers said they didn't want to have a teacher town. They wanted it to be more diverse. And also the issue came up of, you know, for-sale properties with affordable, and that was -- that's a much more difficult row to hoe.

So I agree with what you've stated. I agree with what Commissioner Schmitt has stated and also with concentration of affordable housing in East Naples expressed concern multiple times by Donna Fiala and other residents of that community over and over again.

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: Yes. And I apologize if you already laid this out and I just wasn't following along. So I'm looking at Page -- in my packet it's 1724. It's an overlay with a bunch of yellow. It shows, I think, the current uses and, like, it has the wetlands off. It has, you know, some crosshatching. And it's a drawing by Passarella Associates, or a rendering.

MR. YOVANOVICH: Okay. I'll do my best. My print copy doesn't have your pages on it. (Simultaneous crosstalk.)

COMMISSIONER KLUCIK: My question is, so right now there's a certain density, and it's based on the whole plat, and it's assuming that there's that religious use off to the left.

MR. YOVANOVICH: Correct.

COMMISSIONER KLUCIK: And what you're doing is you're saying, well, we're not going to -- it's not going to be religious use now. We'd like to use that now for residential, and because the density that was assigned to it assumed that we weren't going to be having housing there, we need to change the density to accommodate this new use?

MR. YOVANOVICH: Yes. What -- yes. And, obviously, I didn't do a very good job of laying that out. The current subdistrict -- there was a Comprehensive Plan amendment that had to go in place in the first place to get to the number of residential units that were approved at 296, because this land was in the Urban Residential Fringe. And in the Urban Residential Fringe, when this was approved, the density was 1.5 units per acre, not the four units per acre everywhere else in the urban area, but 1.5. So, mathematically, at 69 units -- 69 acres, you couldn't get to 296, so we did -- they did a subdistrict, like I'm doing today. I'm amending that subdistrict --

COMMISSIONER KLUCIK: Okay.

MR. YOVANOVICH: -- to get that number of units, plus the church, plus the drug and alcohol in-patient

rehabilitation use, plus daycare, plus a private school. All of that required a Growth Management Plan amendment in the first place, and then the PUD implemented the Growth Management Plan. We're saying take all of that off the table and replace it with for-sale 384 units, and we left in the ability to do senior housing, but everything else -- the church would go away after five years, and the drug and -- in-patient drug and alcohol rehab would go away, and all those other uses.

COMMISSIONER KLUCIK: Let's assume that it stays how it is, you know, there's no change, and then they're able to build whatever is allowed and whatever they want to build. Where would all the housing that -- the entitlements that they have now, where would they be going? Am I right to assume that they wouldn't be to the western edge of the -- it would all be on the eastern half of the property or no? So you have the eastern half and the western half of the property, and there's that, you know, kind of like a road that goes between them.

MR. YOvanovich: Yeah. This is an FPL easement that goes through here.

COMMISSIONER KLUCIK: But am I right to think that --

MR. YOvanovich: The answer is is basically, Commissioner Klucik, that's what's left for all those uses that currently are allowed to occur on.

COMMISSIONER KLUCIK: Okay. So right now you could build right where the church parking lot is, or whatever, if you wanted to?

MR. YOvanovich: That's where I'm sure Reverend Mallory anticipated he would expand that into a 2,000-seat church.

COMMISSIONER KLUCIK: Right. But the idea was there wasn't to be housing there or -- but there could have been?

MR. YOvanovich: Right. No, never could have housing. We could only have a -- we could only have -- when I say "residential," there was the ability to have in-patient "spend the night" drug and rehabilitation center. I think it was 269 beds.

COMMISSIONER KLUCIK: My whole point is, conceptually, not legally, whatever, what you're really doing is you're saying, well, we're now going to take this area where the church and the parking is, and that was never going to be housing as we understand it.

MR. YOvanovich: Right.

COMMISSIONER KLUCIK: And now we want to use it that way because, for whatever -- for 20 years this project has been floundering, and it would be a benefit to the community to not have it be this unfinished project, and we need a density change to allow us to use that now in a different -- you know, in the way we're proposing; is that accurate?

MR. YOvanovich: Perfect summary. Perfect summary.

COMMISSIONER KLUCIK: Okay. And to that extent, the idea that we're adding more affordable housing, in light of the high concentration that's already there, I think, you know, in my mind, the broader picture and the goals that we all have that we're trying to, you know, keep in mind, yeah, I certainly understand why staff would understand that we would always like them to highlight this affordable housing requirement because there's a density increase request but, for a lot of reasons, I'm of the mindset to think that -- you know, I agree, we don't want to have a high concentration in one area. We all kind of know that's exactly what we don't want. The public policy goals are to not have a concentration of low-income housing or affordable housing because there are problems associated with that that are not associated when it's intermixed throughout a community, and I think -- my mind right now, I'm kind of thinking along those lines that --

MR. YOvanovich: Right. And I understand why staff put it in there. I mean, they've watched what's happened in the last several petitions. You know, I'm not shocked by that being in the report. I just can't -- I can't do it -- once I made the commitment to for-sale product, I could not implement the -- you know, the condition and --  
(Simultaneous crosstalk.)

MR. YOvanovich: It doesn't even tell me what I need to do.

COMMISSIONER KLUCIK: I'm just rationalizing my own thought process to my fellow commissioners.

CHAIRMAN FRYER: Vice Chair Homiak.

COMMISSIONER HOMIAK: There's -- Rattlesnake Hammock intersection intersects Collier Boulevard just south of this not very far away, and there are numerous rentals there along that road and then the other side of Rattlesnake Hammock. So I don't -- I know that the area, Naples Lakes, has always wanted to have for-sale products there because there's just -- it just keeps -- there's just rentals and rentals and more rentals being built just on that corner, that intersection. And if -- really, if you took the 690 units all together on that parcel, 147 of them have restrictions; that's 21 percent.

COMMISSIONER SCHMITT: That's correct.

COMMISSIONER HOMIAK: That's a lot.

COMMISSIONER SCHMITT: Yep.

COMMISSIONER HOMIAK: That's it.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SCHMITT: I agree.

CHAIRMAN FRYER: Mr. Yovanovich.

MR. YOVANOVICH: Unless you have any further questions, you know -- I forgot to introduce Norm as part of the team, didn't I? I forgot Bob?

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: At the neighborhood information meeting -- and Karen mentioned Naples Lakes, which is right across the street, actually, to the west of this property -- this has always been a thorn in their side, and it's been -- any feedback from residents of Naples Lakes, or do we -- we've got Naples Lakes, great. I'm looking forward to hearing from Naples Lakes, but we'll hold off.

I thought I recognized a Naples Lakes, because he's been here before. Because I'm -- because this has really been a real issue. And just for edification, I mean, even when -- before Pastor Mallory's petition folded, we had steel out there. The Board allowed the steel to stay. There was a code issue because of the expansion. That finally had to be removed. I can get into the whole history about this, but the fact is, it has been sitting -- I don't even know who's in there right now, if it even is used by -- as a church. I assume it somewhat is, but it sort of has been sitting for almost 10 years and has gone nowhere. It's not as much of an eyesore as it was originally, but still it's been a concern, and I'll be looking forward to hear what Naples Lakes has to say. With that, thanks.

CHAIRMAN FRYER: Thank you. Anyone else?

(No response.)

CHAIRMAN FRYER: Apparently not.

Anything else from the applicant?

MR. YOVANOVICH: No. We'll come back up and answer questions or respond to public comment if necessary.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SCHMITT: We're going to let Mulhere get by without having to make a statement.

MR. YOVANOVICH: Do you want me to -- I can bring him up.

COMMISSIONER SCHMITT: No, that's all right.

MR. MULHERE: Good morning. For the record, Bob Mulhere.

COMMISSIONER SCHMITT: I just wanted to make sure you get some billable hours out of that, Bob.

MR. MULHERE: Thank you.

CHAIRMAN FRYER: I'd like to hear from staff now.

MR. BOSI: Mike Bosi, Zoning director.

I'm somewhat surprised that we've had a refrain of the statements of an overconcentration of affordable housing in East Naples. We have long strived to displace that myth. There is an equal distribution of affordable housing throughout the county, and that's what we aim to do. And there is by no means an undue concentration of affordable housing, dedicated affordable housing within East Naples.

When we include Naples Manor, that's market rate. That's just the market in terms of providing housing that's affordable. But it's not dedicated affordable housing.

When we originally approved this subdistrict, they asked for 192 additional units. To attain the additional 192 units, we required -- they didn't volunteer. We required that they set aside 25 units at under 80 percent

and then 35 units above -- or below 140 percent. That's 31 percent of the additional units that they requested originally for the subdistrict was set aside for affordable housing.

If this applicant and this owner was surprised that we continue to ask for the same pattern that we asked in the original zoning, that -- the same pattern that the Board of County Commissioners has been requesting of any density bonus that has come before them over the last two years for a contribution to affordable housing related to the public good to be able to exceed density levels that are currently allowed for by the Growth Management Plan, I'm not sure if they're really that surprised that this request has come in.

I will say that this is coming at a later date. I wasn't involved at the original pre-application meeting, the original discussions, but this was something that I was requesting and coordinated with our reviewer, Sue Faulkner. So I'll take responsibilities for any late additions or requests for the affordable housing contribution.

So now they're going -- they're requesting 384 additional units. They are replacing nonhousing units, the uses that are being eliminated, for market-rate housing. And market-rate housing are going to require housekeepers, they're going to require -- they're going to require maintenance workers, landscape workers, the type of -- the type of professions that are associated with affordable housing.

So they are going -- the addition, the switch that they're asking for is going to create a land use that's going to place a greater demand on housing that's affordable within this county. Based upon that relationship, staff feels there's a justification that we would request that a portion of the additional units above what's allowed for by our -- by the Growth Management Plan to be dedicated to address a need that we have within the community.

In 2017, when the ULI provided this study on affordable housing and housing affordability within this county, it was documented that 40,000 individuals every day travels to this county to fill the economic needs of this county. We want to talk about traffic, and we find levels of traffic on our roads are unacceptable. There's a cause and a relationship between the amount of -- the amount of employees we have to import from other areas to fill our economic needs within this county.

So there is a relationship between what our request is for additional -- for attention to additional affordable housing. If they're asking for 384 additional units above what the Growth Management Plan is asking for, what it currently allows for, we feel that there is a strong relationship and a justification and a -- most importantly, a rational nexus for why the affordable housing request is being suggested.

We currently are not in support of the petition as it's proposed related to -- with no contribution for affordable housing, and we wanted to start the discussion with the Planning Commission to feel that -- to see if there was a percentage or a level of that additional 384 that we could have -- that we could request be set aside for those individual -- the individuals within certain income brackets.

The way that the current -- the way that the current affordable housing program works, we agree, there's a 30-year window that is required. There is housing amendments that are coming through that I've given you a preview that we're going to hear probably in February or March, and we're going to have a presentation on affordable housing from our Housing Department to provide a little more information to the -- to the Planning Commission related to the need and the relationship of some new proposals, and those new proposals have -- they're starting out with only a five-year commitment. So we recognize that 30 years is problematic, especially when you would go to a for-sale product.

What has happened over the past two years, the additional affordable housing that's been required when we've had these density requests above what the GMP allows, we're not working within the current system, the 206 within our LDC that has the 30-year commitment. We are working within a hybrid of what the code would require.

So the Planning Commission most certainly -- because they're not -- we're not requesting or requiring them to go through an affordable housing density bonus program as 206 but something a little bit offset that's going to be within their PUD. And within that PUD, the Planning Commission could most certainly say, provide 10 or 15 percent of your units at 100 percent or below area median income, have them restricted for 10 years, 15 years if that's where there's a more comfort level based on the market realities.

CHAIRMAN FRYER: Thank you, Mr. Bosi. I want to give you a full opportunity, because a lot had been said that needed explaining, and I think you've made some points that are worth considering. I've got four

of my colleagues signaling to be heard, and I'm going to jump in first, if I may, because I think my question could be answered very quickly. We've heard that the current PUD, the density is 1.5 units per acre. What is permitted currently in the urban fringe -- urban residential fringe? What density?

MR. BOSI: It's 1.5, and it can go to 2.5 if utilizing the affordable housing. That's the current limit that's --

MR. YOVANOVICH: TDRs.

MR. BOSI: Or TDRs, I'm sorry.

CHAIRMAN FRYER: TDRs can take you to 2.5?

MR. BOSI: 2.5.

CHAIRMAN FRYER: Next is Commissioner Klucik.

COMMISSIONER KLUCIK: Sure. I'm trying to look at your report on Page 9, which is Packet page 1674. I'm trying to understand it, I should say.

So first of all, if we jump down, Amersite and Carmen Drive, are those the -- what's being proposed?

MR. BOSI: No. Those are other petitions that are in the --

COMMISSIONER KLUCIK: Okay.

MR. BOSI: -- area.

COMMISSIONER KLUCIK: Those are petitions, okay.

So they're asking for 10, and we have -- Hammock Park is 13.85, but that's in an activity center; is that why you're saying it's not compatible? I'm just trying to figure out, because 10 seems like it's compatible with 13.85.

MR. BOSI: The area of compatibility, staff agrees that there's -- as you get closer to the activity center, the 10 units per acre that is being requested can -- is most certainly in line with the densities that are associated with it. It's as the -- it's the projects that are to the north of this location that have the lower densities that could provide for incompatibility. But it is sort of a transition to the higher densities of the activity center.

COMMISSIONER KLUCIK: Right. So the 10 -- the proposed gross density of 10 units per acre is not consistent with the surrounding PUDs which have a lower approved residential density is sort of accurate and sort of not accurate --

MR. BOSI: Correct.

COMMISSIONER KLUCIK: -- based on what we just -- okay, okay. And right now the density is -- we're increasing it to 10, and what is it now, again?

MR. BOSI: 4.32.

COMMISSIONER SHEA: 4.3.

COMMISSIONER KLUCIK: So we're doubling the density, and the concern is that by doubling the density, it changes the tone of the project and the impact on the community in such a way that -- if -- you know, if we're talking about the -- we're willing to do it but only if we actually put -- the idea is if we increase the affordable housing requirement. So it's -- it seems like a good idea if we advance the public policy goal of adding additional affordable housing but not otherwise. So -- and I understand that argument. One of the points I had in the beginning is I just wanted you to understand that my issue is not -- and, you know, I think I understand and probably agree with your point. My issue is not that this portion of the county has too much affordable housing. My thought is adding more to this particular parcel seems like that would not be a good thing; that that would -- that would -- I think that would be negative to add an affordability criteria, because you would have an extremely high concentration of affordable housing all in one area, and I do think that that's something that we need to, you know, think really carefully about.

MR. KLATZKOW: So you would have a high concentration of policemen and firemen and nurses, because that's primarily what we've been doing here. We're not talking Section 8 housing that we've been putting in East Naples.

COMMISSIONER KLUCIK: Right. But I think that -- that the idea that you have, you know, what -- we would have, like -- what do we have now, 190 we said, now?

MR. BOSI: No. What the current -- what they're currently providing for is 60. They're requesting 690. We would -- if you add no more affordable housing, the project would contain -- would contain less than 10 percent of affordable housing, the overall density that's associated with the subdistrict.

COMMISSIONER KLUCIK: Yeah. And, Mr. Klatzkow, I guess I would say that I'm not -- I'm talking

about affordability more than I'm talking about the set-asides for the different --

MR. KLATZKOW: I think that Mr. Yovanovich has not presented this accurately, all right, trying to say that East Naples is flooded with affordable housing, when the Board of County Commissioners and this Planning Commission has been essentially working on essential workers, you know, for housing. And to say that nobody wants to live next door to teachers and nurses and firemen --

COMMISSIONER KLUCIK: But that's not what I said.

MR. KLATZKOW: No, that's what he was saying.

COMMISSIONER KLUCIK: And, actually, I think at this point you're discussing public policy matters that are beyond the purview or --

MR. KLATZKOW: Well, if -- and if you want to talk about the law, okay, historically we've never allowed an increase in density unless it was for Transfer of Development Rights for affordable housing, and now we're coming through asking for increasing density rights for market-rate housing and arguing that I'm not going to give you any affordable housing for it.

So he's coming forward asking for far more density than he's authorized, all right. Staff is saying, well, if you're going to get the density, then you're going to have to give up [sic] some affordable housing, and he's saying I don't want to. So now we're going to be going over your Growth Management Plan getting no benefit whatsoever.

COMMISSIONER KLUCIK: Are you saying that legally we could not approve a density --

MR. KLATZKOW: You're not going to have a Growth Management Plan if you're simply giving away density for market-rate housing.

COMMISSIONER KLUCIK: No. I'm asking you, is there a legal impediment to us approving this without a density -- or without affordable housing --

MR. KLATZKOW: If you want to make the policy decision that the current GMP, okay, no longer reflects Collier County and that we have to increase our densities, that's your prerogative to make this as a board, all right. But that's going to have to be a long-term planning mechanism.

COMMISSIONER KLUCIK: Right. It's not something that -- I think your concern is we shouldn't be doing it piecemeal in a one-off petition --

MR. KLATZKOW: That's right.

COMMISSIONER KLUCIK: -- because it's a serious consideration.

MR. KLATZKOW: That's correct.

COMMISSIONER KLUCIK: And it -- all right.

So my point was that I didn't agree that there was -- that it was -- this portion of the county has too much. My thought was one parcel might be considered to have too much, and it certainly wasn't firefighters and teachers. It's the affordability element that talks about the actual income impositions, the restriction in the income. And I think we have a combination, is that right, of various factors? When we say "affordable housing," we're really kind of talking about different ways that we're gauging what -- we're putting that label on a lot of different things. One is income, but essential workers, they're not necessarily -- they could be actually having -- with overtime and everything, they could have a pretty good income; is that right?

MR. BOSI: This is most certainly correct.

COMMISSIONER KLUCIK: Right.

MR. BOSI: And in the affordable housing realm, there is various levels of income levels that are -- that are attended to, but there's also an additional component towards where the Board has asked for essential service personnel to be made -- offer opportunities, maybe not within -- maybe not simply requested for affordable housing units but just for units in general.

COMMISSIONER KLUCIK: Right. And to that extent, I think that's a discussion that I would, you know, be very, you know, open to talking to the petitioner about that as a -- you know, an increase in or requirement for that as opposed to the strict affordable housing because, like I said, we kind of meld -- we use one term, and it kind of applies to everything. I think workforce housing and affordable housing, however we're going to distinguish it, could be two different things, and they might be -- they might be -- in the petitioner's mind, you know, they might see them differently as well, because then they can appeal -- you know, the market for strictly affordable housing is -- and the profitability is very different than the kind of

workforce housing that we're talking about.

CHAIRMAN FRYER: Let's keep in mind that the affordable housing, if you want to call it that, that's currently in the PUD is top-loaded for so-called gap housing, which is 140 percent, and that's a pretty substantial income. So it's not -- as the County Attorney said, we're not talking about Section 8 people here.

COMMISSIONER KLUCIK: Right.

CHAIRMAN FRYER: All right. Mr. Eastman.

MR. EASTMAN: Mike, I'm glad to hear that the affordable housing is spread out more throughout the county. My point -- and I don't want to be a source of misinformation -- is that we have heard there's a perception with East Naples residents, and even with the commissioner. We've heard that refrain throughout this commission over and over again that it is concentrated there, that they don't want more of it. We've heard that objection many, many times where we haven't heard that from other parts of the county. We haven't heard the citizens of North Naples complaining there's too much up there. That was my only point. And I respect your work and your opinion in this. Affordable housing is a real problem for essential workers as well. I just wanted to qualify my statements that there's that perception.

CHAIRMAN FRYER: Thank you.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. This area of the county, as I stated, is probably the last area of the county that has really grown, and especially in the last five years, and that's along Collier Boulevard and certainly going out the East Trail as you head east on 41. And the price of homes have risen significantly. I mean, we're talking single-family homes that probably a year ago were fairly affordable; they're no longer affordable out there.

I want to know what size home are you looking -- this is a pretty high density. What size home are you looking at this site, Rich? Because I'm trying to understand what element of the market you're dealing with, because some of these homes at -- in some of these other neighborhoods, even homes that the builder has built now and -- certainly have gone up significantly. But what are we looking at? I mean, these are -- are these going to be 2,800 square feet? Are these --

MR. YOVANOVICH: They're going to be townhomes in the 1,500 to 2,300 feet.

COMMISSIONER SCHMITT: Okay. So the marketability --

MR. YOVANOVICH: Can I add -- there were some statements made that, while they're fresh in everybody's mind, I think it's fair that I be allowed to respond to. We never said we don't want teachers, we don't want firefighters --

COMMISSIONER SCHMITT: Right.

MR. YOVANOVICH: -- and we don't want sheriff's deputies to live in our community. We never said that. We never said that. So I need that to be clear on the record. We have a commitment right now. We have 296 units. 147 of those, which would be, like, 49.5 percent, if I could do that math in my head, are targeted to essential service personnel.

COMMISSIONER SCHMITT: Already?

MR. YOVANOVICH: Already, which is teachers, firefighters. A portion of those -- a portion of those are income restricted, okay. So we have -- so if you did -- and Commissioner Homiak did the math for you. If you added the 384, instead of it being 49 percent, it would be 21 percent targeted to essential service personnel. A portion, slightly under 10 percent, would have an income restriction associated with that. So don't -- the record can't say we don't want teachers and nurses and firefighters and sheriff's deputies to live in this community. That is not what we said.

Now, we are looking at a different -- we're not doing detached single-family. We would be doing townhomes that would fit the niche of price points that, hopefully, as you move up the educational ladder and you have two teachers working together, they make an income that is above gap. That's the problem is you have homes that if you have two firefighters that have any experience and make a decent living, they can no longer find a house in those price points. That's a niche.

COMMISSIONER SCHMITT: And that's my point.

MR. YOVANOVICH: That's a niche we're providing.

COMMISSIONER SCHMITT: These homes are going to be -- let's put it -- be frank. They're going to be



a townhome. They're going to be more affordable than Hacienda Lakes or Isles of Collier, Fiddler's Creek. I can name all the ones going down the street. These are going to be probably -- I would suspect, probably a half to three quarters of a million. That's probably what these homes are going for today.

MR. YOVANOVICH: Probably less than that.

COMMISSIONER SCHMITT: Probably less than that. But homes out there just have gone absolutely astronomical.

Let me ask staff, because I want to get the staff's -- and I'm reading this sentence: Staff recommends not supporting the proposed amendment. Staff could support the request if the affordable housing bonus was targeted.

If I read that sentence, what affordable housing bonus? There is no affordable housing bonus other than what exists. It sort of implied that -- are you asking for an affordable housing bonus? Because this sentence doesn't make sense to me. Read the sentence, if you would. Staff could support the request if the affordable housing bonus was targeted to income levels more in line with the existing affordable housing density bonus. But there is no affordable housing density bonus in this request, so what are we talking about?

MR. BOSI: There's an existing affordable housing density commitment that's in the subdistrict --

COMMISSIONER SCHMITT: I understand that. Are you -- is staff requesting that the affordable housing density bonus be expanded?

MR. BOSI: It's pretty clear -- yes, it's pretty clear. For the 384 --

COMMISSIONER SCHMITT: No, but, Mike, it is not clear, because you guys have not specified.

MR. BOSI: Okay. For the 384 additional units, we believe there should be a percentage of those that are dedicated to an income restriction --

COMMISSIONER SCHMITT: Did you state that in this -- I don't see that written in here. That's the first I've heard you say it. I mean, that was not a staff finding.

MR. BOSI: There was no number that was suggested. Staff is requesting that a percentage be set aside for affordable housing.

COMMISSIONER SCHMITT: And -- affordable housing.

MR. BOSI: Yes.

COMMISSIONER SCHMITT: But not -- not in any way clarifying whether it's rental or for purchase.

MR. BOSI: Staff is indifferent to rental or for purchase. We're looking for housing to be income restricted to be available for the individual working needs of this community.

COMMISSIONER SCHMITT: Above what's already been approved out there?

MR. BOSI: Above what's been approved.

COMMISSIONER SCHMITT: And the justification is because we think we should do it or there's past history for it or what -- that's what I'm trying to understand.

MR. BOSI: So the elimination of nonresidential land uses to residential land uses, and those residential land uses are going to create a need for additional -- additional services for those individuals homes, like I mentioned, for landscaping, for lawn care, for service workers, for housekeeping. So those are needs of occupation levels that are associated with income levels that cannot afford housing within this county. Because they are -- because they are exchanging nonresidential land uses for a land use that's going to create the need for additional workers, we believe there's an obligation that they should -- that they should provide for affordable housing to offset that increased need. That's the rational nexus for justification.

COMMISSIONER SCHMITT: I guess the clarification is "we believe there should be." But that, again, is a decision that would either come from us to validate that belief, or it comes from the Board.

MR. BOSI: Correct. And I would remind the Planning Commission of the first hearing related to the Inglesias church. And there was a tremendous amount of deliberation that was going on amongst the Planning Commission as to why you would include a nonresidential land use within the Golden Gate Area Master Plan, which is part of your Growth Management Plan, when it's currently not allowed. And the debate that went on, what's the public good that's going to allow us to say we're going to allow something that's currently not allowed that's above what the Growth Management Plan would call for? We feel that there needs to be an identified public good that's going to compel us to amend the Growth Management Plan

to allow for this use. That's the whole premise what we're asking for related to the affordable housing.

COMMISSIONER SCHMITT: I understand, but there was no requirement prior to this when the application first came in. I'm trying to understand the history of this. When the application first came in and there was an increase in density, at that time did staff turn to the applicant and say, well, yes, you're increasing density, and we -- to justify the increase in density, we want you to set aside a certain percentage of affordable housing. It appears that that conversation never took place until the staff report was completed.

MR. BOSI: I was a consultant with Johnson Engineering when this came in.

COMMISSIONER SCHMITT: I understand.

MR. BOSI: At the end of the day, the request was -- the request for affordable housing came from me, and it was late in the game; I agree. I agree. It was late -- it was late in the game, but they were asking for 384 units above what the current code allows for. And we felt that there could be -- there would be -- there should be -- and the discussion from the Planning Commission, as I said, where there was recognition for amending the GMP, there needed to be a compelling reason, and in their compelling reason, the Planning Commission had debated was, what's the public good that's being provided for, and we see the same --

COMMISSIONER SCHMITT: I could argue the public good is to eliminate what has been a project that's never been completed. The public good is eliminating uses that the community and the neighboring communities do not want in that area. I mean, those are all -- essentially, could be deemed to be public good. I'm waiting to hear from the public and see what the public has to say.

CHAIRMAN FRYER: Thank you. We're going to have --

COMMISSIONER SHEA: We have some more commissioners.

CHAIRMAN FRYER: -- Commissioner Shea and then Commissioner Klucik, please.

COMMISSIONER SHEA: Let's go back to ground zero. You threw out some numbers initially in terms of density, a 152. That's what they would be allowed to build under -- before they got the PUD approved for the -- or the growth amendment to go to the 4.3.

MR. BOSI: Yep.

COMMISSIONER SHEA: So they went from 1.5 or 2 to 4.3 and, in exchange, we got an affordable housing component.

MR. BOSI: Yeah.

COMMISSIONER SHEA: Now they want to go to 10, which is a much, much bigger increase. It's a whole new deal here. I'm like you. Why would we change -- what's the benefit to the public? I don't see the benefit of the public. And to me it would certainly set the trend in the future that we're going to get our backs put up against the wall about, well, you did it over here. Why would you want me to do an affordable housing when you gave in and allowed somebody else to do it?

And then the other question I have is, if they stay with what they have, they can't put any more homes on there, but they have that whole chunk of the property they can put something on. If they developed it within the current allowed uses, would that have more of an impact on our infrastructure, water/sewer, roads, or less of an impact with more housing?

MR. BOSI: A public facility analysis I don't believe was performed but, traditionally, the nonresidential -- the nonresidential uses would have created more traffic but less demands upon the utilities such as wastewater, solid waste, and potable water. So there's an exchange. Normally your nonresidential land uses do have a higher intensity of traffic attraction than your residential uses have in terms of generation.

COMMISSIONER SHEA: But to me, just in summary, as a representative of the public, to make this change without getting something in exchange just doesn't make good business sense to me. So I support your arguments.

CHAIRMAN FRYER: Thank you.

Commissioner Klucik.

COMMISSIONER KLUCIK: Yes. I guess at some point I'd like to hear from the petitioner about their openness to set aside or to -- you know, to reserve some of these new dwelling units, you know, within the project for the essential services, you know, the teachers and the firefighters. If that's -- you know, from my

understanding, that's different than straight affordable housing. That's making it available to people who we know are having, you know, concerns about, you know, living near where they work that provide, you know, these important services to the community.

And I guess that -- to me, that -- you know, that addresses, you know, what my colleague just, you know, talked about, that, you know, we would be making a huge concession, so to speak and, you know, to do that, you know, it does seem like we are looking to see, you know, is this a benefit to the public rather than just, you know, really grossly expanding the amount of units on this land. And then, you know, there's a lot of things at play. That could be the thing that, you know, could tip it over for some of us and the commissioners as well, and the County Commission.

MR. YOVANOVICH: Are you calling me up?

COMMISSIONER KLUCIK: Yes, yes.

MR. YOVANOVICH: I wasn't sure.

We have always been committed to focusing on marketing to essential service personnel. That's exactly what we did in the first half of the project. There's a period of time that we would market to those, and if essential service personnel did not want to live there, we should be allowed to then go to the general population, if I can use that term.

COMMISSIONER KLUCIK: And we can build that in as a requirement.

MR. YOVANOVICH: We can, and that's what we did with the eastern half of the project. There was a commitment for a period of time, and -- but that's a rental project, so that's ongoing. It's an ongoing. But if it's going to be for-sale, there would be a period of time -- and we need to think about what that period of time would be where we would market to essential service personnel, and then if they did not want to live there, we would move on to nonessential service personnel, like lawyers.

COMMISSIONER KLUCIK: And I'd ask Mr. Shea if that's the kind of thing -- I mean, does that get closer to what you're looking for, or is it --

COMMISSIONER SHEA: I think we would need to look at the whole plan in terms of income levels as well, not just essential services. But, again, the first deal is done. Now we're talking about the next deal, and there needs to be something, a quid pro quo for us to make such a major change in density to me.

CHAIRMAN FRYER: No one else is signaling at this point, so --

COMMISSIONER KLUCIK: And I'd just say, not necessarily quid pro quo, but we need to see that there's a -- it serves public policy.

COMMISSIONER SHEA: Yes, there's a benefit to the public that is gained from this.

CHAIRMAN FRYER: I want to be sure that we get back to Mr. Bosi to complete his presentation. But since there have been a lot of substantive comments made at this point, I want to just weigh in where my thinking is at this point without indicating how I'm going to vote, because I'm not yet decided.

But I am inclined in the same direction as Commissioner Shea for reasons that Mr. Yovanovich is well aware of, because we had a candid and fruitful conversation on the phone yesterday. And I understand where he's coming from. But I'm going to have some significant difficulty voting in favor of this unless there is something said that sets the stage or sets the table for affordable housing when it comes back on adoption along with the PUDA. And I just wanted to get that word out there, and then I want to give it back to Mr. Bosi, because we interrupted him.

MR. BOSI: And I appreciate it, Chair. But really, I mean, through the responses, I think I've articulated the stance. This really was -- it was really singular focused. We feel there could be an arrival -- a determination of compatibility with the density that's being sought. It's simply, we felt that a set-aside -- and as a suggestion, 10 -- currently, the way that the PUD provides for the 60 units that are income restricted out of the -- out of the 192 that they were provided for, which was 31 percent, we realize that that -- that that was one of the -- the give that was provided for that was associated with the original subdistrict creation. And we would think, from a staff's perspective, at least another 10 percent dedicated to an income level of the -- between the 80 and 120 percent would be appropriate. And we don't think that that would be a tremendous stretch because of -- because -- and even if there was concern that 30 years was too long based upon the current program -- and we do recognize that there are housing amendments that are coming through that shortens that time period -- we would be agreeable to a period of time less than the 30

years if the commitment was -- or the requirement that they were looking for a for-sale unit to something that better lined with what they're marketing could provide for.

CHAIRMAN FRYER: Thank you.

Mr. Eastman.

MR. EASTMAN: Mike, what you're saying in a reduction in time goes with my experience of being involved with these affordable projects that are for sale. And when someone buys a home, they don't want that long tail of the 30 years. It's a big obstacle and a hurdle to get over for that sale. And we experienced that in dealing with these projects in the past. That was a lot of the reaction to that. It's hard to make that successful, very hard. So shortening of the time frames provides a lot of flexibility.

CHAIRMAN FRYER: Thank you.

Anything further, Mr. Bosi, from staff?

MR. BOSI: No, thank you.

CHAIRMAN FRYER: Thank you.

Anything from the Planning Commission before we see about public comment?

(No response.)

CHAIRMAN FRYER: If not, Mr. Youngblood, what, if anything, do we have?

MR. YOUNGBLOOD: Mr. Chairman, I do not have any registered speakers for this item.

CHAIRMAN FRYER: Thank you. Anybody who is physically present in the room who's not registered but wishes to be heard, please raise your hand. Sir, have you been sworn in?

MR. LAWSON: I have not.

CHAIRMAN FRYER: Please raise your hand and be sworn in by the court reporter.

MR. YOVANOVICH: It's legislative, remember?

CHAIRMAN FRYER: You're right. Thank you. Thank you for catching. Thank you. Never mind. Come on up here, sir. And give us your name, and we'd be glad to hear from you.

MR. LAWSON: Yes, my name is Rodger Lawson. I'm the president of the HOA board at Naples Lakes. We're the property that is directly across the street from the area that you're talking about being developed. I have not seen the complete developed plan for this property, but I can tell you that in the last five years we have seen a virtual explosion of rental properties up and down 951, across Rattlesnake Hammock. And anybody that thinks that that doesn't come with a price to public service in terms of additional police protection, additional fire protection, traffic, noise, just the general problems that occur when we have a higher concentration of property is obviously not looking, I think, with clear eyes at what happens when we have that kind of development.

So I guess what I would say is, we would prefer to have property that is sold across from us, residential property, if that's going to be the development.

You've talked about affordable housing. I'm not an expert on affordable housing and the needs. I do see the need for essential service personnel. The discussion of having a 30-year lock-in seems to be ludicrous. How in the world are you ever going to be able to provide and control housing for 30 years -- affordable housing for 30 years? The more you shorten that period, the more you encourage people, of course, to come in and roll those properties.

So I think you've got a real dilemma here in terms of the whole issue of affordable housing. You go too long, you can't sell it. You go too short, you're creating a windfall situation.

My personal preference would be to have -- simply to have the market decide what ought to go in there. Let the market deal with rolling those properties at the time people want to buy and sell. I'd like to have them be residential properties, and I think that would be best for our neighborhood. And we do have a neighborhood there that has developed over the past 20 years.

That's my comment, and I'd be willing to answer any questions you may have.

CHAIRMAN FRYER: The only question I have, sir, is to ask you to please give me your name again.

MR. LAWSON: It's Rodger Lawson; R-o-d-g-e-r, L-a-w-s-o-n.

CHAIRMAN FRYER: Thank you, sir.

MR. LAWSON: You bet.

CHAIRMAN FRYER: Any other members of the public wish to be heard?

(No response.)

CHAIRMAN FRYER: If not, we will close the public comment portion, and before we hear from Mr. Yovanovich on rebuttal, I want -- looking at the hour, we need to either have a lunch break at around noon or a court reporter break. And what is the pleasure of the Planning Commission? We do have one more matter to be heard after this in the form of staff-initiated GMP language.

COMMISSIONER SHEA: Do you expect the additional matter to be long or --

CHAIRMAN FRYER: Well, it's something that we have to adopt.

COMMISSIONER SHEA: Yeah.

CHAIRMAN FRYER: I'm going to weigh in on it, but I'm going to end up having to vote for it because I think we're obligated to.

COMMISSIONER SCHMITT: We've already heard it once.

CHAIRMAN FRYER: We've heard it once.

COMMISSIONER SHEA: That's what I thought.

COMMISSIONER SCHMITT: And it's a statutory requirement from the state legislature.

CHAIRMAN FRYER: Yeah.

COMMISSIONER HOMIAK: It's word for word.

COMMISSIONER SCHMITT: Word for word.

CHAIRMAN FRYER: It's not quite word for word. We have to take what they've given. We could add some more. I'm not going to be calling for that, but I am going to want to make a statement about it before we vote. All right. So let's -- lunch in 15 minutes or a court reporter break in 15 minutes?

COMMISSIONER KLUCIK: Break.

COMMISSIONER HOMIAK: Break.

CHAIRMAN FRYER: Sounds like a break.

COMMISSIONER SCHMITT: Fifteen-minute break.

CHAIRMAN FRYER: All right. Mr. Yovanovich, do you have rebuttal, sir?

MR. YOVANOVICH: Just brief, just brief.

The discussion about affordable housing and the concentration of affordable housing has been an interesting one over the years because -- no disrespect to staff, but staff only counts neighborhoods that have an actual deed restriction or income restriction within them to count it towards housing that is affordable for people who provide service jobs.

In the old days of a DRI, which they don't exist anymore, that's not how you analyzed affordability, because DRIs had to provide for affordable housing. You looked at neighborhoods like Naples Manor to determine if that was part of the affordable supply.

The demand number was an easy one to calculate, but nobody ever wanted to count in the supply a neighborhood like Naples Manor. They only wanted to count Whistler's Cove, because it was an affordable housing apartment complex that had an affordable housing restriction in it.

The issue that the commissioner -- the former commissioner who was in -- the commissioner for this district had was housing like Naples Manor and the many mobile home parks that are right in this area and in East Naples were not counted as part of the affordable housing supply.

And that's where the overconcentration came from was there were areas that had moderately priced housing that people who were providing services could afford to either buy or rent, but they weren't being counted as part of the supply.

That's a philosophical discussion between staff and the commissioners, and they can decide what is the supply of affordable housing.

We are not opposed to affordable housing. We never have been opposed to affordable housing. Frankly, I probably have more affordable housing projects approved and for-sale product where people tried to do it as the townhome, and it didn't work because of the income restrictions. They were up on -- actually on Collier Boulevard further north, north of Vanderbilt Beach Road. But they tried the affordable housing density bonus for for-sale product and it just, frankly, didn't work because they couldn't find buyers.

So what we're saying is this piece of property with its current entitlements is not a good outcome for the community. I believe the community wants a residential for-sale product to happen on this piece of

property. We can't meet the 10 percent requirement that Mr. Bosi has put on the table for for-sale. Can't do it; we can't do it. So we'll have to go back, and we'll have to go do another NIM and put rental back on the table, if you will, if that's the will of the Planning Commission and the will of the Board of County Commissioners.

We think the public benefit is twofold: One, we get rid of zoning that we don't think is appropriate to occur at this property; and, two, we provide for-sale product at a price point that, based upon what we'll be putting there, the 1,500-square-foot to 2,300-square-foot townhome product, will be in the price points to serve people such as nurses, firefighters, teachers that will be able to afford to buy that unit, come to Naples, and stay in Naples, and be in a project that is a for-sale product that they'll like. And maybe they'll move someday. Who knows? They'll move to a different community but would have gotten them here in Naples. They will not be driving from Fort Myers. Naples will be their home. Collier County will be their home. And they'll move within Collier County unless they find a job somewhere that they ultimately decide to leave.

You want to get people who are in the essential service categories to live here and stay here, and we think we're providing that opportunity by converting this to a for-sale product. It's, frankly, for-sale product for people who live in the rental communities that are being approved to move into. It will be at a point -- probably at a price point, probably upper 3s, starting, mid 4s price range. Am I close?

MR. TORRES: Yes.

MR. YOVANOVICH: That's the price points that probably the market says. I'm not going to put that in the PUD, but that's the market, and that's a niche, and that's an area that we need in Collier County, not just this part of Collier County.

We could talk about a percentage of those being marketed to essential service personnel. We want -- we want teachers to live there. We want nurses to live there. We want firefighters to live there. We want sheriff's deputies to live there. We're happy to market towards those people for a period of time like we agreed on the other portion of the project.

It's really -- it's really up to -- it's up to you-all. I mean, if you want an affordability income restricted 81 to 120, it will be a rental project. We'll go through. We can do it. We can do it. We just can't do it as for-sale. That's not what the community asked us to do at the NIM.

I understand fully why Mike asked for this to go in. I told you early on, I'm not shocked. I just was -- I'm in a box. I had committed to -- I had committed to for-sale. I have to uncommit, which is fine. I'll go -- we'll go have a NIM and we'll tell everybody, you know, why we're here. Your call.

We're hopeful that you can see the benefits of what we're proposing and that you will recommend to the Board of County Commissioners that they transmit to the state what we're proposing and not what staff is proposing.

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: Yes. So what you're saying is, when you started out you said you can't do this and you have to go back for a NIM. What you're saying is, because of the commitment you made at the NIM, you wouldn't want to move forward with a change even if it was -- you were pressed into doing that by the -- you know, pressured into doing it because of what we're telling you?

MR. YOVANOVICH: Well, I made a -- the way it works, when you do a NIM, if you make a commitment, you have a commitment.

COMMISSIONER KLUCIK: Right, right.

MR. YOVANOVICH: That's why you'll see very rarely we make commitments at a NIM.

COMMISSIONER KLUCIK: Right. The only way you could avoid that is if you accepted the terms of the new condition, but you don't -- you're saying you can't do it because of -- it doesn't make sense financially, then, if you --

MR. YOVANOVICH: We cannot do owner-occupied 10 percent of those units or any percent --

COMMISSIONER KLUCIK: It's not viable financially is what you're saying.

MR. YOVANOVICH: It doesn't make sense. It does not make economic sense. We will go, and we will have -- I think it's fair that the residents -- the residents who attended the NIM and notified of the NIM prior to our having a hearing in front of the Board of County Commissioners know that that's potentially on the

table. You'd want to know that if it was happening in your community, and I'm sure that Naples Lakes wants to know that so they can -- their voice can be heard, because we have one person here who says he doesn't like that idea. He likes the for-sale idea. And it's important, through this process, that people know what's happening.

With that, I don't have anything further, because I know you have seven minutes. So I don't know how you're going to go, and maybe Terri can get her break.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: I've got two questions. What is being built -- I can't recall -- I know it came before us for approval -- at Collier Boulevard and Rattlesnake across from, what do you call it, Naples Lakes there at the corner as you go back into Hacienda? Is that an apartment complex, or are those single-family homes?

MR. YOVANOVICH: That was Hammock Park.

COMMISSIONER SCHMITT: Hammock Park.

MR. YOVANOVICH: Yes, 265 apartments.

COMMISSIONER SCHMITT: That's all -- 265 apartments. And those were all market-rate apartments?

MR. YOVANOVICH: There was a percentage, I believe --

MR. TORRES: I think we did 12, 14 percent at 100.

MR. YOVANOVICH: There was a percent of those rentals that were at the 100-percent-or-less category.

COMMISSIONER SCHMITT: So just for the staff, that's just off your picture here, but that's -- that's all apartment complexes. There's an apartment complex over -- just to the south of Naples Lakes. I know part of that is Lely development, or I think it is, if I remember, and there's several apartment complexes. And then -- there's one further north, another complex.

But -- and, Mike, apologies for kind of hammering you, but my frustration with this is to -- if staff wanted this to be an affordable housing density bonus, they should have informed the petitioner back in the formulation phase, and that's what should have been presented at the NIM.

My frustration is -- and when I read the report and I had this discussion with Rich, I said, we have this -- what is it that staff wanted? And you finally put it into words, but there was none of that in the staff report. It was sort of like, well, we really would like the affordable housing, but we don't know what, but why don't you, the Planning Commission, figure out what you want. I mean, that is just not the way to operate, and it was not the way to put a staff report together. That was truly my frustration with this.

Personally, I don't think this even should have come to us with the disagreement between the staff and the petitioner unless the staff agreed that, well, this is our petition and, petitioner, you can bring it forward, but then you punt to us, without any -- and there was none of that in the staff report. My frustration also is that there was -- that none of this was discussed in the neighborhood information meeting.

But with that statement being made, there is a high concentration of rental because the land was available on Collier Boulevard. The other one is currently under development at Rattlesnake. Yeah, that's a significant number of homes.

I don't agree with Paul, and I understand what Paul's saying but, again, I -- my real issue here is if they -- if we force the developer into a box because of the deed restriction and the requirements, they build a rental unit, we -- now, I don't know. I know the affordable housing staff does track rentals, and there's -- they claim -- the claim is that there's a significant need for rentals in this county, but I've got to tell you, rentals in this county are probably not affordable, a lot of the rentals that exist right now. They're pretty high.

But the -- if you're going to build a single-family home there, and we put some kind of restriction on it --

MR. YOVANOVICH: You mean multifamily? It's going to be for-sale.

COMMISSIONER SCHMITT: Multifamily for sale, and we put a restriction on it, who would have to manage that? You would, the developer would. The HOA or somebody would have to manage --

MR. YOVANOVICH: I guess it would be the individual unit owner because, for instance, by way of example, I sell the unit to Mr. Shea because he qualified --

COMMISSIONER SCHMITT: Right.

MR. YOVANOVICH: -- he's going to have to self report that he sold it to me who made the right income or else he's exposed, and I'm exposed as the buyer. The seller's exposed. It becomes an individual unit

owner.

COMMISSIONER SCHMITT: Who does the responsibility fall on to oversee all of that?

MR. YOvanovich: I'm assuming it's Collier County. It's Collier County, and they'll bring the code case against the --

COMMISSIONER SCHMITT: You know, I mean, there's not a second in place. There's not anything else like there is with -- with Habitat where there's an entity that manages the for-sales of Habitat because of this, their second -- but in this case it's the affordable housing staff that would have to manage it.

MR. YOvanovich: Yes.

COMMISSIONER SCHMITT: And I would have to ask staff, you know, what is the track record of managing it? Probably --

MR. YOvanovich: I don't know.

COMMISSIONER SCHMITT: Yeah. I would probably say that it's pretty difficult to manage it. But -- I don't know. I'm at a loss here. And I'll figure out where we're going to go with it, but thanks.

CHAIRMAN FRYER: Commissioner Shea.

COMMISSIONER SHEA: I'd like to get educated a little more. Joe started something that I don't fully understand. And my question was how does Habitat work that, because you do buy their houses. So now I understand they have a third party, basically, that manages the resale so you can't come in, buy it low and sell it high and --

COMMISSIONER SCHMITT: Habitat --

COMMISSIONER HOMIAK: Oh, yes they do, though.

COMMISSIONER SCHMITT: -- as an entity, holds a second mortgage, and they have to sign off on -- my understanding, they have to sign off on the second mortgage before it can be sold. Now, there's been a lot of discussion whether that's being done or who oversees it.

You know, there's a long history, and I don't want to get into that. But, yes, there is an entity that oversees it, and that's Habitat for Humanity --

COMMISSIONER SHEA: In the case --

COMMISSIONER SCHMITT: -- management staff.

COMMISSIONER SHEA: In the case here, if they were for-sale units, we would expect the county staff --

COMMISSIONER SCHMITT: Somehow there would have to be a legal instrument created that would require --

COMMISSIONER SHEA: Well, since we're doing so much with affordable housing, it would seem like you'd know the answer to that right now.

MR. BOSI: Yeah. There's a deed restriction that's placed upon the unit, and it's monitored by the Housing Department.

COMMISSIONER SHEA: Okay.

COMMISSIONER SCHMITT: And how many deed restrictions are in existence right now? What's the monitoring rate, the successful rate? You don't have to answer that, because I know it.

COMMISSIONER SHEA: So what does that mean, a deed restriction? So that you can only sell to somebody within a certain income bracket?

CHAIRMAN FRYER: A certain time frame.

COMMISSIONER SHEA: A certain time.

MR. BOSI: And there's a certain amount of appreciation that's allowed to be enjoyed by the individual owner who sells it, but it's capped at a specific percentage.

COMMISSIONER KLUCIK: Mr. Chairman?

COMMISSIONER SHEA: And the only other comment I had is I know -- I hear some of my colleagues saying that they're worried about whether there's too many rentals. I don't think it's our position to decide whether there's too many rentals. I think the market decides that.

COMMISSIONER SCHMITT: Correct, I agree.

CHAIRMAN FRYER: Commissioner Klucik, and then we're going to take our break.

COMMISSIONER KLUCIK: Yeah. I was going to say that as to the -- you know, as a practical matter, if someone comes to me for closing on a home -- and it's happened before with, for instance, the -- I think they



had some second mortgages that the county maybe is involved in -- and those kind of things show up on a title search, you know, so -- most people buy a home, they get title insurance, especially if they're getting a mortgage, and so that does show up, and it becomes -- it certainly isn't something that I could ever overlook, you know, or I would just say I can't do the transaction if we're -- you know, if we weren't going to be following the -- whatever the restrictions are.

So, it really -- I understand as -- oversight that the government has, it could be cumbersome, but I think the market or, you know, the normal course of business it gets -- it supports -- and there's great incentive in the normal course of business to follow all those restrictions.

CHAIRMAN FRYER: Thank you. Would you mind, Commissioner, if we wait for 15 minutes?

MR. EASTMAN: Just to support. It's two seconds.

CHAIRMAN FRYER: Go ahead.

MR. EASTMAN: It's all through title insurance, Robb. And I agree with you, and no title company's going to allow a transaction to go through with those restrictions.

CHAIRMAN FRYER: Ladies and gentlemen, we'll be in recess until 12:15.

(A brief recess was had from 12:00 p.m. to 12:15 p.m.)

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

CHAIRMAN FRYER: Thank you, Mr. Bosi.

Before I go to Mr. Yovanovich, I've got a couple of things I want to say. First of all, with respect to process. Not this matter particularly, but just so the Planning Commission knows, we get NIM transcripts in different forms. Sometimes we get them in writing. Sometimes we get a WAV file or an MP3 file, and I noticed that there was -- there was no transcript in these materials, so I was in contact with staff, and it turned out in this case the NIM materials were provided in the form of an MP3 file, and going forward those will be posted on CityView. So if you don't see what you're looking for in the staff materials by way of a NIM transcript, check out CityView. And if anybody doesn't know how to do that, staff can show you. And it's there, and it can be downloaded regardless of the size. And the second thing I want to say is to compliment Mr. Mulhere, who -- to compliment him because I listened very carefully to the MP3, and you did a very, very good job in hosting both in fairness and respectfulness to the speakers and yet politely insisting that everybody identify themselves and everybody use the mic.

MR. MULHERE: Oh, that's brutal.

CHAIRMAN FRYER: So thanks to you for the good job you did.

MR. MULHERE: You know, if I -- just quickly, about four or five years ago we started not only audio but video recording. And it's a little more expensive, but we do provide that information, and now it will be available to you. I think some people feel a little more comfortable just watching the meeting as opposed to just listening to it. You don't get the full context.

CHAIRMAN FRYER: Well, that's great. And so if you provide an audio and a video to staff, I hope they put that on CityView, because we can download very, very large files, maybe unlimited size.

With that, unless anyone else has an announcement or a comment of general interest, we'll go back to Mr. Yovanovich. Sir?

MR. YOVANOVICH: I think I'm just answering questions at this point. We were taking the break, I think that's where we were.

CHAIRMAN FRYER: Okay. Well, let me -- no one's signaling, so let me offer something here.

I'd like to find out if we could reach an agreement of some kind that recognizes a need for an additional public benefit in exchange for the 384 more housing units. And I'm not necessarily specifying rental versus ownership, but I've heard it mentioned, and I'm going to ask Mr. Bosi and Mr. Yovanovich, of course. If we were able to add an additional 10 percent, whether it's rental, ownership, I don't know that that matters, and put that on the new tract and have it to be offered to 80 to 120 percent of median income and have it -- if it is ownership, have it constrained or subject to the resale limitations limited to, let's say, a three-year period. Is that -- is that something that's even close to what the parties might be able to agree to? And I'll ask Mr. Bosi first.

MR. BOSI: The issue of resale, I mean, conceptually I understand. I've not been through the mechanics, not being on that side of the shop. But in terms of where staff is proposing amendments to the housing plan,

we were at five, and that's not very far from the five-year commitment that we are going to be proposing, so the staff wouldn't be in disagreement with that level.

CHAIRMAN FRYER: If that were -- and we'll find out where the applicant is. But do I interpret correctly that staff could subscribe to that as its recommendation if --

MR. BOSI: Correct.

CHAIRMAN FRYER: -- the applicant would -- okay. Thank you.

Okay. Mr. Yovanovich.

COMMISSIONER SHEA: Can I ask a secondary question?

CHAIRMAN FRYER: Please. We've got two. So go ahead. Commissioner Shea, you're first.

COMMISSIONER SHEA: Again, I don't understand the rules. But is it an option -- this is maybe for ourselves -- that we increase the commitment on the first parcel of land that -- the rentals go to a higher number in terms of a commitment to affordable housing and then allow the petition to go -- it's not possible?

MR. YOVANOVICH: That property is not -- that's owned by somebody else. As much as I'd love to gift them that commitment, I can't.

COMMISSIONER SHEA: Thank you.

CHAIRMAN FRYER: Okay. Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. Mike, has there been any thought about any type of program for down payment assistance? Because the -- here's the problem: Most of the rentals today, and maybe the housing staff -- because most of the rentals today probably the rents in Collier County now are exceeding probably what it would cost even for a mortgage payment, because rentals are in such high demand mainly because of the time frame and people can't afford the down payment.

So I think a more appropriate program for the county would be some kind of a down payment assistance program to get people into home ownership, because that's -- that's really what -- I think what we would prefer, we, as a society, when I say use the term "we," because it fosters a commitment to the community. But I don't know where we are with that, and I -- during the break I did ask Rich if -- I thought at one time we had a petition where there was an offer for down payment assistance versus a deed restriction and affordable housing, and I don't know. I don't -- I can't remember if -- what we did under that where the -- it was a petitioner that offered a down payment assistance to essential personnel. I don't know if that gets into an equal protection issue, though. That could be argued. You know, I'm not a firefighter, I'm not a policeman or whatever, therefore I'm denied under equal protection, but let them fight that in court.

So I just don't know. I don't know. I thought we did that at one time.

MR. BOSI: Your recollection's like mine. I thought we did have a down payment assistance program. I know we do have Jake LaRow from our Housing staff who may be able to explain a little bit more. But I thought we did have a program that did provide for down payment assistance.

COMMISSIONER HOMIAK: There was at one time.

COMMISSIONER SCHMITT: There was at one time, but I just don't know what -- I can't remember how the program works, but I believe this was offered by a developer, and the developer was going to make it as part of the promotion to get people into the home purchase rather than -- but let's see what Housing says. I'll throw it at the -- blame Housing. Are you the Cormac Giblin clone now or --

MR. LaROW: Yeah, the new Cormac Giblin, yeah. Jacob LaRow, manager, Housing and Grant Development and Operations with CHS, for the record.

So, yeah, lots of history, of which I want to profess some of my ignorance. I'm relatively new to the county; here six months.

I can speak generally to down payment assistance programs without getting too far into the weeds that we have had those programs in the past, and we still have a new construction assistance program that's supported through our SHIP, State Housing Initiatives Partnerships Program, through the State of Florida. We had a more robust, as I understand it, down payment assistance program in the past; however, I think, it is my understanding, the implementation of the program ran into issues with the Clerk, the Finance Department, and so it became relatively hard to implement and so, as a result, that went to the wayside. But, yeah, many of those programs do have a second or silent mortgage, of which is typically or usually secured by a deed restriction that runs with the land for whatever period of affordability that the program

may require.

COMMISSIONER SCHMITT: Because my -- as I said, my belief and my thought is to promote homeownership. That's the way -- I mean, year after year you can talk about studies, but that's the way people grow wealth. They really do. They grow wealth by owning a home. Owning the home is -- and this -- it's been argued and studied, but it is the way to grow wealth for people, especially as they're young folks and get them into homes, rather, but that's a decision they make. Home -- rent versus buy, but the homeownership is -- if they're going to stay in the community, is more desirable.

But, again, the hurdle is the down payment assistance or the down payment. I think the only ones that can probably get a loan today without down payment is through a VA loan. So I don't know. That's kind of where I'm at with this thing. I'm trying -- I'm trying to get homeownership is what I'd really like to see.

COMMISSIONER SHEA: Don't go away, Jake.

CHAIRMAN FRYER: Commissioner Shea.

COMMISSIONER SHEA: I wanted to ask Jake, I think along the lines of what Joe's thinking, but we're not experts on it. You've been around. What would you suggest how we -- is there any mechanism you could suggest we could bridge the gap and come up with a homeownership type setup that might be palatable to the petitioner?

MR. LaROW: Well, with respect to this specific project, I can tell you that we do have and have experienced previous programs such as the Neighborhood Stabilization Program that have implemented deed restrictions that are monitored. We have a compliance unit within CHS that monitors homestead exemptions for other programs that the county offers that benefit homebuyers or homeowners. So we do have the compliance and the ability to monitor that long term and, in fact, we're in the middle of that monitoring which has come up, discussion, I believe at the board level recently as well. So we're in the middle of completing that as we speak.

So regarding the specific offering of programs, due to the difficulties that I just referenced about implementing down payment assistance programs locally that's limited by the amount of grant dollars we have available within CHS, I have been in discussions -- for example, the NCH, they've had representatives meet with us regarding long-term affordability or just immediate affordability for their employees that they're looking to bring in. Also a discussion with the veterans potential hospital for coming in in terms of making housing affordable for folks that will be employed there.

So this is more long term, but I am looking into working with the Housing Finance Agency with Collier County to work with the state. The state Florida Housing Finance Corporation offers a lot of down payment assistance for eligible households and connecting people with other resources if it's not available directly through the county, so that could --

COMMISSIONER SHEA: I'm thinking more of the down payment coming from the developer. Selling it at a certain rate. Instead of reducing the rate, he would sell at what he wants to sell it at and give some of that money to the applicant as a down payment. Is that feasible?

MR. LaROW: Well, I do believe there's an existing project -- and I don't want to get too far over my skis here in terms of terminology. But NC Square, I believe, is an existing PUD that has an affordability restriction for owner-occupied housing, and people have reached out -- potential purchasers of that property have reached out to our division to inquire about what other assistance would be available. And so I've connected with them in terms of working with Florida Housing Finance Corporation, for example. But the -- I think getting into what might be offered in terms of down payment assistance from the developer, I'm not aware of something like that that's been done here locally and that would be -- you know, get pretty complicated, I would think. But that's certainly -- you know, I'm willing to work with and coordinate with the petitioners to -- if that's the direction we want to head in to see what might be available and we can look into.

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: Yes. Mr. Chairman, I'm ready to make a motion.

CHAIRMAN FRYER: All right. Do you want to be heard first, Mr. Yovanovich?

MR. YOVANOVICH: I can't tell.

CHAIRMAN FRYER: You'd like to know what the motion is first.

COMMISSIONER SHEA: This is a first. He couldn't say anything.

MR. YOvanovich: Going down memory lane at Collier County, when you've been here long enough, everything kind of goes in cycles.

COMMISSIONER SCHMITT: Yes.

MR. YOvanovich: We used to have a program where, at a closing of a unit, the developer would give to the county \$1,000 per unit that the county would then use for affordable housing projects wherever the heck Collier County wanted to use that, so then you could use -- the county could decide how it wants to -- let's just say we did 200 units in this project --

MR. KLATZKOW: We are not going down that road.

COMMISSIONER SCHMITT: That's the Affordable Housing Trust Fund --

MR. KLATZKOW: We are not going down that road.

MR. YOvanovich: You asked me about -- the problem with down payment assistance is the developer can't give a buyer down payment assistance, okay. You just -- you can't do it. So you're looking for a mechanism to help people get into units. The only way I could think of doing that is through the payment to the county who does have a down payment assistance program. So if memory lane's a bad memory, I'm okay. I just was, you know, suggesting that that -- so that's all I wanted to say before you --

MR. KLATZKOW: I seem to recall your calling it an extraction several times.

COMMISSIONER SCHMITT: Yes.

MR. YOvanovich: I never used those words. I had others.

COMMISSIONER SCHMITT: I did.

CHAIRMAN FRYER: Go ahead, Commissioner.

COMMISSIONER KLUCIK: So before I make the motion, I would ask staff how we could -- or even the petitioner how we could put the requirement in. So my motion would be that we approve it without the -- without any affordability change requirement but with the condition or the requirement that there be -- there be some property set aside and marketed to the essential services personnel. And what is the mechanism by which we could do that so that I could add it to my motion?

CHAIRMAN FRYER: Point of clarification, sir. Would that be in addition to 147? Are we talking about --

COMMISSIONER KLUCIK: Yes, yes, absolutely.

CHAIRMAN FRYER: Thank you. All right. Is there a second to the motion?

COMMISSIONER SCHMITT: I want to discuss that.

(Simultaneous crosstalk.)

COMMISSIONER KLUCIK: I want to know how to form my motion, yeah.

CHAIRMAN FRYER: I'll second it for the purpose of getting to discussion. Any discussion?

COMMISSIONER SCHMITT: So for clarity, you're making a recommendation but at -- you're asking for a set-aside of a certain tract that will be for affordable housing?

COMMISSIONER KLUCIK: No, that will be -- specifically that will be marketed to and set aside for exclusive marketing availability to essential services personnel so that obviously the homes would -- you know, they would try to meet that need because they would be restricted from marketing these particular homes to other people so, you know, there would be an incentive to make sure that they would meet that -- those buyers' needs.

COMMISSIONER SCHMITT: From what I heard you say is it's -- it would be a certain area set aside.

MR. YOvanovich: I understood a certain percentage --

(Simultaneous crosstalk.)

COMMISSIONER KLUCIK: Certain percentage of what you're selling is not -- you can't sell it to anyone for, you know -- again, I don't know how the conditions work, what we're allowed to do. But the idea is you're creating -- otherwise, these products don't sell, so, you know, you have an incentive to make sure you're creating something that people that are in these restricted categories, these essential services personnel, that it's a product that's attractive to them so that they will want to buy it, but you can't sell it to anyone else for a certain time period.

MR. YOvanovich: And I'm just throwing out what's already in the affordable housing agreement for

this project on the rental side for --

COMMISSIONER SHEA: That's a different project, you said. Totally different owner.

MR. YOVANOVICH: I know, but I'm just saying the concept. The concept's already there, so there's language that's already in --

COMMISSIONER KLUCIK: Right. So we can adopt that language but in a for-sale situation.

MR. YOVANOVICH: We would do it in -- you'd say the new 3- -- of the new 384 units, X percent would be exclusively marketed to essential service personnel for a period of X days, and after X days -- this is the concept -- it could then be marketed to someone who's not within the essential service personnel category. Is that the concept?

COMMISSIONER KLUCIK: It seems to me whatever that time period is, it needs to be meaningful where there's a real incentive for you to offer a product that would, you know, fit the needs of these people that we're trying to serve their needs; otherwise, it's -- you know, it's an exercise in showmanship.

CHAIRMAN FRYER: Right. I seconded for discussion. And let me -- before I call on Commissioner Shea -- I would want to see some more specifics at this time in order to garner my vote. I'd like to see 10 percent, and I'd like to -- I don't care whether we specify rental or sale. I think that can be up to the developer, but I think we need another 10 percent, and it needs to be between 80 and 120 percent of the mean -- median income, and I would propose that it be restricted for a period of three years.

Would you accept a friendly amendment to that affect?

COMMISSIONER KLUCIK: No.

CHAIRMAN FRYER: Okay. All right. So it's been moved and seconded, and you want to maybe -- well, I'm going to call on Commissioner Shea, but do you want to --

COMMISSIONER KLUCIK: Oh, no, because he added restrictions, as I understand it. That's what you did, Mr. Chairman?

CHAIRMAN FRYER: I did, yeah. I don't think first offers to essential services personnel are -- I mean, they're so easy to circumvent. You know, you offer it first to essential services at a price they can't afford, then that time expires, and then you offer it to the market. It doesn't work, in my judgment. And I've got -- and I know you want to speak, Commissioner, but Commissioner --

COMMISSIONER SCHMITT: And I'm trying to get an understanding on your second. You added income classification rather than essential services? Is that what you're saying?

CHAIRMAN FRYER: Yes.

COMMISSIONER SCHMITT: So it would have to be offered to those with 80 to 100 and --

CHAIRMAN FRYER: And the reason -- I picked up on what I think staff could live with. That's where I got that idea. I would -- I would be willing to change the wording to essential services personnel. Maybe you get to the same place that way, but conceptually -- and the other thing I'm doing --

COMMISSIONER SCHMITT: Well, I prefer that, because I've always had trouble with this equal protection.

CHAIRMAN FRYER: You prefer the 80 to 120?

COMMISSIONER SCHMITT: Eighty to 100, because that opens it up to anybody. They could be working in the tire store.

CHAIRMAN FRYER: Okay.

COMMISSIONER SCHMITT: But the real issue there, only for clarification, is they -- if it's a for-purchase, they still have to meet all the other financial requirements to qualify.

CHAIRMAN FRYER: Oh, yeah. And I'm also proposing a much shorter duration of this restraint. And I guess what I'm still proposing is an amendment to the main motion, that it be limited to a period of three years. After three years, it can go on the market to anyone.

And so I'm going to call on Commissioner Shea, and then I'll make a motion to amend the main motion.

COMMISSIONER SCHMITT: And that was that 10 percent of the units?

CHAIRMAN FRYER: Yes, sir.

COMMISSIONER KLUCIK: And just to clarify, what is the income requirement then?

CHAIRMAN FRYER: Eighty to 120 of mean -- median annual income.

COMMISSIONER KLUCIK: Okay.

COMMISSIONER HOMIAK: Is that even someone who could afford the fees? This is going to be --

MR. YOVANOVICH: At the end of the day -- just the reality is you're saying, Mr. Yovanovich, do a rental project and go tell the neighborhoods at the NIM that there's going to be a rental project, because that's what -- the income threshold you just gave us will result in a rental project. I'm not -- I just want you to understand the practical impact of what you've just said, and we'll go have our NIM and we'll say, sorry, we have to -- if the Board ultimately goes through with this, we have to change our commitment.

CHAIRMAN FRYER: Commissioner Shea.

COMMISSIONER HOMIAK: Can't you just go back to essential service and no income?

COMMISSIONER KLUCIK: Well, right, that's where it is now because I haven't -- I have not accepted the --

COMMISSIONER HOMIAK: Okay.

COMMISSIONER KLUCIK: -- the amended --

CHAIRMAN FRYER: I want to hear from Commissioner Shea, please.

COMMISSIONER SHEA: Well, I'll go back to the basic -- if I view myself as a businessman and the citizens are my stakeholders, not getting anything in exchange for making such a large change in density I'd be surprised if I had my job at the next board meeting. So I like where we're heading, trying to find something that we can sell the citizens, that we've done something -- we've gotten something good in exchange for allowing more density, and that's where we're kind of heading.

I would ask, Jake and Mike, what do you think about the proposal that Commissioner Fry [sic] --

MR. BOSI: Having a 3 percent -- or a three-year requirement is relatively minor. It does not force 10 percent of the units to be held with an individual who meets the qualification of 80 to 120 percent, and having that restriction of that unit for only three years, to me, does not force a multifamily development. It simply states that 38 units are going to be held for three years. There's no 30-year. There's no 15-year window. There's not even a five-year window. It's three years that they're held, and they're going to be reserved for income restriction, and then after three years that restriction goes away.

COMMISSIONER KLUCIK: After years of purchase?

MR. BOSI: Excuse me?

COMMISSIONER KLUCIK: Three years after purchase?

MR. BOSI: Yes, from the date of sale. Three years it has to remain income qualified, and then after three years, it's no longer income qualified. They could work around that.

MR. YOVANOVICH: Hold on a second.

CHAIRMAN FRYER: Go ahead.

MR. YOVANOVICH: Let's talk real numbers. A family of four makes roughly 83-, 85-? What's the number?

MR. LaROW: Eighty percent, four person --

MR. YOVANOVICH: \$67,440 for a family of four is the 80 percent number. That -- probably the price point that we could sell a house for is about 200,000, 250- tops for that?

MR. LaROW: That's the 90 percent average sale price provided by the IRS for Collier County, 400,000.

MR. YOVANOVICH: I'm asking you, what can you qualify for when you only make \$67,000? The rule of thumb I learned was three times your gross income is what you can afford to buy.

CHAIRMAN FRYER: Why don't you go look at 120 percent, which is the high end, rather than low end?

MR. YOVANOVICH: Okay. So pick that number. Three times that number -- 120 percent is what? You've got it right there, Jake. 101,000. So a \$300,000 home. You can't build it for that. Between the land costs, the construction costs, and impact fees and everything else that goes along with that, you're not going to build it for that.

CHAIRMAN FRYER: Well, you were telling us --

MR. YOVANOVICH: So you're going to be better off -- I'm just telling you the math. The math is going to push you to a rental project. Just -- I just want everybody to be aware of where it's going to go. I know Mr. Bosi says they can work around it, and I'm telling you the workaround is going to be you're going to do a rental project.

CHAIRMAN FRYER: Let me ask you this. Let's keep trying to see if we can resolve it. What about if it

goes to 140 percent, which covers the full gap?

MR. YOVANOVICH: 118,000. So now you're at 350-. I'm not sure we're there yet.

CHAIRMAN FRYER: Well, you were sure we were there when you were talking about running between 3- and \$400,000, and those were your words.

MR. YOVANOVICH: I said upper 3s is what I said.

CHAIRMAN FRYER: I didn't hear the "upper."

MR. YOVANOVICH: That's what I said, upper 3s.

COMMISSIONER KLUCIK: Are you saying that the entire project has to be rental, then?

MR. YOVANOVICH: The way you're doing -- the way we're doing this with 10 percent of the units -- either way, if I have any rental units, I'm having a new NIM.

COMMISSIONER KLUCIK: No.

MR. YOVANOVICH: There's a possibility of splitting the project into two.

COMMISSIONER KLUCIK: Excuse me. Just -- I'll clarify so I understand. There's got to be some -- in your mind, you know, the petitioner's mind, if we impose this restriction, then you have to rejigger the project, and some of it has to be --

MR. YOVANOVICH: Rental.

COMMISSIONER KLUCIK: Rental. And so that's all I'm saying is, it's not the whole thing turns rental. It's that a sliver of it turns rental.

MR. YOVANOVICH: Well, I don't know the exact numbers right now, Mr. Klucik, but a portion -- there's a possibility of a portion of the project being for-sale and a portion of the project being rental. We haven't done the math. We've looked at that as an option.

COMMISSIONER KLUCIK: Sure.

MR. YOVANOVICH: I'm not ready to tell you what that is. I've still got to go -- I've got to go now have a NIM.

COMMISSIONER KLUCIK: And then you do the NIM, but then -- so we pass it with that restriction, you have to do the NIM, but that's it. Then you've qualified -- or fulfilled your requirement to go ahead and correct the record so the people --

MR. YOVANOVICH: I will do that.

COMMISSIONER KLUCIK: -- understand, or do you have to come back to us again?

MR. YOVANOVICH: I'll be back to you at the adoption.

CHAIRMAN FRYER: Adoption.

MR. YOVANOVICH: But my --

COMMISSIONER KLUCIK: You will have been -- so in my view, where I'm at, I think the fact that what I would call a sliver of the project converts -- I understand that that's going to be, you know, something that, you know, the people that you promised to or -- you know, of course, they would have a concern to that. But I think a sliver of it being rental is pretty good considering, you know, that the alternative is is that, you know, it's probably not going to get the support.

MR. YOVANOVICH: Is staff comfortable -- I'm just -- let's -- if we're going to brainstorm?

CHAIRMAN FRYER: Go right ahead.

MR. YOVANOVICH: Are you-all comfortable with 100 percent of the units, whatever that -- let's just say 10 percent of whatever I build, okay, let's pick a number. Let's say we actually do 384 -- 38 units would have to be in the 80 to 120 category from what I just heard you say.

CHAIRMAN FRYER: I'll give you 140.

MR. YOVANOVICH: Rental. I'm just saying -- my next question was, are you comfortable with the 38 units --

COMMISSIONER KLUCIK: Being 80 to 120.

MR. YOVANOVICH: -- being -- all of them being rental?

COMMISSIONER KLUCIK: Those units would all be rental is what you're saying?

MR. YOVANOVICH: I know. But from a hypothetical -- my hypothetical was, I build 380, 38 units would have to meet those income thresholds. Are you comfortable with all 38 of those units being in the rental units and none of them being in the purchase?

COMMISSIONER KLUCIK: I would actually like to hear from each of my colleagues --

MR. YOVANOVICH: That's what I'm trying to understand.

COMMISSIONER KLUCIK: -- to see if everybody does feel comfortable with that.

CHAIRMAN FRYER: Fair enough.

COMMISSIONER HOMIAK: I like your motion to begin with without any --

COMMISSIONER KLUCIK: Without the income mentioned?

COMMISSIONER HOMIAK: Yeah.

CHAIRMAN FRYER: Okay. Anybody else want to be heard on where we are at this point?

COMMISSIONER SCHMITT: I'd just make a comment. We get into this exclusionary housing versus inclusionary zoning. You know, are we setting aside a certain area for low income and then the rest of it -- that becomes problematic and that's a whole other issue. So if we have rental and for-purchase, is just a rental what you're saying, just a rental for affordable housing?

MR. YOVANOVICH: Because under your new -- under your current program, I can't do that. I can't. I have to -- I have to mix and mingle them. So there would have to be a percent -- 10 percent of the for-sale and 10 percent -- the cumulative 10 percent, so I guess it would be whatever the number is, would have to be for-sale and a percentage would have to be rental under your current program. I don't have the ability -- I'm just asking you, are we talking about that as a potential option?

CHAIRMAN FRYER: Here's where I am on this: I'm not going to be able to vote for something that doesn't at least give a significant nod of a head to the concept of affordable housing. And I like Commissioner Schmitt's idea of not trying to say essential services because of potential constitutional issues. I'd go to 80 to 140 as opposed to 80 to 120. And just for those who may not know, that difference between 120 and 140 is gap housing, which is high-end stuff. And I think that that will have the effect of attracting the essential services personnel in a way that wouldn't offend the Constitution, if it would.

And as far as the need to have another NIM is concerned, sorry. I mean, I am surprised, with all due respect, Mr. Yovanovich, that you would have made any kind of an inadvertent commitment. I've never heard you make an inadvertent, so I have to think this is an advertent commitment.

MR. YOVANOVICH: It absolutely was, because that's what the community across the street wanted, and we said we will give you what you want.

CHAIRMAN FRYER: Well, out of the -- out of complete respect for you, I won't remind you of other details -- other deals where the community has not wanted what you're proposing and you didn't give a darn.

MR. YOVANOVICH: There were times my client wasn't willing to do it. It isn't me. I don't own any of this, as you know, but the client --

CHAIRMAN FRYER: I won't mention any names; One Naples. Okay.

All right. So, I mean, I would like to see if we can't now plow forward and reach an understanding recognizing that if we pass something and you say, I'm not sure I can live with this, you can -- I mean, we're just advisory to the Board of County Commissioners.

MR. YOVANOVICH: I understand.

CHAIRMAN FRYER: And between now and when you meet with them and between then and when you come back for adoption, you may have a different plan that is just as appealing to us with respect to dealing with the community issues and obtaining some benefit for the community in exchange for 384 more housing units and a density of around 10 dwelling units per acre, which is very high.

I mean, you can be creative and you can work through that and come back and really have a win-win. But for me to be voting in favor of this, I've got to have a significant nod of the head to affordable housing because, without that, I just don't think that -- I think it's a giveaway of density, and that's not what the -- I don't think that's what the Board of County Commissioners is wanting to do.

Anybody else want to be heard?

(No response.)

CHAIRMAN FRYER: All right. So we've got -- where are we on the motion?

COMMISSIONER KLUCIK: So far I have not amended the motion. Like I said, I would like to know who would support it as I've made the motion.

CHAIRMAN FRYER: You want to restate it for everybody? It might be a good idea.



COMMISSIONER KLUCIK: Yeah. So I'm just -- that we impose 10 percent must be marketed to essential services personnel and nothing more. And so I'm trying to find out if we have support for that.

COMMISSIONER SCHMITT: And no time frame associated with that?

COMMISSIONER HOMIAK: Yeah.

COMMISSIONER KLUCIK: For -- I don't know -- for two years.

CHAIRMAN FRYER: Well, if we're talking about rental, it's going to be in days.

COMMISSIONER KLUCIK: That's right.

MR. YOVANOVICH: Mr. Klucik, we usually have dealt with -- we have said in the Comp Plan that you have to have a time period, and we have usually put in the PUD what that time period is. You'll see that at adoption. I can't tell you today two years works. I would like some time. Yes, the concept works.

COMMISSIONER KLUCIK: Okay. I'm willing to leave that part open-ended, that they have to come back to us with a time period, but it's -- that can be determined later, and we can vote on it.

CHAIRMAN FRYER: Okay. So you're 10 percent, and you want essential services rather than the percentage?

COMMISSIONER KLUCIK: Yes, yes.

Okay. Do you want to go down the line and see -- Commissioner Schmitt?

COMMISSIONER SCHMITT: Well, again, as I discuss this issue of essential services personnel, what is our legal definition? And then it gets -- I always had a problem with this because it gets into the whole equal protection issue.

COMMISSIONER HOMIAK: We've been using it.

MR. KLATZKOW: But correct me if I'm wrong, doesn't the LDC define essential services?

COMMISSIONER SCHMITT: That's what I'm asking.

MR. KLATZKOW: We have a definition.

COMMISSIONER KLUCIK: So I would be happy to use that definition in --

COMMISSIONER SHEA: Does it define it by income level or just position?

MR. YOVANOVICH: By occupation.

MR. BOSI: Occupation.

COMMISSIONER HOMIAK: This is a Growth Management Plan amendment, not the PUD.

COMMISSIONER KLUCIK: Correct.

COMMISSIONER SCHMITT: And it's never been challenged, so I'll support -- I'll support the motion.

CHAIRMAN FRYER: Okay.

COMMISSIONER HOMIAK: I'm going to support it.

CHAIRMAN FRYER: Okay.

COMMISSIONER SCHMITT: You do?

COMMISSIONER HOMIAK: Yes.

CHAIRMAN FRYER: Mr. Eastman, what are your thoughts? You aren't a voter, but what are your thoughts? I'd like to know.

MR. EASTMAN: I'm glad that you're making affordable housing part of it. You just have to do it in a way that's workable for the developer so they can have a successful project, and I think that's an important restraint you need.

COMMISSIONER KLUCIK: Mr. Eastman, do you vote on this?

MR. EASTMAN: No.

COMMISSIONER SHEA: No, he doesn't.

CHAIRMAN FRYER: No.

COMMISSIONER KLUCIK: Then that's my motion.

CHAIRMAN FRYER: Okay. And I want to hear from Commissioner Shea, and then I'll speak.

COMMISSIONER SHEA: I just don't think it's far enough. I don't -- for doubling it. My initial reaction is no.

COMMISSIONER KLUCIK: How about making it 20 percent?

COMMISSIONER SHEA: I guess it gets -- it gets away from -- when you get into essential services versus setting the income levels -- to me, affordable housing should be based on the income levels, and if your

essential services people are in those income levels, they qualify, and you don't get into a situation that Joe worries about, which is the equity. So I would say no.

COMMISSIONER KLUCIK: So my motion is to adopt it as it's been presented today with the additional requirement of adding 10 percent essential services personnel with the time period to be adopted when it comes through the second time.

COMMISSIONER HOMIAK: I'll second the motion.

CHAIRMAN FRYER: Any further discussion?

(No response.)

CHAIRMAN FRYER: I will -- I will vote in favor of it because a significant nod has been given to affordable housing. I'm still -- when it comes back, I'm going to be leaning to where Commissioner Shea is. But at least for the purposes of transmittal, I'm going to be supporting this motion. And I'd also like to ask that if -- when the -- when the consultants and counsel and the applicant meet together and try to identify other ways that are more favorable to the applicant that would still satisfy our concerns, I'd like to hear those at the time of adoption. We're not trying to unduly hamstring your ability to sell or rent properties, but when you're asking for over twice the dwelling units per acre, I think it's important that we have a significant concession to the county. And I would have gone with TDRs. I would have gone with an MPUD so that we would get a reduction in traffic by means of internal capture and the like. There are a number of variables here that could make me be willing to vote for adoption when it comes back, but I'm really going to be looking very, very carefully at that time for a meaningful benefit to the public for the additional density being requested.

Having said that, is there any further discussion?

COMMISSIONER SCHMITT: Yes, I do have a -- the additional request of staff for religious organizations, the language that was offered on the staff report, Page 1678, religious organizations, Group 8661, limited to churches and religious organizations shall be permitted to continue within Tract A for a time not to exceed five years from the date of approval of the ordinance or until such time that a Site Development Plan has been approved for the development of residential units within Tract A, whichever occurs first. After five years from the date of approval, this ordinance -- or when an SDP has been approved for the residential development within Tract A, the identified religious organization use shall cease and is no longer deemed permitted.

Further, if the structure of the religious organization is to be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed, and that was language offered by staff, and I would support that.

CHAIRMAN FRYER: And I'm glad you flagged that, because I saw that as well. And staff is recommending that if we do affirm this, that we include that.

COMMISSIONER SCHMITT: In simple terms, the church can stay until the development is approved.

MR. YOVANOVICH: Five years.

COMMISSIONER SCHMITT: Or five years.

COMMISSIONER KLUCIK: And I would be happy to accept that amendment to add that.

CHAIRMAN FRYER: And the second --

COMMISSIONER HOMIAK: So would I, yes.

CHAIRMAN FRYER: Okay. Good. So we've -- we're ready to vote now. The motion has been seconded, and the church condition has been added, and the language of 10 percent for essential services for a time period to be determined has been added, and I think that's where we are. If there's no further discussion, all those in favor, please say aye.

Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: Aye.

CHAIRMAN FRYER: Opposed?

COMMISSIONER SHEA: Nay.

CHAIRMAN FRYER: Thank you. It passes by a vote of 5-1 -- 4-1. Thank you.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, Commissioner Klucik.

COMMISSIONER KLUCIK: And I would just like to comment that, you know, we normally don't do that, but I took the poll of everybody because I didn't want to be in that situation. When I first got here, we voted on something quite intense, and that we were almost to the point where we could have agreed and in the end we voted, and it didn't work, and then I thought we could have done something else, but we didn't do anything else. And so then the whole thing just kind of seemed like it petered out. And so that was why I asked to poll my colleagues. And I think that's a good way to proceed so that we don't end up hamstringing ourselves.

CHAIRMAN FRYER: Yeah. I'm in complete agreement, and my predecessor, Mark Strain, would frequently attempt to work things out from the dais. And so any means that we use, whether it's polling people or making suggestions -- and the way we worked this out is we got to a 4-1 vote. And if we hadn't made the inroads that we did, it would have been a 3-2 vote. So thank you for doing that.

And without further ado, thanks to the applicant.

And it is 12:55. I'm guessing that it is the wish of the Planning Commission that we plow forward. All right. We may have to take another break, but we'll watch the clock and be sure that we're on target, so... (Commissioner Klucik left the boardroom for the remainder of the meeting.)

COMMISSIONER SHEA: Is this a vote? Do we need to vote on something?

CHAIRMAN FRYER: Well, we do. We've got one, two, three, four.

COMMISSIONER SHEA: He just left.

CHAIRMAN FRYER: I know he did. He said he was going to. We've got four, so we still need a quorum. And I am going to go here.

\*\*\*The fifth matter today is PL20210001793, a staff-initiated Growth Management Plan amendment. It's now before us for adoption. We've already seen it at transmittal. It's legislative only, so we can proceed directly to staff's presentation. I -- we've already indicated that it's pretty much a -- we could make amendments to add things, but we can't really take things out.

I am probably going to vote to accept it in its present form without any amendments, but I am going to want to make a statement at the end about -- well, you'll see when I make my statement.

So without further comment, Mr. Bosi, you have the floor.

MR. BOSI: Mike Bosi, Planning and Zoning director.

This was presented to the Planning Commission in August of this year. It's a requirement of the State of Florida that we adopt a property -- private property rights element within our GMP. We are not allowed to process any future Growth Management Plan amendments until we provide for adoption of the property rights element with -- into our GMP. This is second time you've heard it, as I've indicated, at adoption.

We are -- we are suggesting to utilize the state minimum standard in terms of what was suggested in terms of what should be in it. And with that, any questions that you may have of staff..

CHAIRMAN FRYER: Any questions or comments?

(No response.)

CHAIRMAN FRYER: All right. Takes me to my comment, I guess.

As Mr. Bosi indicated, this is pretty much mandatory to the extent of at least adopting the language that has been put forward by the state legislature. We could have added material. I don't think that is sensible at this point.

So the Florida Legislature, by means of a new statute, has sought to highlight some of the bundle of rights that together add up to what you might call ownership of private property, but those sticks in the total bundle are not the only ones, and they're not necessarily even the most important ones. There is also, just to name one additional aspect of private property ownership, the right of what is called quiet enjoyment. Now, that's a right that is seen most frequently these days in lease covenants, but it goes back really to the very beginnings of this country when you read the language in the Federalist papers and also Consti -- rather U.S. Supreme Court cases that have come along. The right of quiet enjoyment is just as fundamental as the other rights that have been enumerated in this new statute.

And so in my view -- this is where I want to tie it to what I think is of concern to us -- and it follows a

thought that I've had for some time and reinforced in a conversation I had with the County Attorney a little while ago -- that we grant Growth Management Plan amendments almost wholesale. I mean, it's a -- it's to a point where instead of being an exception or a rare exception, it is -- it is becoming something that is almost always tacked on along with a PUD amendment. And I think that we've gotten that backward because, in my view, extreme incompatibility can become such an infringement particularly when it results from a legislative alteration of the reasonable expectations of a neighborhood. And the reasonable expectations of the neighborhood are built into the Growth Management Plan.

So when we upset those expectations by amending the Growth Management Plan, it, I think, can reach a point where it has tread unfairly and unreasonably upon the fundamental property rights, including a private enjoyment. And so I caution us all against, as we go forward, focusing only on the statutory indicia sticks, if you will, of the bundle of private ownership and recognizing, as we take our actions, that there are a lot of indicia or sticks of ownership, and they all are of equal dignity, I believe, and we should -- we should consider them because, otherwise, you're going to get a situation where a proposed use -- and, again, I won't -- I won't mention any particular developments to be singled out.

But you get to a point where a proposed Growth Management Plan amendment has become so disruptive and so disturbing in the form of a Growth Management Plan amendment that I believe it arguably infringes upon another property owner's constitutionally protected property rights.

So I'm just -- all I'm saying is, you know, I'm going to vote for this thing, but it's not an exclusive and an all-encompassing statement of all the sticks or the indicia of property rights that we need to focus on. And we're an instrumentality of the State of Florida. We're just as bound to respect not only those property rights that have been enunciated in the new Florida statute and in this proposed ordinance, which are very important rights, to be sure, no doubt about it, but also under the United States Constitution, the equally sacrosanct rights of homeowners and others who may lack the resources or lobbying power to get their chosen sticks of the bundle featured in a new state law.

Thank you very much.

I'd entertain any other questions, comments, or remarks anyone would make.

(No response.)

CHAIRMAN FRYER: Do we have anything further from staff on this?

MR. BOSI: Nothing further.

CHAIRMAN FRYER: Okay.

COMMISSIONER HOMIAK: I'll make a motion to recommend adoption.

COMMISSIONER SCHMITT: Second.

CHAIRMAN FRYER: It's been moved and seconded that we recommend adoption of the GMPA that's before us. Any further discussion?

(No response.)

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

COMMISSIONER SHEA: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously.

Thank you, Planning Commission. Thank you, staff.

\*\*\*Now, the last matter that we have before us has to do with notification distances, and I'm going to vamp here until I get to my notes.

Okay. So we had asked staff to report back to us with respect to the distances that are -- that are included in the required notifications for various parts of the county and -- in connection with a rezone, in connection with a quasi-judicial matter of any kind. And so staff has gotten back to us on that, and I think we want to talk about it and decide if the limitation is -- if the -- if the boundaries are sufficient or should be made larger, and I'll turn it over to Mr. Bosi.

MR. BOSI: Thank you, Chair. And just real brief.

The summation -- and it tries to give you a history of, you know, the distance notification when they were imposed, where they apply from a geographic area in some of the other like communities and jurisdictions in terms of what they provide for. The long and short of it is within the urbanized area we have a 500-foot notification; within the rural area, it's 1,000-foot; and then within the Golden Gate Estates, it is one mile, which was just recently increased from 1,000 feet endorsed by the Planning Commission and then ultimately --

CHAIRMAN FRYER: And that's both Rural and Urban Estates?

MR. BOSI: Yes, correct.

From staff's perspective, the distance that the property notification letters reach within those geographic areas as well as the signage as well -- that is required to be placed on property, as well as the newspaper advertisement, we feel that the distances that we currently have are adequate to provide the required notification and the public awareness that we're trying to promote. And particularly the signs. If you're within an urbanized area and you live within a half mile of a site, you're going to see that sign because you're going to drive by it a number of times because it's in proximity.

As you get further out to the rural areas, the 1,000 feet reaches the affected neighbors because the properties are normally so large. And the Estates have an exceptionally large period [sic], but we understood why that was, because of the larger streets and the separation of the houses.

So from staff's perspective, we think we have the right distance measures, but we defer to the Planning Commission if you feel that there's an area that you think needs to be increased or a notification needs to be improved in that regard.

CHAIRMAN FRYER: Thank you. And just to put this in the proper agenda perspective, I skipped over old business. And I wasn't aware that there was any. I don't think there is any, but if there is, we'll loop back after this item, which is actually 11A, new business.

So what do the planning commissioners think about these distances? As Mr. Bosi mentioned, we've got 500 for Urban, 1,000 for Rural, and one mile for Rural and Urban Estates. Does that seem like the right number? Let's all remember that we've had members of the public come in and tell us, not on just one occasion, but multiple times that these distances are not large enough and that they exclude people, particularly in neighborhoods.

Mr. Bosi?

MR. BOSI: I would remind you that they were all at the meeting, though.

CHAIRMAN FRYER: Yeah. Well, that's a good point. They were. But we don't want to -- we don't want to take away the opportunity of residents to be heard at NIMs.

COMMISSIONER SHEA: So is the reason Rural is 1,000 and Estates is a mile is because the Estate lots are so much larger than rural? I don't know what rural -- what the difference is.

MR. BOSI: The rural agricultural lots are much larger than the two-and-a-quarter acres of the Estates.

COMMISSIONER SHEA: So why wouldn't the rural be at least the same as the Estates -- as Golden Gate Estates?

MR. BOSI: Because normally one mile, you're still within the same parcels because the parcels are large parcels.

COMMISSIONER SHEA: Oh, really?

CHAIRMAN FRYER: Five miles.

MR. BOSI: Yes. So that's why the difference between the Estates, why it would seem somewhat inconsistent, but the rural -- the Estates with those two-and-a-quarter acres at 1,000 -- at 1,000 feet, you were only getting three parcels or four parcels away from a project. So we wanted to go a little bit further.

CHAIRMAN FRYER: Mr. Eastman.

MR. EASTMAN: So you're talking about notice letters that are sent out to property owners? Is that --

MR. BOSI: Yes.

MR. EASTMAN: Okay. So the school district, before purchasing properties, is required to do the same thing, and it's fairly extensive. I mean -- and I ask the Property Appraiser's Office to determine that so that I have an independent third party telling me who's within 500 feet, who's within 1,000 feet, and then I just

follow the list. And the list is pretty large.

And also you have -- when it's something that's very, very objectionable, people tend to elicit their other neighbors or talk to their other neighbors. So it's kind of a ripple effect down the line. If you expand this, the list of names is going to be very -- even much, much larger. It's served us pretty well to date. That's my opinion. I think the notice has -- in my personal opinion and experience, it has been sufficient and working well.

CHAIRMAN FRYER: Does the school district use the 500, 1,000, one mile that the county does?

MR. EASTMAN: We do.

CHAIRMAN FRYER: Thank you. And this would be something -- I mean, we couldn't change this unilaterally. We could recommend to the Board of County Commissioners, it would be an ordinance change, if we think something needs to be done. And if -- maybe this is a case where it ain't broke, so don't fix it. And we asked for this report; we're getting it. And, Commissioner Schmitt.

COMMISSIONER SCHMITT: I am comfortable with the ordinance as written. I think that it's sufficient. The only key, though, is in many developments, large developments, that oftentimes I think it's -- what you need to do is contact the HOA or somebody that is -- may not be within the 500 feet, but the HOA president or the entity that manages the property so that they can put the word out. Go ahead, Ray.

MR. BELLOWS: For the record, Ray Bellows. Our applications do require the HOA's --

COMMISSIONER SCHMITT: That's what I thought.

MR. BELLOWS: -- civic association.

CHAIRMAN FRYER: So that's a matter of staff policy?

MR. BELLOWS: That's correct.

CHAIRMAN FRYER: Okay.

COMMISSIONER SCHMITT: Oftentimes those letters just go out. They're shotgunned, and somebody looks at it and goes, I don't know what this is. You could say that about the sign. You're driving 50 miles an hour up Collier Boulevard, and you see a sign and, I mean, in order to know what it is, you really have to stop and read it. But at least, you know, oh, hey, they're going to do something here. I better look this up. But the real piece of all this is to inform the public where they can access the information. And it's easily now -- much easier now than it was years ago because of CityView, publishing the notice -- the agenda notice, and making everything available that they can download. But that's the key is making sure they're informed. But you pick a big development. The plan may not be -- whatever's being proposed is outside the 500 feet. But, again, it's key that people within the big community know what's going on. And I have to depend, again, on the HOA or the management entity or whomever that may be.

CHAIRMAN FRYER: I would -- I'll get to you, Mr. Eastman, if I may, but I just want to tag on to what Commissioner Schmitt said. Would it be -- and maybe this is part of your policy. But in addition to HOAs, what about the CRA advisory boards? What about civic associations like the Golden Gate Civic Association; do notices go to them as well?

MR. BELLOWS: For the record, Ray Bellows.

We do civic associations, but what was the other one you mentioned?

CHAIRMAN FRYER: CRA advisory boards like --

MR. BELLOWS: We do try to coordinate with them. It's not listed in our procedures, per se, but I know we do have a list on our application at the pre-app that they should be contacting the CRA.

CHAIRMAN FRYER: If the Planning Commission asked staff to make that part of its staff policy to notify them as well, would that be a hardship of any kind?

MR. BELLOWS: No. Actually, it might be, because I'm thinking about it. Our applications do reference the CRAs, but we'll double-check that.

CHAIRMAN FRYER: Okay. CRAs and civic associations? Good. Would anybody object to the notification being sent to them?

COMMISSIONER SCHMITT: The only comment I have with civic associations, they would have to be registered with the county or somehow officially identified.

CHAIRMAN FRYER: How do we know then?

COMMISSIONER HOMIAK: Homeowner list.

MR. BELLOWS: There is a registration process for civic associations.

CHAIRMAN FRYER: Okay. Good. Good.

Mr. Eastman.

MR. EASTMAN: I don't really see a big problem with notice. Where projects are extremely objectionable, you've even seen citizen movement where they get their own consultant, their own lawyer, their own website, and social media and communication things these days, I think that, you know, if you're just outside -- if you're the next house outside of the 500 feet, you're probably going to hear about it if it's a significantly objectionable project. You know, for the minor things where people look at the notice and they're like, oh, this person wants to do something minor, they throw it away, there's not a lot of talk and a lot of community communication about that. But for the significant things, I think the public is pretty aware.

CHAIRMAN FRYER: Go ahead, Vice Chair.

COMMISSIONER HOMIAK: So if there's a Growth Management Plan amendment on Isles of Capri, Goodland, or Everglades City, does everyone get mailed?

MR. BOSI: A thousand -- or it's 500 feet of around the property's perimeter. That's where the notification would be, because those are considered urbanized.

COMMISSIONER HOMIAK: And conditional use the same?

MR. BOSI: I'm sorry. What?

COMMISSIONER HOMIAK: Conditional use.

MR. BOSI: Same distance notification.

COMMISSIONER HOMIAK: Does 500 feet cover -- it doesn't cover everyone in a small area, though.

CHAIRMAN FRYER: That's true. Would you like --

COMMISSIONER HOMIAK: I mean, something like -- those areas are small. I would think everybody should be notified.

MR. BOSI: We have a standard of 500 feet within the urbanized area. If an area is small, normally those are close-knit communities. If someone finds out about a project that's going on, they're required to have a sign on site. And if it's -- the description of the areas that you're -- Everglades City, Goodland, they're small areas. There's signs that are required. The notification goes out to 500 feet. The people talk. There's -- I mean, when we get to -- we were talking about affordability earlier. Every aspect of additional regulation and additional cost goes and stacks against that. So we try to weigh the notification against additional cost, whether it be through additional landscaping, additional -- whatever the development standards. But we feel that it has served us well. We did agree that increasing the Golden Gate notification to 1,000 was appropriate. We feel that the projects become very public if there's any controversy within the area. And Mr. Eastman points out, not only is there opportunities, you know, with notification and the sign and advertisement, but social media as well provides for cross-communication as well. Staff does feel that even within -- such as Goodland, notifying every single property owner on there, I'm not sure if that's necessary to get the word out in the appropriate manner. I think the three avenues that we have definitely provide for awareness, but we will defer to the Planning Commission.

CHAIRMAN FRYER: Is there a civic association for Goodland and the others; Everglades City?

MR. BOSI: Ray Bellows, for the record.

Yes, I have had a lot of projects done in Goodland, and we work with a civic association down there.

CHAIRMAN FRYER: Okay. And what was the other one that you mentioned, Vice Chair?

COMMISSIONER SCHMITT: Isles of Capri.

CHAIRMAN FRYER: Isles of Capri.

COMMISSIONER SCHMITT: Pretty active.

CHAIRMAN FRYER: Civic association there, too.

COMMISSIONER SCHMITT: I don't know if there's a civic association there.

MR. BELLOWS: I don't know about a civic association.

COMMISSIONER SCHMITT: What I could tell you is if there's going to be a petition, the people on Isles of Capri will know about it.

MR. BELLOWS: As with the food truck park, yes, we got hundreds and hundreds of letters.

CHAIRMAN FRYER: Okay. Anybody else want to speak on this?

(No response.)

CHAIRMAN FRYER: If not, I'll make a motion, see if we can move it forward. I move that we keep the distances the same, plus that we recommend to staff that they change their policy or assure that their staff policy calls for notifying, in addition to the HOAs, also civic associations and CRA advisory boards. Is there a second?

COMMISSIONER SHEA: Second.

CHAIRMAN FRYER: Any further discussion?

(No response.)

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

COMMISSIONER SHEA: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: Thank you. It passes unanimously.

Any public comment on matters not -- no one is registered, according to Mr. Youngblood's shake of head. All right. Without further ado, without objection, we're adjourned.

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There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 1:16 p.m.

COLLIER COUNTY PLANNING COMMISSION

EDWIN FRYER, CHAIRMAN

These minutes approved by the Board on 2/17/22, as presented  or as corrected \_\_\_\_\_.

TRANSCRIPT PREPARED ON BEHALF OF  
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