TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
September 18, 2025

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:

Joe Schmitt, Chairman
Chuck Schumacher, Vice Chairman
Paul Shea, Secretary
Michael Petscher
Michelle L. McLeod (appearing remotely)
Amy Lockhart, Collier County School Board Representative

ABSENT:
Randy Sparrazza
Charles "Chap" Colucci
ALSO PRESENT:
Raymond V. Bellows, Zoning Manager
Mike Bosi, Planning and Zoning Director
Heidi Ashton-Cicko, Managing Assistant County Attorney
Courtney DeSilva, County Attorney's Office
Ailyn Padron, Management Analyst I
James Sabo, Planner III

P R O C E E D I N G S

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

CHAIRMAN SCHMITT: Thank you. And good morning, everyone, and welcome to the September 18th, 2025, Collier County Planning Commission.

I ask that we please rise for the Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN SCHMITT: Okay. Thank you.

Commissioner Shea, would you please take the roll.

COMMISSIONER SHEA: Chairman Schmitt?

CHAIRMAN SCHMITT: Here.

COMMISSIONER SHEA: Vice Chair Schumacher?

COMMISSIONER SCHUMACHER: Here.

COMMISSIONER SHEA: Secretary Shea is here.

Commissioner Sparrazza is not here.

Commissioner Colucci is not here.

Commissioner McLeod is not here.

Commissioner Petscher?

COMMISSIONER McLEOD: No, I'm here.

COMMISSIONER PETSCHER: Here.

CHAIRMAN SCHMITT: Sorry. We didn't know you were coming to join us.

COMMISSIONER McLEOD: Yes.

CHAIRMAN SCHMITT: We need to vote as commissioners to allow Michelle to participate by phone.

COMMISSIONER SCHUMACHER: I make a motion.

CHAIRMAN SCHMITT: And I second. All in favor, say aye.

COMMISSIONER SHEA: Aye.

CHAIRMAN SCHMITT: Aye.

COMMISSIONER SCHUMACHER: Aye.

COMMISSIONER PETSCHER: Aye.

COMMISSIONER McLEOD: (No verbal response.)

CHAIRMAN SCHMITT: Any opposed, like sign.

(No response.)

CHAIRMAN SCHMITT: It passes unanimously.

No opposition. Good morning, Michelle.

COMMISSIONER McLEOD: Thank you. Good morning, Chair.

COMMISSIONER SHEA: Good morning.

Commissioner Petscher?

COMMISSIONER PETSCHER: Here.

COMMISSIONER SHEA: Ms. Lockhart?

MS. LOCKHART: Here.

COMMISSIONER SHEA: We have a quorum. We have --

CHAIRMAN SCHMITT: Excellent. All right.

And the next meeting for us up here is on September 24th at 5:05 to hear proposed LDC amendments. Are there any projected commissioners who believe they'll be absent from that meeting?

(No response.)

CHAIRMAN SCHMITT: We'll all be here. Good. At least those that are sitting here. So we'll have a quorum. Following that meeting, we have another meeting scheduled for October 2nd. It's going to be a -- pretty aggressive agenda items. Several items on the agenda.

Any commissioners projected to be absent from that meeting?

(No response.)

CHAIRMAN SCHMITT: I see none, so we will have a quorum. Excellent.

Michelle, I didn't hear you either way, so you're going to be at both meetings?

COMMISSIONER McLEOD: No. Actually, I will not be at the October 2nd. And what was the meeting before that?

CHAIRMAN SCHMITT: The 24th.

COMMISSIONER McLEOD: The 24th?

CHAIRMAN SCHMITT: At 5:05.

COMMISSIONER SHEA: Wednesday.

CHAIRMAN SCHMITT: Wednesday.

COMMISSIONER McLEOD: Right. That's -- I'm sorry. So that's the one I will not be at. I will try to be at the October 2nd.

CHAIRMAN SCHMITT: Okay. Good.

COMMISSIONER McLEOD: Can I say I'm tentative for the 2nd?

CHAIRMAN SCHMITT: Yes. I just want to make -- we should have a quorum. So -- we'll be -- we'll be okay.

All right. So approval of minutes, we have on the agenda the August 21, 2025, Planning Commission meeting minutes. Do I hear a motion to approve as indicated -- or as submitted?

COMMISSIONER SCHUMACHER: Motion.

COMMISSIONER SHEA: Second.

COMMISSIONER PETSCHER: Second.

CHAIRMAN SCHMITT: And I second. Paul seconded. We have a second.

All in favor, say aye.

COMMISSIONER SHEA: Aye.

CHAIRMAN SCHMITT: Aye.

COMMISSIONER SCHUMACHER: Aye.

COMMISSIONER PETSCHER: Aye.

COMMISSIONER McLEOD: Aye.

CHAIRMAN SCHMITT: Any opposed, like sign.

(No response.)

CHAIRMAN SCHMITT: And they are approved.

Ray, do we have any BCC report?

MR. BELLOWS: Yes. Good morning, Commissioners.

On September 9th, the Board of County Commissioners heard and approved the Bailey Lane rezone that was approved on the summary agenda.

CHAIRMAN SCHMITT: Which one?

MR. BELLOWS: Bailey Lane rezone. It's located at 3001 Bailey Lane.

MR. BOSI: It was, if you remember -- Mike Bosi, Planning and Zoning director. It was the three lots from one lot.

CHAIRMAN SCHMITT: Yes, yes, okay. Thank you.

MR. BELLOWS: And the other item approved on the summary agenda was the Brightshore SRA.

CHAIRMAN SCHMITT: Good.

And the next item, then, is the Chairman's report. I have nothing.

We have nothing on the consent agenda.

***So we'll proceed to the advertised items. First item on the agenda is 9A. This was continued from the July 17th, 2025, meeting. This is PL20240011790, which was -- has to do with the Costco wholesale ASW. It's the waiver for the 500-foot separation between service stations.

And as I -- for those who are wishing to speak, again, please note, and I'll reiterate as I stated on the July 17th meeting, that this is a PDI, which is just an insubstantial change to a preliminary design. These meetings -- these -- this type of item is typically heard by the Hearing Examiner. The Board of County Commissioners remanded that to the Planning Commission to

hear this petition and certainly provide you an opportunity to speak.

However, due to the -- I just need to make sure folks understand that this is not a request for rezone. It is not a rezoning request. The property is already zoned. The southeast section of the intersection of Collier Boulevard and Rattlesnake Hammock is already zoned commercial as part of the Hacienda Lakes PUD. This is not any type of amendment to the PUD. It's already zoned for --

MS. ASHTON-CICKO: Excuse me, Mr. Chair.

CHAIRMAN SCHMITT: -- the commercial use.

MS. ASHTON-CICKO: Excuse me, Commissioner.

CHAIRMAN SCHMITT: Yes.

MS. ASHTON-CICKO: The petition for the PDI was approved at the last meeting and voted on.

CHAIRMAN SCHMITT: Thank you.

MS. ASHTON-CICKO: So I just wanted to clarify, it's the automobile service station waiver or facility with fuel pumps waiver.

CHAIRMAN SCHMITT: Thank you. This is the service station waiver. The other -- the PDI was approved, thank you.

And so regardless, I anticipate we'll hear from the public regarding the concerns about the impact of the proposed development, specifically the impact of traffic and the supporting -- any of the supporting documentation or rebuttals that are going to be presented by the applicant.

Certainly, I encourage you to speak, but please understand we are not here to vote on the zoning of the project. As I stated, the PUD already allows this type of development. The County many years ago designated this area as an activity center. And certainly if you want to rebut or present any information in regards to the zoning, I guess we'll listen to it, but it's irrelevant to the issue.

The issue here specifically is the service station waiver, the distance of 500 feet. So with that, I turn it over to the petitioner to present their petition.

But yes, a couple of things I need to -- disclosures.

MS. LOCKHART: Staff materials only.

COMMISSIONER SHEA: Staff materials only.

CHAIRMAN SCHMITT: I did speak to the petitioner about the study and the petition itself in regards -- and the market study we discussed, yes.

COMMISSIONER SCHUMACHER: Staff materials only.

COMMISSIONER PETSCHER: Staff materials only.

CHAIRMAN SCHMITT: All right. Any persons wishing to speak on this matter, please rise to be sworn in.

COMMISSIONER McLEOD: I'll give my disclosures.

CHAIRMAN SCHMITT: Oh, sorry. I forgot Michelle. Disclosures.

COMMISSIONER McLEOD: Yes. Staff materials and spoke with Mike Bosi about this item.

CHAIRMAN SCHMITT: Okay. Thank you.

THE COURT REPORTER: Do you swear or affirm the testimony you will give will be the truth, the whole truth, and nothing but the truth?

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

CHAIRMAN SCHMITT: It's yours. Go ahead.

MR. WESTER: All right. Thank you. My name's Brad Wester. I'm the agent for this ASW matter. My firm is Driver, McAfee, Hawthorne & Diebenow. I'm the vice president of land use there. It's 1 Independent Drive, Suite 1200, Jacksonville, Florida 32202.

This is an ASW, which is a waiver, from the minimum required separation of 500 feet for facilities with fuel pumps for the Land Development Code and for development of a Costco wholesale gas facility as part of the subject property.

The separation distance is 132 feet from the property lines between the existing 7-Eleven, which is a gas and convenience store, and the -- on the 25-acre subject property in total.

The 7-Eleven and the subject property are separated by a four-lane divided arterial roadway, Rattlesnake Hammock Road, as we know, and it's currently designated as a county access management Class 3 arterial.

The ASW request is supported by a market study needs analysis, which confirmed a new gas facility such as this is appropriate for the market area based on the projected needs because of household growth.

A little bit of background on the land use entitlements, as we just mentioned. The County's mixed Growth Management Plan designated the subject property a mixed-use activity center, specifically Subdistrict 7, since the plan's adoption in 1989. The subject property is in the commercial tract of the 2,000 plus-or-minus Hacienda Lakes mixed-use PUD, and that's since 2011, as amended.

The Hacienda Lakes MPUD is approved for 327,500 square feet of retail commercial uses, such as the use we're petitioning for; 70,000 square feet of office; 140,000 square feet of business park; 135 hotel rooms; and 1,760 residential units.

A warehouse retail store and gas facility such as this are permissible commercial uses which are allowed by right in the Hacienda Lakes MPUD.

Here's an aerial map depiction of the subject property and the gas facility itself. So you see the gas facility subset property -- on the subject property, which is 25 acres.

This is a map of the future land-use map, part of Growth Management Plan, and it shows the activity center specifically, noting the mixed-use activity center subdistrict, and then here is a map, in total, of the county, all of the activity centers, and you see there highlighted is the subject property.

Once again, the activity center subdistrict specifically in relation to the subject property on the map, and then the mixed-use activity subdistrict. Basically, these are items that were determined when the Growth Management Plan came into existence in 1989. They are locations based on intersections of major roads and on spacing criteria. As you see No. 7, Rattlesnake Hammock/Collier Boulevard, that is the subject activity center.

The mixed-use activity center concept is designed to concentrate almost all new commercial zoning in locations where traffic impacts are readily accommodated to avoid strip and disorganized patterns of commercial development.

The allowable land uses in the mixed-use activity center include the full array of commercial uses. And it does talk about the maximum allowances for acreage specific to the southeast quadrant, which is our subject property.

This highlighted on the exhibit is the zoning map which indicates the mixed-use PUD, which is the Hacienda Lakes mixed-use PUD, and our subject property, which is on the essentially -- the far western portion nearest the intersection node.

Once again, this is the master plan of the PUD specifically, and then it noted the highlighted area is our subject property, which is the commercial subject property for this petition.

This is the approved list of uses in the MPUD. You see there, highlighted indicating the likeness with our request. This exhibit shows the gas distance waiver and the adjacent distances per the Land Development Code.

So you see here, I'd like to point out, yes, we're 132 feet across from the existing 7-Eleven parcel, and the way the measurements are determined, it's parcel to parcel, subject property to subject property.

The other elements of this are the proximity to the residential. We're approximately 330 feet from the multifamily and 720 feet from the single-family, and that's property edge to property edge, not even the gas parcel itself. Taking that a step further, the distance map from the actual gas facility portion of the subject property, as we discussed at the last hearing, was about 400 feet canopy to canopy, and then 960 feet to the nearest multifamily residential from the canopy

itself to the property line.

This is a view of the existing FP&L easement. Again, that adds a separated buffer between -- on the edge of the subject property and the easternmost portion.

Here is a depiction of the five-story multifamily units that we just spoke of with the distances. This is the -- showing the multifamily and single-family units that abut the Physicians Regional Medical Center. Specifically you see the parking and the pond, but you can see in the distance the rooftops of the single-family in context to the five-story multifamily.

This is an image of the four-story Physicians Regional medical arts building, and I'll go into the significance of those images here in a minute.

Specifically, our criteria for review is based on LDC Section 5.05.05.B.2.a, i through iv, and this is for the waiver separation of distances and the factors and criteria. The BZA -- you guys are appointed as the BZA -- may grant waiver if the site proposed for development of a facility with fuel pumps is separated from another facility of fuel pumps by natural or manmade boundaries, structures, or other features which offset or limit the necessity for such minimum distance requirements.

Again, 5.05.B.2.a.i, such boundary, structure, or other feature may include but not limited to lakes, marshes, non-developable wetlands, designated preserve areas, canals, and a minimum of a four-lane arterial or collector right-of-way.

The Rattlesnake Hammock Road is a designated four-lane divided Class 3 arterial per the Collier County access management standards. The divided roadway median is landscaped and provides additional buffer and screening above and beyond the LDC requirements.

5.05.B.2.a.ii, whether the facility with fuel pumps is only engaged in the servicing of automobiles during regular daytime business hours or if in addition to or in lieu of servicing the facility with fuel pumps sells food, gasoline, or other convenience items during daytime, nighttime, or on a 24-hour basis.

The gas facility is member-based, as we've described. It does not operate on a 24-hour basis. It does not sell food or convenience items. It does not provide vehicle repair. It closes approximately one and a half hours after the warehouse.

5.05.B.2.a.iii, whether the facility with fuel pumps is located within a shopping center primarily accessed by a driveway or if it fronts on and is accessed directly from a platted road or right-of-way.

The gas facility is not accessed directly from the roadway. It is indirectly accessed through the interior parking and circulation areas. It is served by three ingress and egress locations via the main subject property. It has one-way traffic circulation with well-planned stacking and queuing in the gas pod area, lanes that separate from the main parking and circulation areas.

5.05.B.2.a.iv, whether the granting of the distance waiver will have an adverse impact on adjacent land uses, especially residential land uses. The request is consistent with the Growth Management Plan as described and is an allowable use on a commercial tract in the Hacienda Lakes PUD. Again, remember 1996 and 2011, those two approvals.

The distance from the nearest multifamily residential, property line to property line, is about 330 feet, from single-family residential is about 720 feet, and is separated -- and this is a key fact -- is separated by buffers, easements, parcels of land, and existing development. The distance waiver allows it to be the furthest away from the residential on the commercial tract in the mixed-use PUD. It is not in the middle of the residential or the PUD itself.

The square footage and p.m. peak-hour vehicle trips for the use are below the approved thresholds in the PUD with an adequate gas queuing area that does not burden access points or roadways. It will not have any negative lighting or noise impacts to adjacent residential uses and the strict compliance with environmental and stormwater standards to meet and exceed state and federal requirements.

Granting of this ASW is not in violation of any Florida Statute. No state rule exists prohibiting gas facilities within 500 feet of each other like this request.

This is our photometrics plan. I mentioned lighting. You see here highlighted the gas pod itself, and the subset on the right describes and shows the photometrics plan from our lighting engineer. Note, the max threshold in this is 20 foot-candles average under the canopy, and we have an average of 19.5 foot-candles. This is the photometrics plan that will go with the permit sets, noting there is no light nuisance. And you can see -- if you look north of the gas pod, you can see out into the street. It's 0.0 as far as the foot-candles.

The significance of that is the edges nearest, again, the adjacent land uses in the PUD, specifically in this case, residential or other development parcels waiting to be developed. You'll note the minimum of 330 feet away from the multifamily and also 720 feet away from the single-family, but I'd like for you to see the highlighted yellow portions. At the property edge, the photometrics plan for the light luminance is 0.0. There is no lighting impacts.

This is the parking and traffic circulation plan. This is a highlighted and colored rendered version of our site plan that goes with the PUD. And you can see there the landscaping and buffering. Again, we self-proffered a 25 percent increase in landscaping and buffering. This is our gas pod. And highlighted there are the vehicles stacked and queued and also in line for each fueling position.

The white area is really where the canopy would go on this property, but what we're doing is allowing you to see through it for the stacking and queuing. You can see the one way in -- one way in and one way out. So this provides indirect access via internal circulation vehicular use areas. It has one-way traffic flow. Ample stacking and queuing specific to the gas facility. That's an important factor. It has dedicated pass-through reliever lanes between fueling items.

So I'd like you to look at that really quick. So if you're stacked in there and you decide to not get fuel, there are reliever lanes set up. There are four of them on this gas pad. So if you need to leave the property without fueling up, if you need to go somewhere else, or you don't need to be there, there are reliever lanes that are programmed as part of this.

Separate safe and refueling truck space, so there's a dedicated fueling truck space completely isolated from the normal circulation of the gas pod, and there is no sale of merchandise, no cash, and no vehicle repair services on this property.

This is showing the -- again, honing in on traffic. This is from the PUD. It's an excerpt. In no event shall the project exceed 3,328 p.m. peak-hour trips, okay. The Hacienda Lakes MPUD has a max vehicle trip generation cap of that number, 3,328 p.m. peak-hour.

The Costco wholesale and gas facility, the combined warehouse and the gas facility itself generate 511 p.m. peak-hour trips. Traffic is below the p.m. peak hour thresholds in the MPUD.

There are three ingress and egress points in total, including a shared joint access agreement with the hospital next door, the Physicians Regional Medical Center.

This is the recorded document that shows the legal map that goes with the joint access use agreement, and that is recorded in the public record between the parties, which was Hacienda Lakes, LLC, and the Naples HMA, LLC, and its successors.

The Costco gas philosophy, this is about the environmental and the gas ops. Obey the law, be clean, be safe, be responsible, protect the environment, sell high-quality fuel, never be undersold, and provide courteous assistance.

The gas facility will include equipment of the latest technology with many safety features to prevent potential environment impacts and meets and exceeds local, state, and federal requirements.

We have extensive leak detection monitoring systems, interactive and constant fire -- the different designations for the petroleum institute and engineering for safety training and employees, highest standards for emergency spill response, auto and manual cutoff systems, vapor recovery and fugitive emissions, controls that exceed the minimum state and local, federal requirements, closed-circuit TV monitoring, oil and water separator systems before any stormwater discharge, and operate as a self-service facility for members with full-time specially trained Costco attendants for safety and security.

Costco's tank and piping systems is certified to meet the federal UST, which is an underground storage tank, leak detection standards.

Costco utilizes one of the most durable joint sealers available today to seal the concrete joints to prevent any petroleum products from entering the underlying soil at the concrete joints. Costco is one of the few operators in the nation to seal control joints like this to prevent product spills from reaching the soil.

All tanks and dispensers are equipped with the latest Stage 1 vapor recovery air pollution control equipment technology. The PLLD, which is the pressure line leak detectors, exceed the state and federal monitoring requirements. If a product or piping system detects a failure of 0.2 gallons per hour, the line is automatically shut down and alarm is activated. The federal and state requirements require three gallons per hour.

Costco uses a VST green machine. It's a proprietary controlled measure to control fugitive emissions from the vents. The unit separates gas vapors and air, releasing clean air to the atmosphere, and returns gas vapors back to the underground storage tanks. This practice exceeds -- it's not required. It exceeds the minimum EPA state and local air quality requirements. And again, the site drainage technology -- and our civil engineer is here -- is designed to capture any spills through a catch basin which includes an oil-water separator before being conveyed to any stormwater detention and treatment system. And here's some imagery from some of the safety features from the gas ops, noting the fire extinguishers inside and out, the different structures on the islands, the fuel dispensers, and underground in the tanks as well as the fuel pumps.

This is a rendering, and you saw this from the first hearing. This shows the project in total showing the warehouse, and you can see there on the right side the gas pod itself, which is part of this ASW.

In summary, the planned gas facility and the existing 7-Eleven are separated by Rattlesnake Hammock Road right-of-way, which is a four-lane divided arterial, okay? "Divided" is a key term in there because divided is not one of the things listed in the code. This is a divided arterial, an accepted man-made boundary reducing impacts per the code as described.

A gas facility is a member-based -- the gas facility is member-based and differentiated from any other conventional service stations in c-stores in the area. It is not open 24 hours like the others.

The MPUD commercial parcels and the adjacent parcels are well planned and approved to provide adequate transition between various intensities and densities. The key elements to that was the pictures I showed you of the various uses already built, the various heights, the various densities, and the various massing.

The planned gas facility is at the furthest location to the west on the subject property and is more than adequately separated from residential uses by parcels, buffers, easements, ponds, and existing buildings. Again, I described those, the four-story medical building, the five-story multifamily, the FP&L power lines, easements and roads and ponds.

Adhering to the code separation standard -- this is key a point -- potentially locates the gas facility further to the east as an outparcel as an allowed use with no market study and no ASW request.

The planned gas facility and store trip generation, commercial acreage, square footage, lighting standards are below the approved thresholds in the MPUD. The landscape perimeter buffer is also increased by 25 percent around the perimeter to provide additional green space and screening.

Conclusion: Based on the provided study from MHS -- it was a needs analysis market study -- Costco's -- and Costco's in-house market data team and research, the planned gas facility is positioned to be a significant benefit to the local market by directly addressing the rising demand for gasoline based on population growth.

The comprehensive analysis confirms a robust and growing need within the market area, which is defined as a 10-minute drive time from the subject property. The key finding is that the

projected demand increase of 29.09 percent is greater than the project's 25.95 percent share of projected supply. This leaves a 3.14 percent demand surplus which demonstrates a clear and justifiable need for the project.

The new Costco gas facility on the subject property will not oversaturate the market or negatively impact the surrounding area businesses or residents. Instead, it will play a crucial role in satisfying the growing fuel demand to serve a thriving and expanding community in South Naples.

We thank you very much for your consideration of approval of this ASW request specifically.

I have my full team here. We have our real estate appraiser who did the market study. I've got my civil engineer, got my traffic engineer, architect. Costco reps are here. If I can't answer your questions, we have my experts here.

I know my real estate appraiser that did the market study walked in late after we did the swearing in. So if he needs to come up and testify, I'd ask for you to remember that he needs to swear in.

Thank you very much. I'm here to answer any questions.

CHAIRMAN SCHMITT: Any questions from the commissioners?

I do have a question. So your individual that did the market study analysis, would he please rise and be sworn in. He missed the --

MR. SIMMONS: Good morning.

THE COURT REPORTER: Do you swear or affirm the testimony you will give will be the truth, the whole truth, and nothing but the truth?

MR. SIMMONS: I do.

CHAIRMAN SCHMITT: Question -- I'd like for him to stay up, because I do have a question. I'd like him to review the methodology that was used to conduct this study and the basis for analysis on how he went through this analysis in regards to distances and locations and how he ended up with the conclusion that he arrived in regards to the 29.09 percent versus 25.95 percent.

So if he would, please. And state your name for the record.

MR. SIMMONS: Sure. For the record, Matt Simmons; Maxwell, Hendry & Simmons.

The analysis essentially is looking at projected household growth, and then it's looking at, based on household growth, the projected household spending for gasoline.

CHAIRMAN SCHMITT: Time frame for that projected growth?

MR. SIMMONS: Over a five-year time frame.

CHAIRMAN SCHMITT: Five-year time, okay.

MR. SIMMONS: Yep. And I'll caveat what I'm going to say with the other ASW submittals that I know the County has received, the methodology that we employed is identical to what previously has been submitted for an ASW waiver.

So on the demand side, it's household growth and then household spending on gasoline projected forward. That's the 29-plus-or-minus number. And on the demand -- or on the supply side, it's looking at sales of gasoline based on the existing stations, measuring the number of pumps that are available and the spending that's already taking place, and then evaluating what Costco is projecting in sales, again, five years out as of that same time frame, and that's where we get the 25 percent number that reflects the share of overall sales.

And so they're both capacity-based percentages that are being used looking out five years, and that's how we derive the little over 3 percent as being the deficit in additional demand, actually beyond Costco's station for gasoline that would be projected to be present in the market.

CHAIRMAN SCHMITT: Had you received any type of objections from the neighboring service stations in regards to a competitive analysis or any type of complaint that you're going to be perceived to be taking customers away from their service stations?

MR. SIMMONS: I've heard nothing to that effect. I'm not aware of any complaints that have been brought forward from them.

CHAIRMAN SCHMITT: Mr. Wester, have you -- if you could -- anything on that regard as well?

MR. SIMMONS: No, sir. We've not had any correspondence regarding any opposition or concerns or questions or inquiries from any of the gas providers in that area.

CHAIRMAN SCHMITT: I don't see any other members.

COMMISSIONER SCHUMACHER: I'm going to hold until after the public.

CHAIRMAN SCHMITT: Okay. So with that, does that conclude your presentation as far as in regards to any -- you'll have a -- certainly have an opportunity to rebut after --

MR. WESTER: Yes, that concludes my presentation.

CHAIRMAN SCHMITT: -- public comment.

MR. WESTER: Yes, sir.

CHAIRMAN SCHMITT: So -- but with that, we'll --

MR. WESTER: Standing by.

CHAIRMAN SCHMITT: All right. Well, we'll go to public comment. We'll open the meeting for public comment.

MR. SABO: All right. Mr. Chairman, there are six speakers who have been ceded time, so we would ask those who ceded time to stick around so that we can confirm their time.

The first speaker is Frank CiPolla, and he has 15 minutes. He has been ceded time by Richard Bikowski and Rosalind [sic] Bisar.

CHAIRMAN SCHMITT: Could I ask Richard and Rosalind to raise their hands, please?

(Raises hand.)

CHAIRMAN SCHMITT: They're both back there, okay.

MR. CiPOLLA: Good morning, Commissioners, Mr. Chairman. My name is Frank CiPolla. I am a private business person, full-time Naples resident, and a resident of Esplanade at Hacienda Lakes.

I could hardly believe what I just heard. And I'd like to address the variance, which is the important part of this meeting today as well as the market study which was not available to us until early September. And I'm going to have colleagues of mine come up. They will follow me to explain why they think that is and why this application should have been denied right then and there. We were promised a deep dive on this, but apparently staff didn't even see that there was a missing market study. Be that as it may.

In the meantime, I do want to address a specific question.

CHAIRMAN SCHMITT: Let me stop you right there. Is there a reason you believe that that should be a justification to deny this? Is that what you're stating?

MR. CiPOLLA: Colleagues will come up and address that.

CHAIRMAN SCHMITT: Based on what --

MR. CiPOLLA: They're more attuned in the legal aspects than I am.

CHAIRMAN SCHMITT: Okay. All right.

MR. CiPOLLA: So I'll leave that to them, Mr. Chairman.

I do want to answer a question that you posed at the last meeting, because apparently it's a red herring, and it's a canard that's out there that needs to stop right now.

You said that if Costco doesn't get what it wants, then Sam's Club is right behind it, and maybe even Walmart. This is a fallacy. It's nonsense. Sam's Club, if they want that tract of land, will want a gas station as well. And if they want a gas station and you do what you're supposed to do, they're not interested in that. And they don't want the aggravation that we've given Costco and will continue to give Costco.

Walmart has two superstores within a 5-mile radius of that corner. They're not interested in putting one there. There’s one four miles north and one three miles south.

CHAIRMAN SCHMITT: Is that through your observation --

MR. CiPOLLA: No.

CHAIRMAN SCHMITT: -- or professional opinion?

MR. CiPOLLA: No. You could go on -- I've measured it to both --

CHAIRMAN SCHMITT: Oh, I know where they're at. I'm just asking -- you're putting stuff on the record. I'm just -- I just need to understand your qualifications. Is this your personal analysis --

MR. CiPOLLA: No.

CHAIRMAN SCHMITT: -- or are you a professional planner and have evaluated this?

MR. CiPOLLA: I don't understand the question.

CHAIRMAN SCHMITT: I just want to know for the record.

MR. CiPOLLA: I don't understand the question. I've driven to one and measured the length, and I've driven to another one and measured the length.

CHAIRMAN SCHMITT: Okay.

MR. CiPOLLA: Okay. Costco wants this gas station. You, all of you commissioners, must disobey an ordinance to make that happen. It's an ordinance that's been on the books to protect the very residents and people that you are assigned to protect.

Now, I want to go back a little bit -- indulge me, if you may. Let me go back a little bit. If I had come to you three years ago and said, "I have an idea for a corner, something on the corner of Costco [sic] and Rattlesnake," not by the way, which we were promised, and we'll get to that as the speakers come up. And you would say, "Well, what is it?"

"Well, you know, I'd like to put a giant warehouse, thousands of square feet. I'd like to put 22 gas pumps, 24, 28" -- every time we have this meeting, it goes up. It will be 32 gas pumps before this is all over if Costco gets its way.

And you would say, "Well, that sounds, kind of, all right." So obviously, you would have the entrances off Collier Boulevard. It's a four-lane highway. There's -- no, no, no, no. We're going to have traffic turn down a two-lane roadway, go down a half mile, and get into the Costco there across the street from 2,700 apartments and condos, an elementary school that's soon to be built there.

And we didn't even address that last time, Ms. Lockhart, as you are representing the school board. There's going to be an elementary school there.

There are retirement communities there. And you would say, "Well, that doesn't sound like a good idea."

But I would say, "You know what, Mr. Chairman and Commissioners?" I'd pull you aside and say, "I made a deal with the hospital next door. I'm going to allow -- I'm going to be allowed to use one of their only two entrances to run cars, trucks, tractor-trailers, maybe even tankers around this hospital at all hours of the day and night, a functioning hospital." You don't see the danger in that? We saw the map a moment ago. You don't see the danger in running trucks and cars and tanker trucks behind a functioning hospital in addition to the traffic?

But, you know, Costco comes here and suddenly the Red Sea parts. Everybody seems to be, "Oh, that's a good idea."

I think in your quietest moments when you think about this plan you understand the stupidity of it. You must. I mean, here we are at a meeting trying to give Costco the ability to put a Costco warehouse up against a residential community and right next door to a hospital. Not down the street, next door. This would be the -- three interesting facts. This would be the only Costco in the United States of America --

CHAIRMAN SCHMITT: Sir, you're talking to us up here. You're not speaking to the public.

MR. CiPOLLA: Okay. It's important that people know.

They heard a lot of mumbo-jumbo here and codes that they don't understand. It's important to know this in plain language. This would be the only Costco in the United States of America that would be up against a residential community and right next door to a hospital, the only one, and apparently the Commission is okay with that.

This would, if it goes through, be the only corner in all of Naples, according to Gas Buddy,

that would have three gas stations, the only corner in all of Naples that would have three gas stations if this goes through. Think about that for a second.

We already have 32 pumps at that corner. Costco again, we started with 17 pumps, it went to 22, it went to 24, 28. It might be 36 before we're all done. That's almost 70, 80 gas pumps at that one corner. For the love of God, don't you see the foolishness of that? Do you have any idea what that means? We have retirement communities down the street, over 62 communities.

I'll give you an example. I've been approached by about two dozen residents in my communities that surround it. And, Mr. Chairman and Commissioners, I'm not insinuating anything nefarious, I want to go on the record as that. But it appears to them, watching these meetings and reading the testimony and watching on Zoom, that you are bending over backwards to make this happen. Now, again, public record, I am not insinuating anything nefarious. I can't say the same for my fellow residents. They see the testimony and wonder why this ludicrous idea continues to be proposed by you, or I should say proposed by Costco, and even accepted so far by you. It's outrageous.

Costco is not walking away. They didn't say to anyone here, "If we don't get this site, we're gone." You will get your tax ratable. Customers, Costco customers will be able to go to Costco. They need a second location. They will find a second location. The person who found them the first location I'm sure has a second location and a third location.

I mentioned this last time. There are 84 acres of land available, commercially zoned, at the corner of Davis Boulevard and Santa Barbara Boulevard. Eighty-four acres ready to go. There's a six-lane roadway in one direction and a six-lane roadway in the other direction.

You are trying to jam a round peg into a square hole, and it just doesn't fit, but you continue to do this. Don't you see the stupidity of this?

We are blessed with land in East Naples. Just driving around -- and I'm sure the real estate representative has seen it as well. There's plenty of tracts of land for this. Why must we try to jam this round peg into a square hole?

Mr. Wester said at the last meeting, we're not in the real estate business. You certainly are. You certainly are. I don't know what kind of deal he got from Mr. Torres on the price here, but there are other locations for this.

I am asking the Commission today -- and I'll -- I'll wrap it up shortly. It just gets me very annoyed, and my residents say the same thing. We would hope that you would do what's right. The fine folks here at Costco can look elsewhere, and then we can sit down with our good commissioner, Mr. LoCastro, maybe even the owner of the property, Mr. Torres, and plan this out for the benefit of the entire community, not just those members of Costco.

It's supposed to be for all of us, isn't it? We weren't promised this. We were promised something different.

I saw a woman, an elderly woman in a motorized wheelchair the other day trying to cross Collier Boulevard and Rattlesnake Road. She just barely made it. If you give -- if you recommend this and it goes to the County Commissioners and they foolishly do the same, there will be 4,500 cars entering -- Costco's own estimate -- and exiting on a daily basis.

I have said this before; I will say it again. This will cause more accidents, injury, and death. And if you vote for this and not follow what you're supposed to do, which is not give them a variance because it's on -- it's in the county ordinance, okay. If you do this, you will be complicit in that, and I will be the first one to email, an email talking about people who have been hit in that intersection, elderly folks going to Publix run over. You'll be the first one to know.

I promised members of the community and the media an announcement today, so here it is. We would hope that you would do the right thing and not give them this variance, because it's a boondoggle, and I think, again, in your quiet moments you know that.

We would hope that you would see the light. If you vote to recommend, and the County Commissioners, even though this application is fraught with problems -- we were promised a deep dive. You didn't even see the market study was missing. What kind of a deep dive is that? And if

the County Commissioners vote in favor, we will find recourse in the courts. This won't end here. It won't end at the County Commissioners' meeting. If you and the County Commissioners do not see the illogic and stupidity of this proposal, then we have the wherewithal and expertise to take this to court, and we will.

And I'm directing the next line to Mr. Wester and his team and his overlords at Costco. If you think we're bluffing --

CHAIRMAN SCHMITT: Sir, sir, sir. This is not a --

MR. CiPOLLA: I understand that.

CHAIRMAN SCHMITT: This is not a political --

MR. CiPOLLA: Understand that.

CHAIRMAN SCHMITT: -- discussion. You're --

MR. CiPOLLA: Let me finish.

CHAIRMAN SCHMITT: -- talking to us. This is not for you to threaten the petitioner.

MR. CiPOLLA: I'm sorry I'm threatening the great Mr. Wester and his team.

CHAIRMAN SCHMITT: I'm not -- no, this isn't --

MR. CiPOLLA: But I want him to know something. I want him to know something. If you think we're bluffing, I would say, "Try us. Just try us." Thank you.

(Applause.)

CHAIRMAN SCHMITT: Can I ask -- this is not a popularity contest.

Mr. CiPolla, can I ask a question of you, please.

MR. CiPOLLA: Sure.

CHAIRMAN SCHMITT: I appreciate all your comments, but are -- based on the criteria that we're asked to review for this automotive service station waiver, what criteria are they in violation of that -- there's specific steps that have to be -- go through in regards to the evaluation process. Where -- or in your opinion, where -- is that a violation of the various criteria that are asked to be reviewed -- part of the review process?

MR. CiPOLLA: Let me say that I'm not a lawyer.

CHAIRMAN SCHMITT: Okay.

MR. CiPOLLA: We have lawyers who will come up and talk. But the ordinance says 500 feet from property line to property line. It's 132 feet from the 7-Eleven. That is the ordinance.

CHAIRMAN SCHMITT: Okay.

MR. CiPOLLA: It's there to protect us from safety and traffic.

CHAIRMAN SCHMITT: My question had to do with the review criteria for the waiver.

MR. CiPOLLA: That's not my area of expertise.

CHAIRMAN SCHMITT: Okay. That's all I asked. Thank you.

COMMISSIONER SCHUMACHER: If I could ask a question, Mr. CiPolla.

You said that you were -- I'm interested in this, "You were promised something else," which would make me think the developer had some master plan and conveyed this at the time people were buying their homes or in their sales center. What was it that was promised?

MR. CiPOLLA: I'm going to leave that up to the following speakers who have reviewed everything. They're coming up shortly.

COMMISSIONER SCHUMACHER: But you directly dealt with that developer, correct? So I'm asking you what you were --

MR. CiPOLLA: I'm going to leave it to the following speakers.

COMMISSIONER SCHUMACHER: Okay.

MR. CiPOLLA: Thank you. Any other questions?

COMMISSIONER SCHUMACHER: No.

CHAIRMAN SCHMITT: Next speaker, please.

MR. SABO: Mr. Chairman, the next speaker is Milt Spokojny, and he's been ceded time from Jeff Noble, Debbie Noble, and -- Jeff Noble, Debbie Noble, are you here?

(Raises hand.)

MS. NOBLE: Yes.
MR. SABO: Tom Convery.
(Raises hand.)
MR. SABO: Steve Shores.
(Raises hand.)
MR. SPOKOJNY: It's everybody else.
MR. SABO: And Susan Gruber.
CHAIRMAN SCHMITT: So that's 30 minutes.
MR. SABO: That's thirty minutes --
CHAIRMAN SCHMITT: Thirty minutes?
MR. SABO: -- for Milt.
MR. SPOKOJNY: I won't be that long, believe me. No longer than I was the last time. I think I was about two hours.

Good morning, gentlemen. My name is Milt -- and lady. My name is Milt Spokojny. I live at 8373 Promoso Court, Naples, Florida 34114. By profession, I am an attorney. I am not licensed in the state of Florida. I'm licensed in the state of Michigan.

I'm here today as a property owner in Hacienda Lakes Estates. That's my position here today.

I want to talk about several of the arguments raised by Mr. Nester [sic]. The first one is Section 5.05.05, facilities with fuel pumps. The purpose of this section is to ensure that facilities with fuel pumps do not adversely affect adjacent land uses, especially residential land uses, the high levels of traffic, glare, and intensity of the -- associated with the facilities with fuel pumps, particularly those open 24 hours may be incompatible with surrounding areas, especially residential uses.

Therefore, in the interest of protecting the health, safety, and general welfare of the public, the following regulations shall apply to the location, layout, drainage, operation, landscaping, parking, permitted sales and service activities of the facilities with fuel pumps.

It goes on to say, Section B -- there's a table there -- separation of adjacent facilities with fuel pumps have to be 500 feet away from the nearest points.

Waiver requirements: The BZA -- by the way, Mr. Nester [sic] referred to you as the BZA. You are not sitting as the BZA.

CHAIRMAN SCHMITT: He -- I think -- I was going to question that, but I believe what I heard him say, we are appointed by the BZA.
MR. SPOKOJNY: Are you?
CHAIRMAN SCHMITT: Yes.
MR. SPOKOJNY: Okay. I think he misspoke.
CHAIRMAN SCHMITT: We are appointed by the BZA.
MR. SPOKOJNY: Okay. Because the BZA will be the ultimate body that will determine this waiver request.
CHAIRMAN SCHMITT: Correct.
MR. SPOKOJNY: It will be the County Commission serving as the BZA.
CHAIRMAN SCHMITT: Correct.
MR. SPOKOJNY: Anyways --
CHAIRMAN SCHMITT: I'm glad you brought that up, because that's important.
MR. SPOKOJNY: That is important. The BZA -- waiver of separation requirements, Section 2. The BZA may, by resolution, grant a waiver of part or all of the minimum separation requirements set forth herein. If it is demonstrated by the adjacent -- and determined by the BZA that the site proposed for development of a facility with fuel pumps is separated from another facility with fuel pumps by natural or manmade boundaries, structures, or other features which offset or limit the necessity for such minimum distance requirement. The BZA's decision to waive part or all of the distance requirements shall be based upon the following factors.

I think that ordinance is vague and unconstitutional. When it says "other reasons," they can put in -- they can say that it's separated by a blade of grass, and that constitutes a legal basis for granting a waiver. I mean, this ordinance is ludicrous. It's designed to protect -- it's designed to protect the public. We're here to protect the public, not bend over backwards to grant Costco's request.

I can assure you that Mr. CiPolla's right, there will never be a Costco at that corner. There will never be a Costco at that corner.

Anyways, getting back to the waiver requirements. The key section is Roman Numeral iv, whether the granting of the distance waiver will have an adverse impact on adjacent land uses, especially residential land uses. The onus is on Costco to show that it will have [sic] a negative impact on the residential uses. We are sandwiched in. We are a cul-de-sac. We are an island. Their only ingress and egress is through --

CHAIRMAN SCHMITT: I believe you meant to say will not have a negative impact. You said that the onus is on them --

MR. SPOKOJNY: That it will not have a negative impact.

CHAIRMAN SCHMITT: Thank you. I think you said that they would have, but that -- the onus is on them to prove that they will not have a negative impact.

MR. SPOKOJNY: Exactly.

CHAIRMAN SCHMITT: Thank you.

MR. SPOKOJNY: Thank you for correcting me.

In any event, we are an island. We have to -- our only way of ingress and egress is through Rattlesnake Road.

They're proposing two exits on Rattlesnake Road. One of them is through the apartment complex, and they're proposing a traffic light at that complex. Otherwise, they were going to put a roundabout in there. So they're proposing the lesser of two evils. They're proposing a traffic light.

I, as a resident of Hacienda Lakes, do not want to have to come in and out of the Hacienda Lakes and be burdened by Costco traffic, waiting for Costco people to come out of that lot and sitting at a traffic light to get in and out of my community. I think that's a terrible onus on the residents to bear. Not only Hacienda Lakes, but Azure as well. We are two communities sandwiched in there, and we're shoehorned in there, and our only way to get in there is through Rattlesnake Road. So they have not demonstrated the adjacent impact.

By the way, we've talked to the residents of the apartment complex there, and it's up to the Commission, the staff members, to have sent out notices advising them of this hearing. They are the adjacent community.

In our discussion with the residents, they have not received notices of this meeting. If that is, in fact, the case, and they are the adjacent residences, this meeting is a nullity because they have to be notified by law of this meeting, date and time, so we have with the opportunity to appear here. In our canvassing of the residents, and that's just me, they have not received any written notice of this meeting. And I don't know why, because they are the adjacent community next to Costco.

I want to see county staff demonstrate that they have received notices. It's funny, I'm not a member of the adjacent community, but yet I received a notice the other day from Sabal Palms about some residential areas rezoning for Sabal Palms so they can build some residential. I must live two miles from Sabal Palms, and yet I received a notice. It's astounding as to why I received a notice but yet no notices were sent out to the adjacent property owners here.

COMMISSIONER SCHUMACHER: If I could just interject, sir. It wouldn't be staff sending out that notice.

MR. SPOKOJNY: Pardon me?

COMMISSIONER SCHUMACHER: It wouldn't be county staff sending out that notice.

MR. SPOKOJNY: I don't know who sends it out, but nobody got any notice.

CHAIRMAN SCHMITT: The applicant sends it out.

COMMISSIONER SCHUMACHER: The applicant sends it out.

CHAIRMAN SCHMITT: It would be -- it would -- this was a continuation of the July 17th meeting, so it goes back to the notices going out to announce the July 17th meeting.

MR. CiPOLLA: We -- they never got the 17th.

MR. SPOKOJNY: We never got -- they never got the 17th, and they didn't get today. So if Costco was burdened with the task of sending out those notices, I want to see proof of that.

CHAIRMAN SCHMITT: Well, I'm going to stop right here. I'm going to ask staff. In staff's opinion --

MR. BOSI: Mike Bosi, Planning and Zoning director.

From review of the notification areas, all required notifications have been sent out for the application that was heard by the Planning Commission on the 17th.

MR. SPOKOJNY: Who do they go to? Who do they go to, please?

MR. BOSI: It's within -- the staff has confirmed within the record. If they would like to access that information, we could -- most certainly will provide that information.

CHAIRMAN SCHMITT: As far as notice, met all the requirements for distance --

MR. BOSI: Yes.

CHAIRMAN SCHMITT: -- in regards to the --

MR. BOSI: Yes.

CHAIRMAN SCHMITT: -- LDC and official notification by the applicant, verified by staff?

MR. BOSI: Yes.

CHAIRMAN SCHMITT: Okay. Thank you.

MR. SPOKOJNY: Anyways, that's my position --

CHAIRMAN SCHMITT: That's part of the public record. You're welcome to that.

MR. SPOKOJNY: But if the record is deficient and we're here today, and it's not proper, then this meeting should not be taking place.

CHAIRMAN SCHMITT: That's -- I defer to County Attorney and your attorney to dispute that.

MR. SPOKOJNY: Is there a County Attorney here?

CHAIRMAN SCHMITT: Yes. We have two attorneys here.

MR. SPOKOJNY: Oh, are both of you attorneys?

MS. ASHTON-CICKO: Yes.

MR. SPOKOJNY: I didn't know your position. I apologize. Okay. Thank you.

In any event, let me continue. I want to get to the market study, if I may. The market study is dated 8/14/2025 submitted by Matthew S. Simmons, state certified residential real estate appraiser, No. RD5762. In his professional opinion, the proposed project is appropriate for the market area based upon the projected needs of the market over the next five years because of household growth.

I submit to you that that market study is done by somebody who is not qualified to have done it. He's a residential certified appraiser. I don't think Costco property is residential. If I'm wrong, correct me on that. Costco is a commercial piece of property.

They must have gone far and wide to find an appraiser to do this market study by somebody who's qualified to do residential property when it should have been somebody who was qualified to do commercial property. I submit to you that that market study is deficient because it was done by somebody with credentials that don't properly adhere to the requirements.

Okay. The market study indicates that all gasoline service stations within a 10-mile drive from the project -- there are 21 gas stations existing within 10 minutes. You mean to say, by adding Costco to that equation, that that's going to be enough gas stations? We have 21 gas stations already within a 10-minute time area.

Why do we need Costco? We already have two gas stations on that corner. We have RaceTrac and we have 7-Eleven. What is the need for Costco? Like Mr. CiPolla said, this would

be the only corner in all of Collier County with three gas stations on that corner. Why do we need them there?

First -- and the study also -- let me go on to state this. The study fails to address how a private members-only gas station will fulfill the current and future needs of the Hacienda Lakes area with only a very small percentage of the area that has Costco memberships. How is that going to be possible? You're putting in a Costco member gas station only, and they think that's going to be sufficient for that area when Costco members only can go there? I submit to you a very small percentage of people in this area are Costco members.

CHAIRMAN SCHMITT: Is that your -- you did an analysis of that, or is that just your opinion?

MR. SPOKOJNY: That's my opinion.

CHAIRMAN SCHMITT: Okay. Thank you.

MR. SPOKOJNY: That's my professional opinion as an attorney.

CHAIRMAN SCHMITT: Okay.

MR. SPOKOJNY: I think it should have been incumbent from the beginning -- the law required -- the law as we sit here today, the ordinances on the books should have required that that market study be submitted initially, not after an adjourned hearing. This case should have been dismissed because Costco did not submit the market study that was required by the ordinances of the county of Collier. And I think the staff is deficient in not indicating that. The staff is deficient. They are bending over backwards to facilitate this project. I admonish the staff for not following their own ordinances.

Mr. Schmitt, I'm moving to disqualify you in this hearing. You were seen at the last hearing talking to representatives of Costco during the first morning break at 10:30 and during the lunch break. That is highly improper. It's an appearance of impropriety. It's called an ex parte communication. That should not have been done under any circumstances. I move to disqualify you on that basis.

CHAIRMAN SCHMITT: Okay. I don't accept that, but...

MR. SPOKOJNY: Well, that's -- that's the law. I would figure you would not accept it because I don't think you should be socializing with members of Costco.

CHAIRMAN SCHMITT: Well, it was not a social -- it had to do with the market study and the --

MR. SPOKOJNY: You shouldn't be talking to them ex parte, period.

CHAIRMAN SCHMITT: That's not true.

COMMISSIONER SHEA: That's not true.

CHAIRMAN SCHMITT: But thank you very much for your legal opinion.

MS. ASHTON-CICKO: I do believe that you made the proper disclosures.

CHAIRMAN SCHMITT: Yes, I did.

MR. SPOKOJNY: He did not disclose the fact that he talked to them at 10:30 and 12:30 during a lunch break at all, period.

And I know you're paid by the County as well.

CHAIRMAN SCHMITT: Does insinuate that I'm paid by the County.

MR. SPOKOJNY: I don't know who's paid by what. I don't know if you guys receive a stipend or not.

COMMISSIONER SHEA: We don't.

CHAIRMAN SCHMITT: No, we don't.

MR. SPOKOJNY: Then you're here voluntarily. I applaud you for that.

I would say, in conclusion, that the staff has been deficient here; that this matter should be dismissed outright because they didn't follow the proper guidelines; that you should be disqualified based upon the criteria I just indicated.

And I would also indicate that Costco -- excuse me. The County has turned our area, Collier and Rattlesnake, into a dumping ground. I would ask all of you to go over to that corner

and look at the hodgepodge of junk, construction that's been constructed in that area, one ugly building after another. I don't know how county staff can allow it. I really don't. They turned a beautiful area with forested areas, trees, animals, wildlife, and it looks like a concrete jungle. It's no better than the middle of New York City when you go down into that area.

I bought my home in a beautiful area with none of that preexisting, and I'm embarrassed to drive in there. People say, "What the heck is going on down here? It's ugly."

And in conclusion I'm going to say to Mr. Wester, our area has winning in the public opinion, the court of public opinion, and we will win in a court of law when this is all over. Thank you.

(Applause.)

CHAIRMAN SCHMITT: This is -- again, this is not a popularity contest, and I'll ask you to leave if you start the applause next time. I'll ask you to leave the room.

MR. CiPOLLA: Understood.

CHAIRMAN SCHMITT: We are not here for a popularity contest. We're here to listen to the public speak.

And from that regard, I would ask the staff, just for the record, it was staff's decision to talk to the applicant, as I did as well, in regards to whether we're going to continue the item until they do the market study that staff then determined that should have been submitted as part of application if you could put that on the record.

MR. BOSI: Sure. Mike Bosi, Planning and Zoning director.

As part of any process, public hearing, there's interchange that happens between the Board, Board of County Commissioners, the Planning Commission, staff, the applicant, and the general public. That's no other than the customary activity that happens involving a public hearing such as this.

The actions they're trying -- that they're putting forward are procedural due process objections, meaning that there's not a substantive objection to the -- to the -- to the decision, but there's processes that haven't been attended to. And if they feel that they -- that there has been missteps within the notification or any of the allocations within the application process, the public-hearing process, they're well within their rights, if the decision doesn't fall within their favorability, to take their procedural due process, raise those within the court system to overturn any decisions that they weren't happy with. That's -- that's how the process works.

CHAIRMAN SCHMITT: Correct.

MR. BOSI: It doesn't stop because they made a determination. And I am not sure there is a factual statement that this will be the only intersection with three gas stations in the county.

CHAIRMAN SCHMITT: Yeah. The -- but the point here is that at the July 17th meeting, it was recognized that the applicant chose to continue the item because they wanted to submit a proper market study after it was determined that we should have received a market study, though that was staff's opinion at that time that what they had was adequate when it came to us -- to the July 17th meeting. But then there was an announcement, a continuation to continue till today when the market study would be submitted and analyzed; is that correct?

MR. BOSI: Correct. They asked for the continuation.

CHAIRMAN SCHMITT: Okay. Thank you.

Next speaker, please.

MR. SABO: Mr. Chairman, the next speaker is Jack Yazinski. He's been ceded time. He has 30 minutes from Mary -- or I'm sorry -- sorry, Nancy -- Nancy Yazkinski.

(Raises hand.)

MR. SABO: Okay. Herman Diebler?

(Raises hand.)

MR. SABO: Okay. Lynn Bowman?

(Raises hand.)

MR. SABO: Very good. David Stasiak?

(Raises hand.)

MR. SABO: Very good.

And Robert Fitch?

(Raises hand.)

CHAIRMAN SCHMITT: Okay.

MR. SABO: Thirty minutes.

MR. YAZINSKI: Thank you. Mr. Chairman and Board, my name is Jack Yazinski. I'm here with my wife, Nancy. We're full-time residents of the Esplanade at Hacienda Lakes. We've owned property in Naples for a considerable amount of time.

CHAIRMAN SCHMITT: Will you spell your last name, please.

MR. YAZINSKI: Sure. It's spelled exactly the way it's pronounced. Y-a-z-i-n-s-k-i. Three syllables, Ya-zin-ski.

I'm sorry. Did you get that, Mr. Chairman?

CHAIRMAN SCHMITT: Yeah.

MR. YAZINSKI: As I said, my wife and I are full-time residents, having retired down here in 2022, though we have been here for a considerable amount of time on a part-time basis.

As to background, we came from New Hampshire where I was a practicing attorney specializing in land use and municipal law until 2001 when I was appointed to the state circuit court bench in New Hampshire where I served as a judge for 22 years before going on senior status.

So this was not how I wanted to start this presentation, but since Mr. Spokojny brought this up, I think it's fair to say that most people in this room feel that there has been a bias in favor of the developer, in favor of the applicant, starting with the Planning department. And I'm going to point out several things about that. But the first one I want to start out with is you were given, for the last hearing, an incomplete application. Could I tell you how rare that is? In 40 years I may have seen that twice that a planning board, charged with making such an important decision, was given an application that was not complete. The Planning department has a duty to determine the completeness so that you can act so that everyone here has all the information that's needed as you go forward.

That did not happen, which tells me it was either a mistake, a determination that it wasn't needed, or the third possibility is it was an -- it was intentionally left out despite the fact that your professional planners know what they're doing.

The other thing that has troubled me from the get-go of this -- and some of the things that I'm going to say you have heard before, but we are establishing a record. The Planning department never reviewed the historical record of this multiple-use Planned Unit Development. They were asked questions. And when I say "they," I mean Mr. Bosi and the Planning department.

When I made a very brief argument through Zoom that this -- actually we know it's zoned commercial. We know the zone. We know it's going to be a commercial development. We've accepted that. No one objects to that. It's needed on that corner. We know that. But in determining that Costco is a permitted use, your Planning staff, based upon a question I believe from you, Ms. Lockhart, told you, "Well, yeah, it's a commercial zone. This is a retail establishment."

I defy anyone in this room to go online and research Costco and see where Costco describes itself as a retail establishment. It describes itself as a wholesale members-only warehouse.

Now, that is not in our zoning ordinance, but it certainly is not retail. Webster's simply defines retail as an entity open to the public for sale. This entity isn't open to the public. So the Planning department was able to kind of twist that in and make this members-only warehouse a retail spot.

And then the 500-foot requirement, this really caught my attention. I believe you, Mr. Chairman, inquired about where the 500-foot requirement came from. And the answer that

you got absolutely floored me. The answer was, "Well, I don't know" -- and this was Mr. Bosi -- "I don't know, but I think it might have dealt with trying to keep mom and pop auto centers separate from each other."

Well, the answer any professional would say to you, "Mr. Chairman, I don't know why that 500-foot limit was put into the ordinance, but I'm going to research it and come back to you and tell you why." Not, "Well, maybe it was this. Maybe it was that." That's not a professional answer, and I don't know how you could rely on that.

COMMISSIONER SHEA: Just for the record, I don't think that's what he said.

CHAIRMAN SCHMITT: That was not the answer, but we'll accept your --

COMMISSIONER SHEA: That's not the answer that that he gave.

MR. YAZINSKI: Well, all right. I'll go back and look at the record. I'll go back and look at the record.

COMMISSIONER SHEA: Well, because I asked the question, and it was very important to me what the answer was so --

MR. YAZINSKI: All right. Well, can you refresh my recollection, sir?

COMMISSIONER SHEA: It had -- I'll ask Mike to repeat it again, but it definitely wasn't that.

MR. YAZINSKI: All right. I didn't make that up, so I'll go back and look at the record.

COMMISSIONER SHEA: Okay.

MR. YAZINSKI: And I have simultaneous notes also. Sir, I'm happy -- if I was incorrect, I apologize. Maybe you can clarify for me.

MR. BOSI: From my -- Mike Bosi, Planning and Zoning director.

From my recollection, it reflected back to the concentration of gas stations, their impact upon the right-of-way ingress and egress from the gas stations, a flow of traffic within the surrounding area, the relationship between those gas stations and manmade barriers. Those are the things that was the basis for the --

MR. YAZINSKI: So if that's what you said, you're telling me that you did not say it was based upon a mom-and-pop -- this mom-and-pop idea?

CHAIRMAN SCHMITT: Sir.

MR. YAZINSKI: No. I didn't make it up. I encourage you to go back and look at that answer.

CHAIRMAN SCHMITT: I would ask that you continue. I don't want to get into a discussion of "he said, she said." You heard the answer. If you object to the answer -- but if you would proceed, again, with your presentation.

MR. YAZINSKI: I will.

And, Mr. Chairman, since you're directing comments to me, I have to tell you, again, in 40 years of being in the legal system, I have never seen a member of a quasi-judicial panel -- and maybe you do this. But I've never seen a member of a quasi-judicial panel meet privately with an applicant when you're charged with making a decision on the application. You disclosed again this morning that you met privately with the representatives, discussed the market study. You never met privately with anyone that objects.

CHAIRMAN SCHMITT: They never asked me.

MR. YAZINSKI: Sir, Costco didn't ask you to come and talk to them twice at the last meeting. You volunteered.

CHAIRMAN SCHMITT: Excuse me, sir.

MR. YAZINSKI: My point -- my point --

CHAIRMAN SCHMITT: I was asked by the applicant. The applicant sent me an email, asked to talk to me about today's presentation. I have every right -- it's not -- it's not in any way, shape, or form with any of the other commissioners. It was myself talking to the applicant on how to -- how to proceed with today's proceeding. And we have every right to do that.

I'll turn to the County Attorney and ask the County Attorney if she would opine on that.

MS. ASHTON-CICKO: Yes. The Florida Statutes allows ex parte disclosures when it's provided -- it's disclosed at a public meeting.

MR. YAZINSKI: I understand that, but simply saying, "I met with them" doesn't tell us what you talked about. It doesn't tell us what they told you. There's no minutes. There's no record. And I'm just saying, in my experience, that is unheard of, and I think, despite the statute, it creates an appearance of impropriety.

CHAIRMAN SCHMITT: Okay.

MR. YAZINSKI: Another issue that has surprised me, you have mentioned -- the developer mentioned the planning office understands. This is a Planned Unit Development, meaning that each portion of this Planned Unit Development is supposed to be consistent with the master plan and have some benefit to the PUD -- the PUD, the rest of the PUD.

And a presenter last time was asked if he would have moved to the Esplanade if he had known about this possibility of a Costco. You have treated -- based upon the recommendations of your staff, you have treated this commercial zone as if it's a commercial zone in a much larger commercially zoned area, and it is not. It is a commercial zone in a PUD.

Why is that important? Because before I bought my house in the Esplanade, I went and researched the record. I read the minutes of every meeting since this was proposed, since the County Commissioners approved it, along with all of the minutes that go along with the amendments that this board has approved and adopted.

And those minutes form what is a binding precedent on this board, on this county. Those approvals were based on representations made by the developer, and he represented to this board, to the County Commissioners at every single one of those meetings that this commercial zone was going to be comprised of a multitude of uses that benefit the PUD. That's consistent with PUD planning.

He said, "We're going to have things like pharmacy -- a pharmacy. We're going to have retail. We're going to have offices. We're going to have doctors' offices."

Through the entire history of this project, of this PUD, that's what was represented, and that's the binding law. I have the right to rely, and everyone in this room has the right to rely on the record which told us the type of commercial use that was going to take place. I defy anyone to find any mention of something like a Costco, which, by definition, cannot benefit the PUD because it's a members-only club by what they call themselves. They're a members-only club.

I think I had a right to rely on what was represented to this board when you acted to approve amendments; when the County Commission actually adopted this.

And, you know, it's worrisome to me, because if this goes through, you're telling Collier County residents, "Hey, don't rely on what we've done in the past, because we can come and we can make a different determination." And your staff has made a different determination because they've never mentioned, when asked, what is in the historical record of this PUD.

The market study. I know others are going to talk about the market study, so I'll be brief. But I think based upon the market study, you have to deny this request. The 500-foot requirement is a law. As the previous speaker pointed out, it's the burden of the petitioner to demonstrate if or there is not -- if there is or is not a negative impact on the residences that are there. I missed that part if they addressed it at all.

Simply saying that there's a divider doesn't tell us it's safe. Pointing out the amount of traffic that's now going to affect the residents there is, in fact, a negative impact. They haven't addressed it. Simply saying we're going to have so many cars.

But anyway, back to the market study. The market study -- you were asked -- or Costco was asked to provide you with a market study of a Costco gas station in this market. What they came back with was a market study telling you what gas station -- what a normal gas station might do, might not do. But they described the need for a regular gas station. They didn't describe the need in this market for a Costco gas station. I don't know the percentage.

I've never been in a Costco, but if you're cutting out 75 percent of the people who reside in

the market by the nature of your operation, you are not benefiting the market by definition. Simply submitting the market study doesn't get them off the hook. The market study has to support what they're proposing.

And the fact that they're trying to have it both ways -- it's a private members-only warehouse, members-only gas station. That's a benefit because there are going to be fewer cars, but by the way, we're going to provide a gas station to address this incredible need that the appraiser addresses in the market study, but it doesn't address that need whatsoever. It addresses -- it provides a very small portion of what might be needed in the future.

And in support of that, staff's own recommendation tells us that -- well, first of all, they say this is an accessory use. How can it be an accessory use when it's consistently represented to you that this is one package? This whole thing is one package. But anyway.

The Planning department has told you that Costco gas station is a members-only gas station, meaning only Costco members can purchase fuel, the public cannot, and that comes from Page 5 of staff report -- it was given to you on July 17th.

So your staff is telling you it's not available to the vast majority of this market. The experts that did the market report is telling you that gas isn't available to the vast majority of this market. They didn't pass the test, respectfully.

Thank you for your time. And I respectively ask that you take this into consideration.

Any questions?

CHAIRMAN SCHMITT: I only clarify. You said 75 percent number. Where did that number come from?

MR. YAZINSKI: So I did some research, and it's not hard to find Costco numbers because they do tend to lay out where they are and how many stores they have. And if you do simple math, it comes out to about 25 percent. That comes from internet research.

CHAIRMAN SCHMITT: Okay.

MR. YAZINSKI: But anyway, whatever the percentage is, it keeps the general public out.

CHAIRMAN SCHMITT: All right. Thank you.

COMMISSIONER SCHUMACHER: If I could just ask you a question, sir. When you purchased your property, did -- at the time did the developer disclose anything to you as to what would go onto that? I understand what you said with the minutes, and I appreciate the research that you did. I'm trying --

MR. YAZINSKI: I'm sorry. I was looking up here because I'm hearing your voice behind me like an angel, so...

COMMISSIONER SCHUMACHER: Thank you very much. That was very kind of you. That was probably the nicest thing I've heard in a while.

MR. YAZINSKI: I thought, "Wow, it must have been good."

COMMISSIONER SCHUMACHER: Like I said, I had asked the first speaker, who didn't answer me. I'm trying to figure out what the developer told people at the time of purchase or when they showed them the site map.

MR. YAZINSKI: So the developer was Taylor Morrison and, of course, they were trying to sell property, which is why I prefaced in my remarks that I went back to your record to determine what could actually go there. And I was delighted to know that it was going to be a real -- commercial and retail area with shops and offices that benefited the PUD. And how you can ignore the fact that Costco is not a classic PUD development -- you know, you drive around, look into the histories of Planned Unit Developments, and you will not find a Costco.

Anyway. Any other questions?

COMMISSIONER SCHUMACHER: No, sir.

MR. YAZINSKI: Thank you.

CHAIRMAN SCHMITT: I would ask staff -- both staff and the applicant, when they rebut -- and I would ask staff to address the issue as well because there was an accusation against staff that this was -- is not a retail application, that because it's members only, it doesn't qualify as a

retail. So just save that one. And I would ask the applicant as well, in regards to the discussion as a members-only to make to me clear, or at least for the public record, what does it mean "members only" and how does one become a member.

Because it's somewhat implied that it's somewhat restrictive, and that was sort of what was being implied here. But my understanding it's not, but I would ask the applicant to make that -- and during the rebuttal to describe what the "members only" means and what the restrictions are. What are the criteria for becoming a member? Okay. Thank you.

Next speaker, please.

MR. SABO: Mr. Chairman, next speaker is Jose Torres.

CHAIRMAN SCHMITT: Mr. Torres.

MR. TORRES: Hey. Good morning, ladies and gentlemen. My name is Jose Torres. No relation to the person that owns the -- that piece of land. I was asked to speak because I guess I bring a different perspective. I'm not combative. I'm just a concerned citizen, and I'm a resident of Hacienda Lakes.

Forgive the long preamble. I am a retired airline captain and former soldier. My last assignment as a soldier was a medical evacuation pilot --

THE COURT REPORTER: You're going to need to slow down with the accent.

MR. TORRES: Accent? New York accent? Okay.

So my last assignment as a soldier was medical evacuation pilot, 498th Medical Company, Fort Benning, Georgia, DUSTOFF. With them, I saw action with Desert Shield/Desert Storm providing support to the 24th Infantry Division led by General Barry McCaffrey.

For those unfamiliar, DUSTOFF stands for Dedicated Unhesitating Service To Our Fighting Forces. Our credo was established in Vietnam after the death of Major Charles Kelly, considered the father of DUSTOFF and posthumously -- posthumously awarded the Medal of Honor. Our credo was, "When I have your wounded."

Those familiar with regulations, be it military government, know that they are reactive, not proactive. That is the reason many say regulations are written in blood. Sometimes these regulations seem silly enough that people question why anyone would take the time to put them in black and white, since they appear to be common sense.

Well, that is the reason they're written and written in blood. Someone did the unthinkable, or something happened that nobody thought possible, or even after studies, the thought of such an event occurring was deemed improbable, and it was discarded.

Since most of our discussions here focus on traffic, please allow me to give you another perspective and an improbable scenario. I say improbable, even though, if you have paid attention to the news in the last few months, you will discover these events like the -- have happened, albeit not tragically.

Let's say someone has a medical episode, crashes into one of these pumps, and causes a fire and an explosion. What happens next? People frantically trying to escape the store, causing traffic jams and closing -- clogging the few escape routes. Emergency vehicles attempting to reach the facility without success.

I'm not even going to speak about the peril to our residents and/or the planned school, as it would appear that the Costco group thinks that our houses are far enough away that such an incident would not affect us.

In that case, allow me to speak about another business. How about the hospital right next door? Would somebody care to explain to me how you're going to evacuate such a large facility with an emergency room, I don't know how many beds, and at least one operating room? That facility has only one helipad, one, and it's across the street from the proposed Costco development.

If you will indulge me to tell a story, even though I'm not here to tell stories, during Desert Storm I was pilot in command when my crew and I were tasked with landing near Basra inside a circle made by tanks in a tank battle to pick up wounded soldiers. I had to call when I was a kilometer away so they would stop shooting and I could land to pick up the wounded while they

opened up again around my helicopter.

Once we had our soldiers on board, I had to call to let them know that we were ready, and they stopped shooting long enough for us to leave. We did this at night under night vision goggles to save soldiers' lives. That's our duty.

However, let me tell you what I'm reluctant to do. That is attempting to land on a single helipad facing a fuel fire not far away, not being able to use anything else to put a helicopter down because parking -- the parking lot at the hospital is full of obstacles like light poles, trees, not counting the vehicles that would be attempting to get away.

Knowing that what is used for EMS helicopters today has limited care and capability, the helicopter that I flew in Desert Storm had the capability to carry six patients on litters. Today's EMS helicopters don't. People carrying out a mission like this would have to perform multiple extractions, even flying the Blackhawk I used to fly.

How many ground ambulances do you plan to use? How are they going to evacuate the roads when the roads are congested? To me this is a recipe for disaster. Improbable? Maybe. Impossible? Not so.

Who is willing to take the chance? Who is willing to have this on their conscience if this impossible scenario happens?

If you think I'm dramatic, then allow me to leave you with this. There's a catch phrase used commonly these days anytime a tragedy happens, "Our thoughts and prayers are with the victims' families." That does not alleviate or assuage the pain of those that lose loved ones. I beg you, however, not to ask me how I know that.

And this concludes my presentation.

CHAIRMAN SCHMITT: Mr. Torres, thank you. Thank you for your service as well. Thank you for your presentation.

I would ask the applicant if they would note as well -- highlight again -- and staff, the review process through the local EMS, fire and EMS, and the review process and what criteria both the -- from the standpoint of the review by county staff in coordination with the local fire department. East Naples, I believe that is -- or Greater Naples, and if the applicant could address that as well.

Next speaker, please.

MR. SABO: Mr. Chairman, we have about three or four more speakers, and we were approached by Mr. Spokojny that he did not use all his time, and he has requested to ask an additional question maybe at the end of the speakers.

William Dunn is next. He was ceded time by Chris Dunn. Ten minutes. Is Chris Dunn here, please?

(Raises hand.)

MR. SABO: Thank you.

MR. DUNN: Good morning. Thank you for having us here today to speak. I would like to start out, though, by publicly thanking Mr. Torres for his service to our wonderful community. So thank you, Mr. Torres, for your service.

I'm William Dunn. I'm a full-time resident at Hacienda Lakes. I'm a retired -- I retired at the rank of commander after 32 years of service with the Chicago Police Department. Twenty-two of those years were in supervisory and upper level management positions.

After a review of the market analysis, I can see why it was intentionally ignored and left out of the initial proposal. It is extremely concerning that this project was moved forward considering this glaring omission.

Let me first relay a few facts for you to keep in mind that will underscore the fact that there is no need for you to approve this monstrosity fantasy project.

There are already 21 existing gas stations in the area referenced in this analysis, which distribute 58 -- or, I'm sorry, 588,000 gallons of gas per week. Costco plans to add 190,385 gallons of gas per week, which will only be available to members only. There is no benefit to the

residential community that they are invading.

Solution: If you could take Costco's belief of the need of 190,385 gallons of gas per week at this location and instead realize it could be divided and delivered to the 21 existing area gas stations, this means they would each be able to absorb about 9,000 gallons of gas per week. That relates to just 432 gallons of gas per week for each of those 21 gas stations. Hardly a burden at all. That much gas doesn't need to be at one location.

They have not proven the need for another gas station on this location that already has two gas stations serving the needs of the community very well. There is no other intersection we are aware of that allow or need a third gas station.

What they have proven is there is no benefit to the residential community which is part of the PUD. The increase in the need for gas consumption can be easily addressed by the existing 21 gas stations in the area.

This analysis states that this project will not impact surrounding businesses. While that is simply not true, the bigger issue is the negative impact this will have on the residents of the community.

They just admitted that that never researched impact to the other businesses in the community. Costco estimates that they will supply 9,900,000 gallons of gas a year at this location. That 9,900,000 dollars -- '900,000 gallons of gas that needs to be transported to this location. That's 9,900,000 gallons of gas that will be pumped into the ground. That's 9,000,900 [sic] gallons of gas that will be stored beneath 24 gas pumps.

There will be room for 70 cars to be idling while waiting to purchase gas, on top of that gas. How does that positively impact the neighboring residential community? It doesn't. Absolutely not. Does not.

The analysis also projects that 23,000 more households, which will have 1.6 cars per household, will total out at 37,746 cars added to the already existing cars in the neighborhood. Costco states there will be 4,500 cars per day accessing the facility. That's 4,500 cars in, 4,500 cars out, which leads to a total of 9,000 cars. So those 37,746 cars that are going to be coming into the community, coupled with the 9,000 ins and outs, will all be using the intersection of Collier and Rattlesnake, and that doesn't include any visitors, maintenance workers, delivery trucks, fire trucks, ambulances, or employees of Costco.

This analysis also confirms the overwhelming negative impact this project will have on the safety of the community with no access to this facility on a major thoroughfare.

And all this stuff that Rattlesnake is an arterial street, it's not. It's not. Drive down there. See for yourself. Not even close.

The dramatic increase -- with no access to this facility on a major thoroughfare, dramatic increase in traffic accessing Rattlesnake Hammock creates a major safety issue. The sidewalk and the bike path on the south side of Rattlesnake will be unusable for the taxpaying residents of the community.

There are numerous -- numerous residents who use the sidewalk and bike path for biking, walking, jogging, dog walking, access to Collier and to Publix.

There is also a senior housing apartment complex and a senior -- a separate senior assisted living care facility on Rattlesnake. Many of those residents may use that sidewalk in wheelchairs and other medical equipment.

In closing, the only fact that this analysis -- analysis does show, as the area grows, there will be a need for more gas consumption. That need will be easily met by the existing gas stations in the area. The analysis fails to show the actual need and benefit to the community that this monstrosity project that Costco is conning you into believing will enhance the community.

Thank you.

CHAIRMAN SCHMITT: Thank you, Mr. Dunn.

Do we have any questions from the commissioners?

(No response.)

CHAIRMAN SCHMITT: Thank you. We're going to take a 10-minute break, so -- if we would, please. Give the court reporter time to rest her fingers. Thank you.

(A recess was had from 10:34 a.m. to 10:44 a.m.)

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

CHAIRMAN SCHMITT: All right. I'd like to resume the meeting, please.

And, staff, do we have any more public speakers? I think we have one more, do we not?

MS. PADRON: Chairman, our next speaker is J. Tanghe.

CHAIRMAN SCHMITT: Jay?

MS. PADRON: Tanghe. Tanghe.

CHAIRMAN SCHMITT: Tanghe. Is Mr. Tanghe here?

MR. TANGHE: Yes, but I'm not here on behalf of Costco. I apologize for the mix-up. I'm here for the next one.

COMMISSIONER SHEA: Another petition.

CHAIRMAN SCHMITT: Another.

MS. PADRON: My apologies.

CHAIRMAN SCHMITT: Any other public speakers, then?

MR. SABO: We have one on Zoom as well.

CHAIRMAN SCHMITT: Okay.

MR. SABO: And then Mr. Spokojny made his request as well.

CHAIRMAN SCHMITT: Okay.

MR. SABO: Next on Zoom is Jacqueline Rizzo.

CHAIRMAN SCHMITT: Jack Rizzo.

COMMISSIONER SHEA: Jacqueline.

CHAIRMAN SCHMITT: Mr. [sic] Rizzo, are you on, please? If you would take your Zoom off of mute.

MR. SABO: Mr. Chairman, she is not unmuting.

CHAIRMAN SCHMITT: Oh, she.

COMMISSIONER SHEA: Jacqueline.

CHAIRMAN SCHMITT: Jacqueline.

Are there any other speakers registered?

MR. SABO: No, we do not.

CHAIRMAN SCHMITT: Okay. Sir.

MR. SPOKOJNY: Thank you. Good morning.

CHAIRMAN SCHMITT: Your name for the record, again, please.

MR. SPOKOJNY: Yes, sir. Thank you.

My name is Milton Spokojny, resident of 8373 Hacienda Lakes -- I'm sorry -- 8373 Promoso Court, Hacienda Lakes Estates.

I would just like to find out, if possible -- Mr. -- the gentleman from Costco referenced the easement that the hospital got from them -- how much Costco paid the hospital for that easement. I would like to know if we can find that out.

CHAIRMAN SCHMITT: It's not a matter that I'm concerned about, nor is it part of this petition. If you want that information, you can approach Costco or submit --

MR. SPOKOJNY: Okay.

CHAIRMAN SCHMITT: -- a FOIA request.

MR. SPOKOJNY: Well, I don't think -- the County wouldn't have that information, so the FOIA request would not be beneficial.

CHAIRMAN SCHMITT: Well, then that will be something that, if you proceed through the courts, it certainly would come up through deposition or otherwise.

MR. SPOKOJNY: Okay.

CHAIRMAN SCHMITT: So you have every legal right if you want to pursue that, or if the applicant wants to answer that question in rebuttal, I'll leave it up to the applicant. But it was --

it's not part of the criteria.

MR. SPOKOJNY: Okay.

CHAIRMAN SCHMITT: And it's not something that we would even review.

MR. SPOKOJNY: I think it's important to know because of the nature -- have you gentlemen seen the easement that's been granted? It is the most ridiculous thing you've ever seen.

CHAIRMAN SCHMITT: Well, again, that's your public -- or your personal opinion.

MR. SPOKOJNY: The other point I wanted to make is I think you prefaced in the beginning, you were querying, has anybody, of the gas stations in the area, voiced any objection?

CHAIRMAN SCHMITT: I did. I asked that of the applicant.

MR. SPOKOJNY: And I --

CHAIRMAN SCHMITT: -- or of the --

MR. SPOKOJNY: I can't tell you how I have this information, but I have personal knowledge of gas stations' opposition to Costco. I can't disclose it at this time. It will be disclosed at the appropriate time. But there is opposition from gas stations to Costco going there.

The other thing is I would personally like to invite this board to go to a site visit of the area to look what's going on to see this hodgepodge of development, what will happen to our area if you grant this request. I think you have that ability to do that if you would like. We will be happy to guide you personally, our group or anybody else to go to the area to look any daytime. Please, we invite you to do that before you render this very important decision. Thank you.

CHAIRMAN SCHMITT: I'm very familiar with this -- the corner.

Okay. We -- as far as the public -- is there anybody else that wished to speak on this matter before we close the public comment?

(No response.)

CHAIRMAN SCHMITT: Okay. Seeing none, then we close the public comment period.

I'm going to turn to staff now for their response or to -- should we -- we want to hear from the applicant first, any rebuttal. Let me ask the applicant, any rebuttal first, then, because of the applicant, a couple of things that I heard -- and who's the owner of the property right now that you're in -- whether you're in contractual relationship with or whatever. It is not Taylor Morrison, or is it?

MR. WESTER: Brad Wester, Driver McAfee.

No. The owner is Hacienda Lakes, LLC.

CHAIRMAN SCHMITT: Hacienda Lakes, LLC.

MR. WESTER: Yes, sir.

CHAIRMAN SCHMITT: And as far as you know, Taylor Morrison bought a section of that --

MR. WESTER: I can't speak to that.

CHAIRMAN SCHMITT: -- to develop -- you don't know.

MR. WESTER: I don't have any knowledge of that, sir.

CHAIRMAN SCHMITT: Okay. Can you describe what a members-only --

MR. WESTER: There are no restrictions on --

CHAIRMAN SCHMITT: -- store means as far as how does one become a member, and is it simply just walking in and submitting an application and, I assume, an annual fee. Go ahead, please.

MR. WESTER: Yes, sir. Yes, sir. Brad Wester.

There's no restrictions on memberships as for anybody applying for it. There is a process. You can certainly go to costco.com and check that out.

But there is no -- there's different levels of memberships, but it is a member-based membership. I mean, just like many other warehouse retail facilities.

And I'll also say this, you know, there's some conjecture about discriminatory elements of this being purely member based. There's nothing in the code that prohibits this being there by right as a member-based retail warehouse store, which also offers pharmacy, you know, eye, all the

different uses and elements associated with a major retailer. They are all part of that Costco warehouse, as many of us know, including the gas.

And so, you know, I'll offer that, that there are no restrictions on the memberships for those that want to apply to become a member of Costco.

CHAIRMAN SCHMITT: The members -- if you become a member, you get some kind of a share back or whatever? How does that -- what is that? I mean, if you're a member and you spend money in Costco buying gas, is there some kind of a benefit to that?

MR. WESTER: Yes, yeah. But I -- with all due respect, I mean, I'm not sure if that's part of criteria for this review. But there are different members -- you get some discount -- future discounts and the ability to get checks back based on your different membership levels.

CHAIRMAN SCHMITT: But no restriction on anybody being a member?

MR. WESTER: No restrictions, no, sir.

CHAIRMAN SCHMITT: Okay. So I open it up for your rebuttal of any comments that were made.

MR. WESTER: Okay. Thank you.

You know, it was interesting -- I took -- I took notes from all the public comment and the opposition, but I stand behind what I presented as far as my expert testimony and findings of fact that is substantial competent evidence. And I've got my traffic engineers, the appraiser, everybody here to speak if you have any additional questions.

But I have -- I want to just -- to start out just to talk about access and circulation, because a lot of folks are talking about two access points on Rattlesnake Hammock and why is this commercial and then focusing on it's wrong that this is a retail warehouse use in this type of commercial.

There are, I think, 89 -- you can actually say 90 types of uses potentially that are permissible by right in this commercial category, okay. And I think actually the last one says commercial uses that are in likeness to many other types of things that should be determined by staff, but that's not the one they used.

But if we could go to the screen, I have a diagram up. It will just show -- this is from the PUD itself. Thanks, Mr. Bosi. So -- thank you.

So this is showing the subject property. This is the PUD master plan, and the highlighted in red is the commercial tract that we're talking about. And you can see there the predetermined and preprogrammed concept of the varying access points. On this PUD plan, they show five different access points: Two to Rattlesnake, two to the hospital property, and one out to Collier. And so we have two out to Rattlesnake and one out to the hospital property abutting to the south.

They talked about mixtures of uses, why is this only going to be isolated to one kind of warehouse use and gas facility request? Well, it's not. There is a 4.1-acre outparcel that could be a potential for varying commercial uses, both office, professional, business, restaurant, retail, and the like.

Then there is business park commercial and medical next door to the age-restricted multifamily community. So this is all in concert and likeness and permissible by right. I want to reiterate that.

Prior to the PUD being approved in 2011, in 1989 when the Growth Management Plan was adopted, it had already predetermined this intersection as one of 21, now currently, I still believe, 19 activity centers in the entire county, okay.

So the long-range Growth Management Plan for long-range Comprehensive Planning had already predetermined this intersection, based on the future growth, in 1989 to include a mixture of uses and specifically focus on commercial at this intersection.

You know, again, I'm not going to get pulled into a back-and-forth. There was a lot of aggressive tone from some of the opposition. Mr. CiPolla talks about Walmart. He wants to become a real estate agent and talk about where we should go. "Get out of my backyard," as he says, "and go somewhere else."

But this is a Mixed-Use Planned Unit Development, okay, and there's words against -- up against residential, and he has a claim that this is the only potential Costco in the entire nation that is up against residential. And I just wanted to present something to you. If we could go to --

MR. CiPOLLA: Mr. Chairman, I didn't say that.

MR. WESTER: Can I go to my other PowerPoint that I had? Here we go. Let me see.

Okay. I'd like to -- and this is just several examples in the area, just in the area alone. This is Coral Springs. That is a Costco. And you can see this is from the Property Appraiser's website at the county. That Costco is 100 feet from existing residential, 100.

The next one is -- this is up in Estero. This one, as you can see from the Property Appraiser, roughly 287, 297 feet.

This is one in Fort Myers. This one is 72 feet. You can see the measurement there from the Property Appraiser.

Again, this is -- this is North Naples. This one is up in Venice, and you can see the proximity, again, all within the areas of residential.

And this is a new one in the Tampa Bay area that is in a mixed-use master plan, and it is a -- in the same kind of mixed-use master plan adjacent to and abutting the Medical Center of Trinity, Florida. So you can there Mr. CiPolla's wrong.

And I'll also offer this for the record, if you go north on Collier, there are three gas stations just to the north of this intersection at that intersection north of this site.

So, again, Mr. CiPolla -- and I want to correct, he said that Costco was juggling the pump numbers and saying that we came in with this number and that number and traded numbers, and we can't get it straight. With all due respect, the numbers have never changed from our request. And I think what he's commingling is the difference between fueling positions and number of pumps, okay. So our -- our number -- the numbers in this request for the ASW has never changed.

So again, things like calling -- it’s a complete boondoggle, and there's a lot of bias here, calling us overlords, I do appreciate you calling me great, the great Mr. Wester. I'll take that. We can keep that in the record.

CHAIRMAN SCHMITT: Excuse me, sir.

MR. WESTER: You know, the -- again, adversely affecting adjacent land uses by Mr. Spikonasnik [sic], vague and unconstitutional, again, this is a predetermined, preplanned -- it has an activity center, it has a mixed-use PUD, it has a commercial tract, and this is a use that's permitted and allowed by right, including the gas facility, okay.

Discussions about the ordinance and it's a ludicrous ordinance. There is a due process here, and the due process comes with specific code criteria. And I've shown that presentation to you, shown the finding of facts, the evidence, the testimony. Things about calling us -- there were -- threats like there will never be a Costco at the corner, that we're sandwiched in, talking about the various processes and procedural things here, talking about improprieties, it's all conjecture. It's clamoring.

One even said that this is -- they're going to base their entire thing on the court of public opinion. Again, there has been no bias. There has been no back bending. Everything has been completely aboveboard.

The market study, when we submitted, we submitted data that Costco knows the supply and demand needs and the growth of the communities. So the existing Costco north of here is about a 25-minute drive. And so we submitted maps that showed that and showed internal demand -- and supply and demand, and that's why they selected this site, because it's in an activity center, it's in a mixed-use PUD. There's things as allowed by right.

The due process that goes with this are the small changes that we asked for, which are deemed insubstantial in the PDI that you approved at the last Planning Commission hearing.

And then this one, the ASW, if we can prove and justify that we adhere to the criteria in showing that there are no -- to reduced impacts on the -- in the area, both adjacency of land uses, lighting, traffic and the like, again, I'll reaffirm that we're under the thresholds for traffic. We're

under the thresholds for lighting. We're under the thresholds for acreage. We exceed the environmental standards for the gas operations and environmental compliance.

Again, retail is an allowed use in here. That Costco wholesale store is a retail commercial operation.

We can debate the genesis of the 500-foot requirement all day long. The minutes are out there from past hearings. But again, it was -- the claim that this is a hard-and-fast ordinance without any due process to explain the criteria and justify the uses, I think we've done that with pure testimony and finding of facts.

This is a mixture of uses. Again, someone brought up pharmacy. Someone brought up just purely commercial use, but there is a number of uses in the Costco itself, but there's also commercial property that is undeveloped in that area still, okay, because we're under the acreage for the total acreage in that activity center and the PUD. So we're not taking up everything that could be fully developed at this time.

Stand by the market study. A lot of people speculating about the market study, the timing of it. Our application for the ASW request was deemed sufficient by staff in February of 2025. At that time there was no more -- there was nothing else needed. They were waiting for the PDI sufficiency and the application so both could be heard at the same time, at the same hearing.

And so -- but at that time, it was not reported to us that additional or more in-depth or written market study or needs analysis was needed. And I think that was based on Costco's internal site selection for this, knowing the supply and demand needs, and then more importantly knowing that gas is permitted by right here, and it's a 25-acre parcel. We talked about supply and demand.

I do want to have my traffic engineer come up, please. And there was some discussion about the daily traffic in and out and percentages on Rattlesnake and that Rattlesnake is not an arterial. We talked about sidewalks and mixtures of uses. And I will say this, that the market study and the 21 gas stations, that is part of the market study for this area.

But I'd like to introduce Ryan Cunningham.

MR. CUNNINGHAM: Good morning. Ryan Cunningham with Kittelson & Associates.

CHAIRMAN SCHMITT: Did you say Ryan or Brian?

MR. CUNNINGHAM: Ryan with an R. I'm a professional engineer and a road safety professional. I work with Kittelson & Associates at 225 East Robinson Street in Orlando.

There was a mention of 9,000 trips per day earlier. I just wanted to correct that. In our traffic study that we've submitted and is under county review currently, the warehouse and gas are expected to generate 6,907 trips per day, and that's -- half of those would be coming in, half of those would be coming out. So you don't want to take that number and then double it. But it's 6,907, not 9,000.

COMMISSIONER SCHUMACHER: Ryan, if I could ask you a question.

MR. CUNNINGHAM: Sure.

COMMISSIONER SCHUMACHER: What's the time period of those trips? So obviously Costco --

MR. CUNNINGHAM: That's daily trips.

COMMISSIONER SCHUMACHER: I know daily. I'm just asking you for a time frame when you would expect the heaviest volume of traffic to go in and out of a Costco.

MR. CUNNINGHAM: So generally you have your weekday p.m. peak and you have your Saturday midday peak. So the weekday p.m. peak is 682 trips. So 341 in, 341 out, generally.

COMMISSIONER SCHUMACHER: What time of day would that be? Are you looking at, like, 11 a.m., 10 a.m. when it opens or --

MR. CUNNINGHAM: No, it's between 4 and 6 p.m.

COMMISSIONER SCHUMACHER: Oh, 4 and 6. Thank you.

MR. CUNNINGHAM: Um-hmm.

Yeah. So there was some conjecture about Rattlesnake Hammock not being an arterial, which is one of the manmade boundaries that we talked about for the ASW waiver.

Collier County Resolution No. 2025-133 names this section of Rattlesnake Hammock Road as a Class 3 four-lane divided arterial. So it's in the county code. It is an arterial; that's not up for discussion. It's not my professional opinion. It's in the code.

As a four-lane divider arterial, the -- and because we know that this has been planned for an activity center all along, there's a lot more capacity there today than it needs today, right? So it's built for the future. It's built for this to be built out.

In our traffic study, when we look at what traffic will be on the road in the p.m. peak hour that we just talked about, 4 to 6 p.m. time frame, with Costco traffic on the road, we're still only looking at 37 percent volume-to-capacity ratio. So this section of Rattlesnake Hammock Road will be well under half of its capacity after the Costco opens.

CHAIRMAN SCHMITT: Can you state that again, please? It's half of the capacity, you said?

MR. CUNNINGHAM: Thirty-seven percent, so less than half.

CHAIRMAN SCHMITT: Less than half.

MR. CUNNINGHAM: Of the -- after Costco opens. So there's still plenty of room for growth and other development that needs to happen in this area.

CHAIRMAN SCHMITT: And you -- you're undergoing the review process now on the traffic analysis and traffic study that was not required as part of the --

MR. CUNNINGHAM: Correct.

CHAIRMAN SCHMITT: -- application for the ASW, but it is part of the application process for the site review?

MR. CUNNINGHAM: Correct. So we're, in parallel, doing our Site Development Plan application and review. The traffic impact study is part of that. So we have that information to provide here today, but it's not part of this application.

CHAIRMAN SCHMITT: Because I was going to have Mike Sawyer come up and talk about that as well because it's -- the market study did not include the traffic analysis. It's not required, and it's not part of the criteria.

MR. CUNNINGHAM: Correct.

CHAIRMAN SCHMITT: Okay.

MR. CUNNINGHAM: Anything else?

CHAIRMAN SCHMITT: That's it.

MR. CUNNINGHAM: Thank you.

CHAIRMAN SCHMITT: Mr. Wester, there was a comment made about the viability of sales. As far as I know -- maybe you can correct me -- and I'll ask staff. I don't believe there's any criteria in regards to whether or not there's -- it's a viable -- what do you want to call it? -- option or viability of sales and whether or not there's -- if there's enough sales to support a service station in that area. That was not -- was that part of your market study? As far as I know, it's not. But you looked at the -- what you thought would be the future, but whether it's going to be viable or not is -- is that part of your market study?

MR. WESTER: No. The -- we have -- and I'll let the appraiser come up from -- Matt Simmons discuss that.

But our market study shows -- and it was asked to kind of reiterate and confirm and supply that, what we always knew, that there was a supply and demand. So there was a shortage in the area, and so Costco has proven that through this market study. And that market study is in concert with other methodology for other gas facilities in the area.

Again, I think it was a 10-minute drive; identified 21 stations. And it shows that the market study is in concert with the supply and demand needs for the area, including the growth for the area. And as I stated in my presentation, that there are no negative impacts associated with the gas waiver specifically.

Again, keep in mind this is a -- the gas facility is something that's allowed by right there. So these are -- these are uses that are already preprogrammed, predetermined. This is more of an

orientation or a site plan element that goes with this property.

But I would like to have Matt come up and just speak since there were some folks that had come up and sort of questioned his experience, his firm's experience, and then, of course, the -- anything that's listed in the market study specifically.

CHAIRMAN SCHMITT: Okay.

MR. SIMMONS: Great. Thank you, again. Matt Simmons, for the record.

Yeah, I just wanted to address, one of my licenses was brought up, and it was brought up in the context of potentially being a disqualifying component, perhaps, of the report that I did, and it was an appraisal license. I hold an appraisal license, and I'm also a licensed broker.

But what we did here is a market study. It's not an appraisal. So that has nothing to do with the qualifications associated with doing a market study.

Really, there's -- performing a market study, there is no regulatory mechanism for how one would necessarily be licensed in that capacity. Presumably someone should certainly be qualified and be an expert on those matters. And to that end, I've done probably four to five dozen different studies associated with land-use matters, some of them being needs-analysis studies. At least one or two that have been accepted here in Collier County previously. So familiar with the work to be done, have experience, and have been recognized in a number of jurisdictions throughout South Florida.

CHAIRMAN SCHMITT: I'm glad you brought that up, because that was going to be my question on qualifications, so thank you.

MR. WESTER: And regarding -- this is Brad Wester, Driver, McAfee, and then there was a question about the proximity to the hospital. A lot of folks have said that this is next to a hospital; we're going to be a detriment to the hospital's operations, and it's just not true.

We are great neighbors with the hospital through Hacienda Lakes, LLC. This is an amended and restated easement. That's what we've done. There's no monetary transactions brought forward to the hospital itself for this easement as amended and restated and now recorded showing the access through their private property out to the traffic signal just to the south of the hospital property.

In fact, this easement was actually moved because, as you see on the PUD plan that I showed, there was five different access points, and now that one access point is only going to be to the hospital instead of two that were previously programmed.

And so just one, and it is in a location that provides the best of an opportunity for a third exit point or entry and exit point to the property itself.

And I'll also point out one of the metrics that -- after Ryan spoke, this gas pod is essentially self-contained in the fact that there is adequate stacking and queuing for the vehicles using that facility. They don't go out into the parking fields. They don't go out into the main entry roads. They don't go out into Rattlesnake Hammock. And it is purposeful and -- behind that design, both from a civil engineering and a traffic engineering standpoint.

And so it is a proved methodology that we have with the County right now both with the traffic impact study and the orientation and access and ingress and egress to the property, and that also is in concert with the fire marshal. They are part -- obviously, the fire department is part of this review. Can the facility be served by fire -- first responders and fire rescue? And it can, and that is part of the review, and there's been nothing in there that it says that we should reorient this or redefine it with new access points or wider entries or anything else. It isn't what you've already seen as part of the finding of facts here and the justification with expert testimony.

So with that, I'm here to answer any more questions you have.

CHAIRMAN SCHMITT: If you would highlight again the concerns by one of the residents, Mr. Torres, in particular about the ability to respond and the safety concerns highlighted, what may possibly result if there was any type of accident, knocking over a pump or whatever, but all the safety procedures you stated clearly.

MR. WESTER: Yes, sir.

CHAIRMAN SCHMITT: These are -- all -- your service stations comply. Could you go through that again as far as state and --

MR. WESTER: Yes.

CHAIRMAN SCHMITT: -- federal, state, and local codes, please.

MR. WESTER: Yes, sir.

CHAIRMAN SCHMITT: Automatic shutoffs and the other types of things that are to preclude any type of significant danger.

MR. WESTER: Yes, sir. And this is a sampling of the environmental gas operations. Again, starting with this. First and foremost, obey the law; be safe, clean, reliable; protect the environment; sell high-quality fuel; never be undersold; provide courteous assistance.

The gas facility will include equipment of the latest technology with many safety features to prevent environmental impacts and to meet and exceed state and local and federal requirements.

We have extensive leak protections, monitoring systems with those, interactive and constant NFPA, National Fire Protection, and then the American Petroleum's Institute safety training for employees, highest standards for emergency spill response, auto and manual cutoff systems, vapor and fugitive emissions controls and recoveries that exceed the standards.

We have monitoring both in the warehouse and third party for the gas facility, and, of course, an OWS, which is an oil-water separator, before anything goes to the stormwater treatment system.

And, of course, this is a self-service facility, as many of you may know, from the gas operations, but it is attended by a full-service -- or full-time trained Costco attendant. It is attended and passed all of the safety regimen and criteria for all the things that we've discussed.

More specifically, Costco's tank and piping system is certified to meet the federal UST leak detection standards. Costco does utilize one of the most durable joint sealers. Again, we talked about few operators nationwide use that.

All tanks and dispensers are equipped with the latest Stage 1 vapor recovery air pollution technology. The pressure line leak detector, current state and federal monitoring requirements. If the product piping system detects a failure of 0.2 gallons per hour, the line automatically shuts off and an alarm is activated. The federal and state standards are three gallons per hour.

Costco does use the VST, which is to control fugitive emissions from the vents. And the unit separates basically gas vapors, returns those gas vapors back to the tank itself, and then clean, scrubbed air is vented to the environment.

And that exceeds the minimum EPA, state, and local quality air standards. And then, of course, site drainage, an important one, because it rains a lot in Florida.

Drain -- site drainage technology -- and our civil engineer is here to answer any questions -- is designed to capture any of the spills through an oil-water separator being conveyed to stormwater detention and treatment systems.

These gas facilities are built with really robust and really strong environmental and operational standards, especially from explosion prevention. Gas cutoffs. The hoses pull. If you drive off with a nozzle in your car, it automatically shuts off.

And so there's a lot of redundancy. And it's interesting because Mr. Torres -- thank you for your service -- being a former airline pilot, as he described, and a pilot for the Army, he understands what emergency and redundant systems mean, right?

Backups and emergency procedural elements are key to the operations, both not only in flying, as he described, but also gas operations.

So redundancy is an absolute key element to health, safety, and welfare at the gas facility, and Costco exceeds those standards, and they stand behind them. I think anybody that's driven in a Costco facility, especially for gas, knows it's a first-rate, clean, well-attended, well-maintained facility with the utmost standards. Behind the scenes, with the compliance of the regulatory atmosphere, they exceed many of the requirements.

So I stand by all of those findings of facts and expert testimony and ask any questions you

have or consideration of approval. Thank you.

CHAIRMAN SCHMITT: Mr. -- Paul, go ahead, please.

COMMISSIONER SHEA: Are there --

CHAIRMAN SCHMITT: Commissioner Shea.

COMMISSIONER SHEA: Are there any restrictions on the traffic coming in from the hospital side or -- and if not, what do you envision a day's traffic coming in there? A bunch of tractor-trailers?

MR. WESTER: No, sir.

COMMISSIONER SHEA: A bunch of cars?

MR. WESTER: There will be no fuel trucks or supply trucks coming through that. They're all going to come through Rattlesnake Hammock.

COMMISSIONER SHEA: So only members would come through that?

MR. WESTER: Yeah. There was a discussion about the fuel trucks potentially driving through that circulation road for the hospital, and there's no fuel trucks that will go through that. The fuel trucks are going to come off of Rattlesnake Hammock straight to the gas facility.

COMMISSIONER SHEA: Okay.

CHAIRMAN SCHMITT: Is there anything unusual about that?

MR. CUNNINGHAM: Ryan Cunningham, professional engineer.

The easement was also moved to the east so as not to interfere with emergency traffic that comes in and out of that private drive. So that's something that we worked with the hospital to make happen to avoid any Costco traffic interaction with their emergency services.

COMMISSIONER SHEA: In your traffic analysis, did you count on a lot of vehicles coming in that direction? It seems like an easier way to get in.

MR. CUNNINGHAM: It will be more attractive for people who are coming from or going to the south, which we have about a quarter of our traffic projected to do that.

CHAIRMAN SCHMITT: Commissioner Schumacher.

COMMISSIONER SCHUMACHER: Mr. Wester, what time are these tankers delivering fuel? 24/7?

UNIDENTIFIED SPEAKER: During the day.

COMMISSIONER SCHUMACHER: During the day.

MR. WESTER: During the day it's --

COMMISSIONER SCHUMACHER: While it's staffed, while Costco is staffed?

MR. WESTER: Yes, sir, and that's why there's a separate fueling lane, separate for the truck to park there and refuel the tanks.

COMMISSIONER SCHUMACHER: Okay.

MR. WESTER: But typically, they're there as an as-needed basis. And the vendors -- the tanker vendors know how to get in, get out, and they've got a completely dedicated lane for refueling.

COMMISSIONER SCHUMACHER: And the other concern is there's -- obviously, there's a high safety concern with that south sidewalk with the number of cars that are coming and going. Why not just have a bridge over the canal into Costco and take some of that -- no, I don't need the clapping, please -- to take some of that weight off of that road?

The other concern I have is if you have a tanker truck on Rattlesnake Hammock, where are they making the U-turn?

MR. WESTER: I'm sorry. The Rattlesnake Hammock U-turn question?

COMMISSIONER SCHUMACHER: Where are you making a U-turn with a fuel tanker? Because -- are you going left out onto Rattlesnake and then heading back to 75?

MR. WESTER: Yeah. That would --

COMMISSIONER SCHUMACHER: The layout wasn't kind of clear on that. That's why I'm asking.

MR. WESTER: Okay. Ryan, you want to come up and talk about the bridge over the

water?

MR. CUNNINGHAM: Sure. So as you're aware, there's a significant canal on the east side of Collier that would have to be crossed. There would be a right-of-way easement -- or a right-of-way access request that would need to be made with FDOT on something like that. What we tried to do was to satisfy that movement with that hospital access. So to get in from the south side as opposed to, you know, crossing an environmentally sensitive area, building a bridge, and basically cutting the land to get there.

CHAIRMAN SCHMITT: Well, isn't Collier Boulevard limited access as well? That's something I'm going to -- was going to ask staff, Mr. Sawyer. Because I thought --

MR. CUNNINGHAM: It has stringent access management standards.

CHAIRMAN SCHMITT: -- under our land-use criteria, very -- restricted very much on who can have access off of Collier.

MR. CUNNINGHAM: Yeah.

CHAIRMAN SCHMITT: And this would require access off of Collier, which is not -- was not ever -- it's pretty restricted as far as I know and I understand. So Mike Sawyer, during the staff presentation, I'm going to ask him to cover that.

MR. CUNNINGHAM: Yeah. And I'll just say there is a median there, so it would be a right-in, right-out only.

CHAIRMAN SCHMITT: It would be right-in, right-out only.

MR. CUNNINGHAM: And on the south side of the property is where you have that private access road for the hospital, which is a directional access.

CHAIRMAN SCHMITT: And it's my recollection, that is a board-directed restricted access off of Collier is my understanding. So I'll ask Mike to cover that.

MR. WESTER: And fuel trucks will be going to the main intersection there where the proposed traffic light is, yes, sir.

COMMISSIONER SCHUMACHER: Thank you. I'll wait to talk to staff.

CHAIRMAN SCHMITT: Michelle, do you have any questions? Are you still on?

COMMISSIONER McLEOD: Yes, I'm here. No questions.

CHAIRMAN SCHMITT: All right. All right. In an effort for full disclosure, Mr. Wester and I -- I want to comment on the comment that was made that he and I had a discussion prior to the meeting. Mr. Wester can correct this, but our conversation was at 3 p.m. on Monday, my discussion as the Chair. Mr. Wester sent me an email. Our discussion was concentrated solely on the conduct of this meeting.

My question to him was I wanted his market -- person who did the market analysis to come up and speak and go over the criteria of the market analysis which, in fact, it did happen, because I asked Matt to come up, Mr. Simmons. So I don't think there was anything other than our discussion about the conduct of this meeting. I will make a note of that as such.

I question the fact that the -- one of the commissioners -- or one former judge questioned whether there was any illegality, but we always have a right to talk to the petitioner. That's always been part of the County Commission responsibility, just as a petitioner can meet privately with a -- with each of the commissioners as well, the Board of Zoning Appeals.

So I don't know if you want to highlight our discussion on Monday. That's what we covered.

MR. WESTER: Yes, sir. I concur with that recollection of our discussion on Monday. This is Brad Wester, Driver, McAfee, so...

CHAIRMAN SCHMITT: Okay. Is that it?

MR. WESTER: That's it. Thank you, sir.

CHAIRMAN SCHMITT: Okay. Staff, please.

MR. BOSI: Again, Mike Bosi, Planning director.

And just to let you know, this is the Ordinance 2022-18. It is the current Hacienda Lakes MPUD. And where I'm at right now is the section that dictates the uses that are allowed within the

commercial designated portion of Hacienda Lakes, which is Rattlesnake Hammock and Collier Boulevard. It lists 90 individual uses of commercial uses and a variety of uses that are allowed within the -- within that commercial designation.

For the SIC code, which you can notice, the parens that are behind the uses, have a range of SIC codes, and that's how the county utilizes and determines which commercial uses are allowed, which -- in various zoning districts or the various commercial PUDs.

CHAIRMAN SCHMITT: An SIC stands for?

MR. BOSI: SIC code's for Standard Industrial Classification.

CHAIRMAN SCHMITT: Thank you. Just want to make sure the public understands what that is. Thank you.

MR. BOSI: Absolutely. Thank you.

And on Page 13 of -- or 13 of the ordinance, you'll see general merchandise stores, 5331. That is the SIC code that Costco classifies. Now, I can understand why there could be some confusion as to what the SIC code or what the use code would be, because not only is -- it's qualifying as 5331, but if you go to Costco, you also know they sell food. It's a food store as well. That's Use No. 39, but that's not the use that they're being permitted under. They're being permitted under general merchandise store.

You can also see the use right above that, Use No. 40, gasoline service station. That's a permitted use within the commercial zoning designation. Well, that's a use that's also contained within that general merchandise store.

So the use has always been allowed since the adoption of Hacienda. In 2011, the use of a general merchandise store, which our department stores are classified. A Super Target, a Super Walmart, a Costco that serves a variety of goods and services, foods -- those are variety stores -- have always been allowed within the commercial designation of Hacienda Lakes since its original designation in 2011.

Another aspect that you asked me to comment upon was the -- the review of emergency management and emergency services. They get a review at the zoning stage. They did not specifically review the ASW. The ASW doesn't provide for allocation -- or for instances related to emergency response, but they did provide for a review of both the original PUDs, the PUD amendment that was made in 2020 -- 2022 as well as the current SDP that is being reviewed.

So the operational aspect of Costco is being reviewed by our emergency services division. So there's a review that's built in not only at the zoning stage where it's conceptual but the operational aspect of how that development plan is going to affect not only the nearby roads, but relationship to nearby uses and any other issues that may be of pertinent concern to the emergency services division.

And then finally, you asked me to put on the visualizer -- because you've already made a recommendation of approval to the Board of County Commissioners on the PDI for the deviations that were requested.

So this is the ASW. And you asked me to put on the criteria for what the ASW is to evaluate. So your task, you're being asked to make a recommendation to the Board of County Commissioners on an automobile service waiver, a distance waiver. There are four criteria that you're going to evaluate that decision upon. These are the four criteria your decisions have to be made by the law. These are how you're evaluating.

And the applicant has already covered those. I can cover these very briefly. But whether the nature and the type of natural manmade barrier, structure, or feature lying between the proposed establishment and existing facility with fuel pump is determined -- is determined by the BZA to lessen the impacts of the proposed facility with fuel pumps.

So is there a barrier that's going to provide for an ameliorating factor towards how these two facilities -- gas facilities are going to interact? And the applicant's made their determination, and staff agrees, that that divided highway does provide for -- for that -- that interference, so to speak.

Whether the facilities with fuel pump is only engaged in servicing automobiles during regular bus -- daytime hours or if in additional [sic] in lieu of servicing the fuel -- the facilities with fuel pump sells food, gasolines, and convenience items during the daytime, nighttime, or 24 hours basis.

The applicant has stated they've got -- they have limited hours. And at their fuel facilities, they only sell fuel. Goods and services are within their variety store. That's the brick and mortar that it's in.

The third, whether the facilities with fuel pump is located within a shopping center, primary [sic] accessed by a driveway. This is -- this qualifies -- this is a shopping center -- a Costco shopping center off of Rattlesnake Hammock by its own individual driveway.

And whether the granting of the distance -- the distance waiver will have an adverse impact on adjacent land uses, especially residential land uses. And that's important, and the words within that are important, because one of the things you have to also understand is what does "adjacent" mean? And I know this is -- I'll blow this up a little bit. Adjacent, to share a common line -- a common property line or boundary or be separated by a public right-of-way, easement, or water body.

So the apartment complex that sits immediately to the east of Costco is where that analysis provided for, not for the residential developments that are within Hacienda beyond that adjacency.

Your review is based upon the effect of the adjacent properties, not the properties that are 600, 700, 800 feet away from Costco. Now, that could be -- that could -- you could recognize that those exist, but your analysis and your determination is for residential properties that are adjacent to the facility.

So those are the four -- those are the four criteria that you're obligated to evaluate to make a determination as to whether you will make a recommendation to the Board of County Commissioners that they should grant this fuel --

Staff is recommending that we feel that they've met this criteria, and staff is asking the Planning Commission to make the recommendation as you see fit regarding these four individual criteria based upon the testimony that was provided today by professionals as well as the public.

And any questions you may have for staff.

CHAIRMAN SCHMITT: Thank you. I appreciate the review.

The -- would you just cover, because of the accusations that were made publicly, that somehow Costco received special consideration -- or the other -- implied that somehow staff bent over backwards for this applicant. Can you describe -- as far as I know and understand, having been the former administrator of, at that time, Community Development, when an applicant comes in, we give that applicant the full due process and every right to ask for a review or ask for a zoning application. No different than anybody else, we assist them through the process. If you could describe how you conducted your -- your review with this applicant and whether you -- dispel any ideas as to whether it was some kind of a special treatment.

MR. BOSI: The -- the applicant submitted two petitions, a PDI application as well as an ASW application. Now, traditionally, that would only be reviewed by the HEX. His body is authorized to hear those individual petitions.

CHAIRMAN SCHMITT: The Hearing Examiner.

MR. BOSI: Or the Hearing Examiner. I'm sorry about the acronyms.

If preferential treatment was given to the applicant, that's the -- I think that would be the steps that they would have to follow. They would have to go -- and it's only one step. It's one public hearing in front of the Hearing Examiner, just one individual, and that would be -- the determination would be made by the HEX through one public hearing.

This applicant was asked to go to the Planning Commission, an additional public hearing, have the public comment upon the PDI as well as the ASW because of the great concern they had and the concern that was created with the Hacienda -- within the Hacienda community.

So we didn't provide preferential treatment. We provided an additional burden for them to

have to satisfy to be able to allow for the public to be able to speak and provide commentary towards the process in the proposal that's being -- that's being evaluated.

So from staff's perspective, we didn't provide preferential treatment. We provided a higher bar for the applicant to have to satisfy with his appearance, the second appearance now, in front of the Planning Commission.

And in terms of did we treat Costco uniquely because Costco had some sort of elevated status within staff's perspective or staff's receptivity to their applications, we treated them as we treat all applications, the same due process, the same review and evaluation of the code against what was submitted, against the criteria that the code has established as -- and what those recommendations were against those codes.

So no, staff did not provide preferential treatment. We treated them like we treat every applicant that it has the right to due process; that it has the right for the evaluation; that it has the right to present what it feels that they have met the criteria that's established for any one petition.

So from that response -- or that respect, staff did not provide preferential treatment. Staff provided the same treatment that we try to provide to any applicant that comes within our system.

CHAIRMAN SCHMITT: And just to clarify that, if this had been reviewed by the HEX -- and I'm looking at the County Attorney as well, Heidi. The Board directed this petition to come to the Planning Commission. Had it gone to the HEX instead, the applicant appeared before the HEX, and whether it was approved or not -- let's say it was approved. If there was any appeal, that appeal would go from the HEX directly to the Board of Zone -- BZA -- for an appeal to the BZA; is that correct?

MS. ASHTON-CICKO: Correct, but only the parties can appeal, which would be Costco and the County. Otherwise, it has to go directly to court.

CHAIRMAN SCHMITT: Otherwise, it goes to court. In this case, the Board of County Commissioners could have given us the authority to approve this and -- at the approval level. All we're doing is recommending now and going to the Board of Zoning Appeals.

MS. ASHTON-CICKO: Correct.

CHAIRMAN SCHMITT: The Board could have directed us as a quasi-judicial to -- as empowered -- as they empower the HEX, they would have empowered us to make the -- be the final decision, and then we -- to appeal, it would go, again, to either the BZA or the courts. In this case now, the Board has taken full control of this, correct?

MS. ASHTON-CICKO: Yeah. The Board took away full control of the HEX and wanted it to go the lengthy process so that there would be a lot of public hearing opportunity for comment --

CHAIRMAN SCHMITT: Right.

MS. ASHTON-CICKO: -- recommendation by the experts on the Planning Commission. Whether the CCPC could be the decision-maker, that I would have to research. I'm not sure if that's correct.

CHAIRMAN SCHMITT: Okay. But regardless, there was a much more laborious process than what our code allowed. Our code allowed for this to go to the Hearing Examiner.

MR. BOSI: Correct, correct.

CHAIRMAN SCHMITT: Okay. Chuck.

COMMISSIONER SCHUMACHER: Thank you, Mr. Bosi, for laying it out and going over it step by step. I appreciate it, because clarity was needed.

If they rotated that gas station around to not be within 500 feet, would we even be sitting here?

COMMISSIONER SHEA: It's the property line.

CHAIRMAN SCHMITT: It's the property line.

COMMISSIONER SCHUMACHER: It's the property line? That's what I'm asking. It's going to be the property line?

MR. BOSI: Not for the ASW.

COMMISSIONER SCHUMACHER: Not for the ASW.

CHAIRMAN SCHMITT: If they created on the -- on the southern -- or southeasternmost portion of their property, if they carved out an additional parcel and that's where they had the facilities with fuel pumps, then it would be outside of the 500 feet zoned; therefore, they would not have needed the ASW. Still, for the PDI, would have required a public hearing as well, though.

COMMISSIONER SCHUMACHER: This might be a question for Mike. You can answer it, too. The traffic that's allocated for that road through, like, a master plan, does that include the connection in between Rattlesnake to Hacienda Parkway, which would then circle back over to 951?

MR. BOSI: And I would have to ask Mike to comment upon that. It's -- right now, as it's under the Site Development Plan review, that's being evaluated, you know, from a safety perspective, from a volume perspective, from a distribution perspective. But I'd have to ask Mr. Sawyer on that.

COMMISSIONER SCHUMACHER: Thank you, sir.

CHAIRMAN SCHMITT: Mike.

COMMISSIONER PETSCHER: Yes, I was just curious, did RaceTrac or 7-Eleven have an ASW granted to them?

MR. BOSI: The RaceTrac.

COMMISSIONER PETSCHER: The RaceTrac?

MR. BOSI: Not the RaceTrac, I'm sorry. But the 7-Eleven across the street. The one that is -- has created the distance need for Costco.

COMMISSIONER PETSCHER: Okay. That's my only question.

MR. BOSI: Yes.

COMMISSIONER SCHUMACHER: Another question. Sorry, I don't mean to interrupt. If Costco went in before 7-Eleven, would we be here?

MR. BOSI: No.

COMMISSIONER SCHUMACHER: Okay.

MR. BOSI: For the PDI -- for the PDI, you would have needed it, but for the ASW, no.

COMMISSIONER SCHUMACHER: ASW, no.

CHAIRMAN SCHMITT: Mr. Sawyer, can I ask you to come up, please. Because I think there may be some questions as far as the -- I'm going to go back to the original approval as amended in 2011 -- I guess it's a 2012 ordinance, was it not?

MR. BOSI: 2011, I believe.

CHAIRMAN SCHMITT: Yeah. The -- the traffic analysis that was conducted as part of the zoning, as far as the impact on this Activity Center No. 7, could you just highlight from the standpoint of the traffic analysis and what was conducted based on the intensity and density that was requested in the PUD?

MR. SAWYER: Absolutely. Mike Sawyer, Transportation Planning.

Commissioner, at the time that Hacienda Lakes came in, it was reviewed with all of the requirements at that time, and all of the traffic impacts were looked at at that time, as well as the capacity on the roadways at that time again.

There is a trip cap that's associated with Hacienda Lakes, and it took into consideration all of the uses, the square footage, the number of residential units that they were proposing to do, and that was all part of that original review and the TIS that was associated with it.

CHAIRMAN SCHMITT: Okay. So the impact of this type of I'll call it commercial was accounted for in the --

MR. SAWYER: Correct.

CHAIRMAN SCHMITT: -- in the original zoning, okay.

Can you talk about Collier Boulevard and the access on Collier Boulevard.

MR. SAWYER: Yeah. Collier -- as far as Collier is concerned, it is a Class 3, current and future, which is a controlled arterial six-lane divided.

Anything that would be proposed as far as an additional access for Hacienda would first require a review of a new amendment to the PUD itself to propose another additional access. Along with that, one of the criteria would certainly be the distance between that access and any other existing accesses that are on Collier Boulevard. So that would all be reviewed.

Quite honestly, I don't believe that staff would be receptive to that sort of thing being presented simply because there is adequate access already provided within Hacienda Lakes within the various roadways that are associated with Hacienda itself as well as the adjacent roadways.

CHAIRMAN SCHMITT: Okay. I'm glad you put that on the record.

Go ahead.

COMMISSIONER SCHUMACHER: Mike, if I can ask -- it kind of goes back to my question to Mr. Bosi. Was the trip cap allotted for that road to include Hacienda Parkway, which kind of goes around the Swamp Buggy RaceTrac and then ties into 951, which from the aerial looks like it's a left-in, right-out? Was that road considered part of ingress and egress into Hacienda Lakes and considered part of a trip cap?

MR. SAWYER: It was considered part of the overall network at that time, if you will. So the way we look at trips associated with PUDs are we look at access points going into and out of the PUD itself. We do not necessarily look so much at the internal roadways because those are the roadways that are going to be servicing primarily the PUD itself. There are some exceptions. If there are connecting roadways within the development itself that are going to go out past the PUD, out into county roadways, then, yes, we would, you know --

COMMISSIONER SCHUMACHER: Include it as part of it.

MR. SAWYER: -- look at those capacities as well. But primarily, again, you've got a PUD. We look at access points going into and out of and look at how those are going to be impacting our network.

COMMISSIONER SCHUMACHER: The only reason I ask is because that road is, like, partially completed.

MR. SAWYER: Correct.

COMMISSIONER SCHUMACHER: You've got it partially coming off of 951, and then you've got a part from Hacienda Lakes that has got concrete barriers in front of it, which I guess is paved a certain portion of the way, and then it's dirt road like it's kind of under construction, but I'm trying to figure out what the ETA would be for some type of completion, or is that on the other developers as they develop those plots?

MR. SAWYER: There are roadways within Hacienda Lakes that will be networking into what we are looking at currently as future road improvements for the county, but there are certain roadways within Hacienda Lakes that have not been constructed yet. And the LRTP, our own LRTP is looking at some of those additional roadways, but that's long term. Very little of the funding is even contemplated at this point.

COMMISSIONER SCHUMACHER: Thank you, sir.

CHAIRMAN SCHMITT: Okay. Thank you, Mike.

MR. SAWYER: Thank you.

CHAIRMAN SCHMITT: With that, I'm going to close the public hearing, and I open it up to Board discussion.

MR. SABO: Mr. Chairman.

CHAIRMAN SCHMITT: Yes.

MR. SABO: We were approached by Mr. CiPolla. He was quoted during rebuttal. He asked to speak.

MR. CiPOLLA: Incorrectly.

CHAIRMAN SCHMITT: He was quoted by whom?

MR. CiPOLLA: Incorrectly.

MR. SABO: Mr. Wester.

COMMISSIONER SHEA: The applicant.

MR. CiPOLLA: I won't take up much time. I won't take up much time.

I just want to say a couple of things. First of all, Mr. LoCastro, our good commissioner, promised us the deep dive when the staff and this commission looked at it, as opposed to one person.

And I do want to reiterate for the record -- because I'm glad a lot of this is on the record for future litigation. But if they did such a deep dive, why didn't they pick up that the market study wasn't there, number one?

But more importantly, I expected the shenanigans from Costco misquoting me. He knows he misquoted me. And then it's the usual shenanigans from Costco. I will not dignify it with a response, but you know you misquoted me.

I would ask -- a lot of people who have sat here today have been buried in numbers and codes and clauses and so on and so forth. I am asking you, please, to use your common sense.

Again, as I mentioned earlier today, in your quiet moments you must know how ridiculous this is. So I would ask that you use your common sense when you vote and not just because Costco wants what they want. Again, a square peg into a round hole, it doesn't fit. Thank you.

CHAIRMAN SCHMITT: All right. I close the hearing. Open it for Board discussion.

Mr. Shea.

COMMISSIONER SHEA: A question for Heidi just on the record. There was a lot of discussion about developer commitments. And something like a Costco was not something that was envisioned in the developer commitments to the residents. Could you talk about how -- that's not really binding in the sense of what we're reviewing here, right?

MS. ASHTON-CICKO: Correct. If there's any declaration of restrictions or any representations made by the developer or any of his agents, that's a private issue. We're here today on the ASW as to a particular parcel, and we're here to review it based on the criteria before you and not the declarations or any other representations.

CHAIRMAN SCHMITT: And, in fact, as the staff presented, the intensity of use is fully compliant with the PUD and the uses as reviewed by the zoning staff, correct?

MS. ASHTON-CICKO: Correct. This waiver request is a bit unique because usually we're looking at a principal use that's seeking a waiver, and in this case it's an accessory use. So I don't know if -- I'm sure that that weighed into staff's analysis as well.

CHAIRMAN SCHMITT: Thank you.

MS. ASHTON-CICKO: And the market study analysis.

CHAIRMAN SCHMITT: All right. Any other comments from commissioners?

COMMISSIONER SCHUMACHER: My concern is that the trip cap for that -- for that PUD was based off a number of roads being done, and right now there's only one in and one out.

If Hacienda Parkway was done and there was other roads leading out of that, I don't know if it would be as much of a concern. That's what -- the struggle that I'm seeing right now to allow this service station in there is the fact that the other roads aren't completed yet. I mean, I just think that it's bringing in too much. I know that might be against what we're even discussing here, but that's kind of what my concern is.

CHAIRMAN SCHMITT: Well, that's kind of my point. Mr. CiPolla's asking us to use common sense. I mean, there -- the criteria as described is the criteria, and we're bound by that. I cannot invent something saying, well -- again, your discussion about the potential for traffic impact. That would be part of the market analysis and the challenge to the market analysis. But to -- I see us -- we're constrained based only on the criteria as in the code, and the criteria's clearly been met.

I can't invent something and say, "Well, my common sense tells me this," because there's no criteria for that. There has to be something that is --

COMMISSIONER SCHUMACHER: Yeah.

CHAIRMAN SCHMITT: -- stipulated and defined.

If it's something that we want to add that somehow the rest of the commitments have to be

met when this Costco goes in -- but who is going to be the entity to do that?

COMMISSIONER SCHUMACHER: It's a tough thing.

CHAIRMAN SCHMITT: I don't know.

COMMISSIONER SCHUMACHER: I think it's -- I think if the other roads were open that are planned as part of this PUD, if those road were completed and people had more in and more out of this from Rattlesnake to get to Hacienda Lakes or the community in the back or the apartments -- because the apartments are going up. Like, they're being built.

CHAIRMAN SCHMITT: Yes.

COMMISSIONER SCHUMACHER: And people -- they're leasing them out now. I only know because I have -- I have a love for Royal Scoop down there, so I kind of go there a lot. Anyway, sorry I digress.

Those are going to fill up, so we're going to have more vehicles, more people on that road. But the other roads that also service into Rattlesnake aren't completed yet. So you only have this one intersection at this time even though the trip cap is based on the other ones being done.

CHAIRMAN SCHMITT: But who's responsible for doing that?

COMMISSIONER SCHUMACHER: That's what I'm trying to figure out. It seems like -- Mike, could you come back up here real quick, please. Because Mike had just said, like, we don't -- the County doesn't have the funding to finish the other roads, and the one that's partially completed, I don't know if it's a developer commitment when they do develop back there or what.

Sorry, Mike. I don't mean to keep calling you up.

CHAIRMAN SCHMITT: Can you put up the map or whatever we're talking about, the access roads? Is it -- have you got that available?

COMMISSIONER SCHUMACHER: For the PUD?

MR. SAWYER: I don't. Again, Mike Sawyer, Transportation.

CHAIRMAN SCHMITT: Can you put that on presentation mode so it's a little bit larger? There you go. Thank you.

MR. SAWYER: Thanks, Mike.

As -- again, Mike Sawyer, Transportation Planning.

As far as the roads that we're actually talking about, the principal one is obviously going to remain Collier Boulevard. The other one is going to, again, principally be Rattlesnake. Now, there is plans to eventually have another north/south link that will be going to the east side of -- and through Hacienda Lakes. Obviously, that isn't currently existing, and it does go through Rattlesnake -- I'm sorry -- does go through Hacienda Lakes.

There is another east/west -- no -- yeah, east/west as far as Hacienda Boulevard that also connects down to Rattlesnake internal to the PUD. That already exists.

You need to -- you need to understand when we're looking at a particular project when it comes in, we are looking at a snapshot of the road network at that time. So as the PUD was originally looked at, it was the -- at that time, the road network that existed when the PUD came in.

Now, with the Costco coming in, the current SDP -- which our office isn't looking at. That's Development Services looking at the SDP itself. That is being looked at at the current network that we've got around the -- or around -- in and around Costco that it's going to be impacting. So each time -- each time a project comes in, we're looking at -- we're looking at a snapshot at the time it is going through permitting.

So to answer your question, is there a concern with the future road network that will eventually occur within Hacienda Lakes? I would have to say no because it was -- it's not contemplated because it doesn't exist yet. We can't take that into consideration until it actually exists.

CHAIRMAN SCHMITT: Well, let me ask this, Mike. We're not -- you're not doing the review process. Of course, Development Services does that now.

MR. SAWYER: Correct.

CHAIRMAN SCHMITT: The SDP comes in. A requirement to support that is -- is the

traffic analysis. In the review process, if it's deemed that the traffic far exceeds what's capable to handle right now, the SDP will not be approved; is that correct? Or what's the process?

MR. SAWYER: I can tell you right now that overall within Hacienda Lakes, they are not anywhere close to what their trip cap is.

CHAIRMAN SCHMITT: Okay. That's the next question.

MR. SAWYER: I believe they're well under half of their allowed trip cap.

CHAIRMAN SCHMITT: Yeah, and then the traffic analysis at 37 percent, I believe, is what he quoted. Okay.

MR. SAWYER: I believe that's correct. I believe that is an accurate --

CHAIRMAN SCHMITT: Okay.

MR. SAWYER: -- percentage.

CHAIRMAN SCHMITT: Okay, thank you.

COMMISSIONER SCHUMACHER: Thank you, Mike.

MR. SAWYER: Sure.

CHAIRMAN SCHMITT: Close the public hearing again. Commissioners, any comments? Do I hear a motion? Paul?

COMMISSIONER SHEA: It's interesting. I mean, residents have rights, and I'm probably known as one of the more supporter of the residents' rights here, but the landowners have a right also, and that's what we juggle with is both your rights and their rights.

Unfortunately, this -- I don't know how it's gotten so complicated. The groundwork for this was already laid years ago when the commissioners decided our aspirational view of development in the future is going to be what our Growth Management Plan is, and they comply with everything.

The variance is something that happens -- was created probably for slightly different reasons than you're asserting, but it's granted all the time, and it's granted when there's justification for it. There's a due process in the procedures, as were explained.

We need a reason to reject it. And I know you feel we do. I don't feel that we do. I think they comply with what we've asked them to comply, and as a member of this board, I don't feel I have the grounds to vote against it, so I would support it.

CHAIRMAN SCHMITT: And I tend to agree. I don't have any reason to deny it because I don't have -- they meet all the criteria. It may not be desirable. It may not be something that they don't [sic] want. And I'm not punting this to Board of Zoning Appeals. If they feel differently, the commissioners certainly can deal with the repercussions of that, because I'm sure if it's denied at that level, then the applicant is going to pursue their rights through the courts.

But they meet all the requirements. This is an activity center. I highlighted in the last meeting it's been an activity center designated as such for probably 25 years. And Activity No. 7, our Growth Management Plan was very clear in trying to concentrate commercial on specific areas of the county, and to preclude what was happening prior to that is the proliferation of strip malls and other types of services.

U.S. 41 East Trail is a good example. That was probably what broke the camel's back as U.S. 41 and the commercial that was developed. We concentrated -- we looked at concentrating intensity of commercial in specific areas, and this is known as Activity Center No. 7. The other one is Activity Center No. 9 which is up at the intersection of 75 and 951. So I have to support it as well. I've looked -- so you made a motion?

COMMISSIONER SHEA: If everybody's done speaking.

CHAIRMAN SCHMITT: Speaking. Go ahead.

COMMISSIONER SHEA: I think --

COMMISSIONER PETSCHER: Yeah. I think that we are -- this is based on the ASW. This isn't on anything else.

CHAIRMAN SCHMITT: Yeah, this is the ASW.

COMMISSIONER PETSCHER: And based on the criteria brought forth by staff, there's

no reason -- there's no reason for us to deny this. So if you want, I'll make the motion.

CHAIRMAN SCHMITT: Okay.

COMMISSIONER PETSCHER: I'll make the motion to approve PL2024001790 [sic] for the ASW for Costco.

CHAIRMAN SCHMITT: And is there a second?

COMMISSIONER SHEA: Second.

CHAIRMAN SCHMITT: I call -- all in favor, say aye.

COMMISSIONER SHEA: Aye.

CHAIRMAN SCHMITT: Aye.

COMMISSIONER PETSCHER: Aye.

COMMISSIONER McLEOD: Aye.

CHAIRMAN SCHMITT: Any opposed, by like sign.

COMMISSIONER SCHUMACHER: I'm going to have to say I oppose.

COMMISSIONER SHEA: Did Michelle vote?

CHAIRMAN SCHMITT: One of opposition. And can you state for the record your opposition?

COMMISSIONER SCHUMACHER: I think that it's going to be a detriment to the neighboring property with the amount of traffic that's coming in without the extra arterial roads connecting to Rattlesnake Hammock to take the pressure off of that -- that, basically, east and west entrance into that property.

CHAIRMAN SCHMITT: Okay. So that's beyond the criteria, but it's your assessment.

COMMISSIONER SCHUMACHER: Yeah. Number one is if it impacted the neighboring property, which I think --

CHAIRMAN SCHMITT: Michelle, did you vote?

COMMISSIONER McLEOD: Yes, I did.

CHAIRMAN SCHMITT: Was that the affirmative or denial?

COMMISSIONER McLEOD: Affirmative.

CHAIRMAN SCHMITT: Okay. So it passes 4-1.

Thank you. And with that, I'm going to ask my commissioners. We've got several more petitions. We have to be out of here at 3. Let's take a 20-minute break. Thank you.

(A recess was had from 11:58 a.m. to 12:20 p.m.)

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

CHAIRMAN SCHMITT: Thank you. If we could ask everyone to take their seats, please. We'll get the meeting started.

I've asked staff to make a little change to the agenda. So instead of the procedural inconsistencies and corrections, Richard was going to present that. We're going to hold that one off, 9B.

***We're going to go directly to 9C. This is Tamiami Trail North. And with that, disclosures, please.

I'll read the petition. This is Tamiami Trail North, PL20240013324, and this involves an RMF zoning -- rezone of 16 -- RMF-16 rezone.

So with that, disclosures, please.

MS. LOCKHART: Staff materials only.

COMMISSIONER SHEA: Staff materials only.

CHAIRMAN SCHMITT: I spoke to Mr. Yovanovich about this petition as we reviewed the criteria and the requirements.

COMMISSIONER SCHUMACHER: Staff materials and a conversation with Mr. Yovanovich.

COMMISSIONER PETSCHER: Staff materials, and I briefly spoke with Mr. Rich Yovanovich.

COMMISSIONER McLEOD: And for myself --

COMMISSIONER SHEA: Michelle.

CHAIRMAN SCHMITT: Michelle, yes. I heard her, but I was -- I interrupted while you were doing it. Go ahead, Michelle.

COMMISSIONER McLEOD: I reviewed staff materials, and I spoke with Mike Bosi.

CHAIRMAN SCHMITT: Okay. Good, thank you. With that, any persons wishing to speak on this matter, please rise to be sworn in.

THE COURT REPORTER: Do you swear or affirm the testimony you will give will be the truth, the whole truth, and nothing but the truth?

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

CHAIRMAN SCHMITT: Mr. Yovanovich, it's all yours.

MR. YOVANOVICH: Mr. Bosi said if I gave a really long presentation, I can guarantee that my client would be able to go to the Board on October 28th, but if I went too quickly, I might lose that date. So I've got about a three-hour presentation.

But, no, in all seriousness, I know you have a packed agenda, so I'm going to do an abbreviated presentation because I know you-all have read the all materials.

With me today is David Stradtman. He's the vice president of development for Rachel Development. They're the applicant and developer of the property.

Mr. Mulhere is our planner. John Vanni is our civil engineer. Yury Bykau is our transportation consultant, and I don't think Mr. Guzman is here, but he is our architect.

This is a -- this is a rezone from C-3 to actually straight zoning RMF-16, because we don't qualify for a large enough parcel to rezone to a PUD, and it's to allow 28 luxury multifamily condominiums.

We are using the conversion provision in the Growth Management Plan that we've talked about in the past, and I think Mr. Schmitt brought this up in the last petition. When the Growth Management Plan was adopted, there was strip commercial along 41 both north and east Tamiami Trail. We went to the activity center concept, and as an incentive to get rid of the strip commercial, the Comprehensive Plan provides for a conversion of 16 units per acre in exchange for giving up the commercial, and that is what we're doing.

This is the property in question. It's bounded on the south by 92nd Avenue North, along the north by 93rd Avenue North, and to the east, Tamiami Trail.

For those of you -- I have a -- that's the old Burger King site that's on the Trail. We're in the urban area of the Comprehensive Plan. We are not in the Coastal High Hazard Area.

So our request -- and I've got -- I've got Mr. Stradtman here who can talk to you about Rachel Development. They're an experienced residential developer mainly up north, but they're here now. They own property.

There's basically -- when I get through this, there's two options on the property, residential and residential. Commercial is not an option to go forward with the development of this site based upon the acquisition price of the property. So we have two options. We can rezone the property through the process we're doing, which is to go straight zoning consistent with the Comprehensive Plan to arrive at 28 units on the property, or we can go under Live Local, and under Live Local we would have 47 units, and we would be twice the height.

So what we've asked for is 28 units at 50 feet of height, which is consistent with the C-3 zoning on the property today. We're not asking for the height that's allowed under RMF-16, which is 75 feet, so we've imposed a condition to keep the height down. If for some reason the project does not move forward, the only other option is to go through with the Live Local development that applies to commercial development. As you all are aware, that's an administrative process. We go straight to Site Development Plan, and we -- that's what we do. We end up with 47 units instead of 28 units, which based upon the comments we heard at the neighborhood information meeting, the desire would not be for the more intense higher-density development.

So this is --

COMMISSIONER SCHUMACHER: Mr. Yovanovich, can I ask you a question real

quick?

MR. YOVANOVICH: Yes.

COMMISSIONER SCHUMACHER: What's the max height if you were to do Live Local?

MR. YOVANOVICH: One hundred feet.

CHAIRMAN SCHMITT: One hundred feet.

COMMISSIONER SCHUMACHER: Wow. Thank you.

MR. YOVANOVICH: It's the height of the tallest building within a -- within a mile, and that's the Fifth Third Bank building which is -- it's 100 feet tall. So it would be twice the height, basically twice the density if we were to go through the Live Local process.

This is -- this is the proposed master plan for the property. Access is not -- there currently our access points on 41. Those are going away. Access will be from the two side streets.

We've accommodated delivery trucks to be out of the way and not interfere with the people coming and going from our site, those who are going to be residents there.

We have kind of some renderings of what the property will look like. As you can see, we have a pool in the center with the three residential floors above parking.

CHAIRMAN SCHMITT: And this is a view from the side streets, then?

MR. YOVANOVICH: This is a view from 92nd, I think it is.

CHAIRMAN SCHMITT: 92nd, okay.

MR. YOVANOVICH: Yeah. And that's the view from 41. You can see these are going to be high-end market-rate condominiums developed on this site. It will increase the property values of this site not only but also I think for Naples Park as higher-end units are coming towards that part of town. You'll probably see, at some point, some other properties go through this same process as encouraged by the Comprehensive Plan.

Again, this is kind of an aerial view of the proposed building. This is from the barbecue restaurant to the south. And as I already mentioned, the other option would be to develop under Live Local or C-3, but C-3 is really not an option. It's either Live Local or developing under the rezone criteria in your existing Comprehensive Plan.

COMMISSIONER SHEA: Why wouldn't you want to do Live Local? It seems like you could do more and have less review.

MR. YOVANOVICH: Well, actually because --

COMMISSIONER SHEA: I'm not trying to convince you to. I'm trying to understand.

MR. YOVANOVICH: Our intention is to do a much less dense project, which would be the 28 units per acre. I'm sorry, 28 units, not 28 units per acre. That's our desire. Our desire is the less-dense -- less-dense project.

CHAIRMAN SCHMITT: Rich, the Burger King is now closed, abandoned?

MR. YOVANOVICH: The Burger King, much to my children's chagrin, closed several years ago. I'm a little disappointed as well. But, yeah, that's -- that's been closed.

I kind of maybe went too fast through what's there today. You have -- this car repair shop is there, and this is the old Burger King. So it's basically quite a nice facelift to what is existing on this site today.

And, Mr. Shea, some of the comments -- I'm sure you read the minutes from the NIM. People were concerned about traffic. If we developed under Live Local, that's more traffic.

Candidly, I don't see very many people actually deciding to drive through Naples Park to come to and from this site. Those were comments that were made at the neighborhood information meeting. I just don't really see it. But, you know, people are entitled to their opinions.

And -- so our request is to move forward. This -- if you want to see what Live Local would be, this is -- as you can see, is twice as tall and twice as many units. But we want to focus on the positives of the 28 units versus 47 units.

So with that, that's a brief overview of what we're proposing. It's a significant reduction from what could go traffic-wise under commercial. And probably half the trips if we went under

Live Local.

So our request is -- staff's recommending approval. Our request is that the Planning Commission forward this to the Board of County Commissioners with a recommendation of approval. These are the two conditions that exist if we rezone the property. We limited the height, and we established a trip cap as part of the rezone.

Hopefully I didn't go too fast, but that's an overview of the -- of the petition. And Bob and everybody else are here to answer any questions you may have regarding the petition.

CHAIRMAN SCHMITT: There are some large concrete power poles in the front. Are those going to come down and be buried along the front? Will you be able to -- on the site now, I don't know -- can you touch those, or they will still be there?

MR. YOVANOVICH: Well, we have two options. We leave them or we figure out if we bury them. We haven't gotten that far.

CHAIRMAN SCHMITT: You haven't gotten that far yet.

MR. YOVANOVICH: No.

CHAIRMAN SCHMITT: But that's not part of the zoning?

MR. YOVANOVICH: No, no. It's just --

CHAIRMAN SCHMITT: It's just -- from the standpoint of the attractiveness of the -- and the --

MR. YOVANOVICH: Just something we have to deal with as part of it, yeah.

CHAIRMAN SCHMITT: -- from the street view. I happened to drive by there yesterday, and I go, yeah.

MR. YOVANOVICH: They're there.

CHAIRMAN SCHMITT: They're there. And it looks like the site is begging for something to happen.

MR. YOVANOVICH: I think that's a fair statement.

CHAIRMAN SCHMITT: Yeah.

COMMISSIONER McLEOD: Chair, I have some questions.

CHAIRMAN SCHMITT: Yes. Go ahead, Michelle.

COMMISSIONER McLEOD: Yeah. Hi, Rich. Thank you --

MR. YOVANOVICH: Hi, Michelle.

COMMISSIONER McLEOD: -- for your presentation. Hi.

Can you tell me -- just a couple general questions. Is this going to be rental units or condominiums?

MR. YOVANOVICH: This is going to be a -- well, it's going to be a condominium project. They're for-sale units.

COMMISSIONER McLEOD: Okay. And they're set to be very expensive, 3- to $5 million. How big are these units going to be?

MR. YOVANOVICH: Right now the floor plans range from 2,200 square feet to 3,500 square feet.

COMMISSIONER McLEOD: Okay. And I believe there was a concern about vacation rentals. And so you did -- you did say these are going to be condominiums, right? Did you just say that?

MR. YOVANOVICH: I'm sorry. Will you say that one more time?

COMMISSIONER McLEOD: Did you say that these were condos? I'm sorry.

MR. YOVANOVICH: Yes. Yes, I did.

COMMISSIONER McLEOD: Okay. And so what will happen, right, the developer will build this, then they'll turn it over to the HOA, and then the HOA will decide on restrictions/limitations on renting the units?

MR. YOVANOVICH: Actually, the condominium documents themselves will include provisions addressing how frequently the units can be rented. I don't know that we've gotten into that level of detail yet, but at these price points, I don't think we're interested in encouraging

short-term rentals to occur on this site. And, again, not a zoning criteria, but from a marketing perspective, I'm sure there's going to be adequate protections for those who buy units to make sure that --

COMMISSIONER McLEOD: Okay.

MR. YOVANOVICH: -- they're not short-term rentals.

COMMISSIONER McLEOD: Right. Good. Good to know. Thank you so much.

CHAIRMAN SCHMITT: Mike?

COMMISSIONER PETSCHER: Yeah. What is so -- you said market price, market rate. What is the target price per unit?

MR. YOVANOVICH: I said at the NIM, we're looking at between 3- and $5 million.

COMMISSIONER PETSCHER: Okay. And is there going to be any kind of wall or buffer between the neighbor -- the -- whoever the person is right behind you guys?

MR. YOVANOVICH: There will be -- there's going to be a landscape buffer there, yes.

COMMISSIONER PETSCHER: A landscape buffer?

MR. YOVANOVICH: I don't know that we decided whether a wall will go there or not --

COMMISSIONER PETSCHER: A fence.

MR. YOVANOVICH: -- but definitely a landscape buffer.

COMMISSIONER PETSCHER: Okay. Okay. Those are my only two questions.

CHAIRMAN SCHMITT: All right. With that, anything else --

MR. YOVANOVICH: That's all I have.

CHAIRMAN SCHMITT: -- from the petitioner?

Do we have any registered speakers, staff?

MR. SABO: Mr. Chairman, there are three registered speakers. The first one is Marsha Oenick.

CHAIRMAN SCHMITT: Are they on Zoom?

MR. SABO: All three on Zoom, pardon me. And we're asking Marsha to -- go ahead.

MS. OENICK: Hi. My name is Marsha Oenick. I live in Naples Park.

I do not support this proposed rezone and this project. Mr. Yovanovich, I always appreciate that you try to provide "Here is the dire consequences if this isn't approved." The reason that you want to develop it as a luxury condo versus Live Local is you want to make more money, because Live Local is about rental units that have to be managed, not about selling units. So let's be completely up front.

Naples Park has a high density of homes that line narrow, meaning 18-foot-wide avenues. Two cars barely fit through those avenues. Adding 28 units increases the density in that area even higher and changes any nature of the neighborhood.

The traffic analysis for projects focus on residents' trips in and out of the property. It is insufficient. It does not consider the width of the streets. The analysis does not consider the number of deliveries by Amazon, UPS, Walmart, and the like. On my avenue, this is 10 to 12 per day. Nor does it consider the number of other service providers: Furniture delivery, pest control, appliance delivery, plumbers, and corresponding repair personnel.

While the property design includes some space for some of these vehicles, I can fully anticipate the Amazon, UPS, and Walmart will not use them. They don't currently use open driveways on avenues. These delivery vehicles generally block at least half of the narrow avenue during the delivery, meaning no one can pass through.

When this occurs near the intersection of U.S. 41 and either 92 or 93, it will mean a backup on 41 as well as a backup on the avenue, leading to more congestion on an already busy U.S. 41 and potential accidents associated with it.

Another consideration is getting onto 41. You can only turn south from both of those avenues, leading residents to travel west on the avenue to 8th Street and north to 99th -- the avenue I live on. Fortunately, I don't get this traffic because I'm on a better block -- to get to the light at 99th and U.S. 41, more congestion on these narrow streets.

Turning commercial property in [sic] residential in this area will lead to a rapid decrease in shops and eateries, further decreasing the local neighborhood aspect of the area, which actually, Mr. Yovanovich says he's looking forward to that. I guess he's looking forward to turning U.S. 41 in Naples Park into Gulf Shore Drive. Great. That's not what we bargained for.

Finally, the incentive to purchase and live in a luxury condo on highly congested U.S. 41 with minimal amenities that will get to listen to all of that traffic on 41, difficulties leaving or entering U.S. 41 in the desired direction, and highly congested parking for nearby beaches adds up to, frankly, I would expect, limited demand to me and the potential of a nearly empty building. They might buy it and then realize how terrible of a location this is.

So it doesn't meet anybody's need, including the developer's. It may meet all of the criteria against which staff assesses a proposal, but it doesn't mean that we should move forward.

And in terms of, "We can't do commercial because we spent too much money getting the property," that's just too bad.

I request a vote no. Thank you for listening to my comments.

MR. YOVANOVICH: May I ask just two questions?

CHAIRMAN SCHMITT: Thank you for your comments.

Any questions?

MR. YOVANOVICH: I do.

CHAIRMAN SCHMITT: Yes, go ahead.

MR. YOVANOVICH: I just would like to know when you purchased your property.

MS. OENICK: I purchased my property in 2015.

MR. YOVANOVICH: 2015. That's all I wanted to know.

MS. OENICK: Yeah. And certainly the number of Amazon and UPS deliveries has escalated since that time. And the traffic analysis --

MR. YOVANOVICH: I was done.

MS. OENICK: -- never includes them. And the delivery parking area is really good. I appreciate that very much. And I think furniture delivery and other things will take --

CHAIRMAN SCHMITT: Thank you for your comments.

MS. OENICK: -- make use of that. Amazon and UPS won't.

CHAIRMAN SCHMITT: Yes. Thank you.

Next speaker, please.

MR. SABO: The next speaker is Michael Norton.

CHAIRMAN SCHMITT: Mr. Norton? Mr. Norton, please take your Zoom off mute. Is he there?

MR. SABO: We asked him to unmute. He has not yet unmuted.

All right. We're going to go to the next.

MR. NORTON: Sorry about that.

CHAIRMAN SCHMITT: He's there.

MR. SABO: Hold on. Hold on.

MR. NORTON: Sorry about that.

Good afternoon. I was hoping to say "good morning," but thank you for the opportunity to speak.

I live in Naples Park. My son owns a property at the corner of 96th Avenue and 8th Street, and we both support this project. One of the reasons is it improves the areas. Businesses along 41 near Naples Park are run down in one of the uglier parts in Naples. This project upgrades the look and feel of the area. I agree it would raise our property values and, in my opinion, strengthens the community image.

If the proposed is not approved, just being someone who understands real estate, I'm very confident they'll go the Live Local route. Live Local does not need county approvals, and the Commissioners cannot stop it. Live Local means, I believe, 47 units instead of 28. Someone said they would be rentals, but I don't believe that that's the case. I believe that they'll sell 28 and

potentially maybe the 19 lower-income units would be rented. It would become a high-rise, and I believe, like they said, they could go 10 stories, but I'm not positive.

If you include lower-priced units, that means more year-round residents, more density, more traffic. Exactly what we don't want.

By the way, I would not drive through Naples Park if lived in one of those units, and I think the owners would use 41 instead.

The proposed 28-unit plan, it's high-end residence, thoughtfully designed. No short-term rentals. I know they didn't say what the rental policy will be, but people are not going to spend 3- to $5 million with short-term rentals.

And Naples Park allows nightly rentals. Owners of multi-million-dollar homes are rarely full-time. Maybe you've noticed, but the most expensive homes in Naples are the ones that are most vacant. So I think that with just the 28 units, it would be much less traffic than the Live Local.

So we have two choices, 28 beautiful units uplifting the community, or a 47-unit high-rise under Live Local with more traffic and density. I really believe the developer will go the Live Local route if this isn't approved.

If this Commission believes that there's a realistic chance the developer will move forward with Live Local, I hope you'll approve the 28-unit project. It's a far better alternative for Naples Park and the Vanderbilt Beach community.

Thank you for your time.

CHAIRMAN SCHMITT: Thank you.

Thank you. Next speaker, please.

MR. SABO: Mr. Chairman, the next speaker is Guy Kellam.

MR. KELLAM: Yeah, hello. My name is Guy Kellam.

As a resident of Naples Park, I'm urging the Planning Commission to reject the proposed zoning for Mercado West. This project would convert a commercially zoned parcel on U.S. 41 into 28 luxury condos, further squeezing Naples Park and undermining the character of our single-family home neighborhood.

We've seen this playbook before with One Naples luxury ambitions, rezoning pressure, and strategic threats. That project razed beloved businesses like DaRuMa, the convenience store, and the Beach Box Cafe, reduced public access to Vanderbilt, and replaced the local charm with exclusivity. It prioritized private luxury over public benefit. Mercato West follows the same pattern, just scaled down.

Developers hinted at using the Live Local Act to bypass local input. And let's be honest, if the nuclear option made sense, they would have already built it. The site has real limitations: Setbacks, traffic, parking, density, and cost.

This isn't about affordable housing. It's about profit. Live Local was designed to promote affordability, not to be used as a threat to push luxury development.

Naples Park is already in a hurricane evacuation zone, 18-foot-wide grandfathered streets. More like cow paths than modern roads with no east/west sidewalks between 41 and Vanderbilt Drive, while in the middle of a PUR [sic] infrastructure overhaul. Adding dense residential development here is not just impractical, it's irresponsible.

Local businesses like Naples Park Auto, Tuffy Tire, and Naples -- North Naples Country Club are part of our daily lives. They serve working families, retirees, and middle-class residents who rely on walkable, accessible services.

Rezoning this stretch of U.S. [sic] threatens the future -- threatens their future and shifts the corridor away from economic diversity towards exclusive residential use.

Let's also be clear, luxury condos don't help renters, workers, or residential -- or residents on fixed incomes. They don't improve affordability and they don't serve the people who actually live and work in Naples Park.

Claims that this project will increase home values ignores the reality that many residents

aren't investors. They're just trying to stay in the neighborhood they call home.

My preferences are clear. Keep C-3 commercial zoning, preserve local business opportunities; two, if mandated, apply Live Local properly with true affordability and community benefit; three, reject the current luxury proposal that offers no meaningful gain to the neighborhood.

This project favors a few, again, at the expense of the many. Let's protect Naples Park, Vanderbilt Beach identity, accessibility, and livability for the people who are here year-round, not just those passing through.

Thank you for your time and consideration.

CHAIRMAN SCHMITT: Yes, sir. Can I ask you a question? What do you -- what would you prefer be placed there now?

MR. KELLAM: The same question came up with One Naples. You know, personally, you know, people rag on, "Oh, this neighborhood's downtrodden. Oh, looks horrible." You know, it's not all about the big buck. I mean, Beach Box Cafe, how many here have been to the Beach Box Cafe before it was torn down --

COMMISSIONER SCHUMACHER: I have.

MR. KELLAM: -- or DaRuMa? Right? Those things intrinsic to the neighborhood that's been around for over 50 years, right? You know -- and trying to build this stuff, right? You know, it's all great, but it takes away from other people. I mean, Golf Shore Drive, trying to privatize the beach. I mean, you've got, you know, One Naples. You've got the Ritz. I mean, it's squeezing Naples Park and --

CHAIRMAN SCHMITT: Okay. Well, that's not what I asked. I understand your opinion, but the site is abandoned pretty much now. So what I heard you say is you'd rather see it go under the Live Local alternative?

MR. KELLAM: Given a choice, I'd rather see it stay C-3, but -- you know, C-3 was my first choice. Keep it C-3.

CHAIRMAN SCHMITT: Okay.

MR. KELLAM: Keep it commercial. Keep it for small businesses. So businesses, like, all along that line, right? You know, you've got -- you know, I've named several there, right? I mean, there's strip malls there. I can walk to them. I can walk home. I can take my car to Naples Park Auto, leave it there, and walk home --

CHAIRMAN SCHMITT: Okay.

MR. KELLAM: -- and come back and pick it up. I don't have to drive there. I mean, taking that away, I'm afraid what's going to happen could ripple effect. If this goes through, the next guy comes through and says, "Hey, by the way, you know, that place, that car wash near by, we can turn it into more housing." Great. It takes more stuff away from the neighborhood, right? It takes stuff away that we're using now.

And perfectly -- you know, if I were a commercial developer and, you know, had a C-3, say, "Hey, yeah, this residential, you know, developer's going to give me, you know, $10 million for my property. Hey, I'll go for it."

CHAIRMAN SCHMITT: Okay, thank you.

MR. KELLAM: I mean, the other thing to consider -- just one last comment, I think, is one thing that concerns me is the same kind of plan happened with One Naples where a developer cobbled together very small properties in anticipation of steamrolling whatever project they had envisioned through. I mean, that 1.86 acres of land, I think, sold for approximately $14 million. So if you let that sink in for a second, you can see, you know, where the developer's at.

CHAIRMAN SCHMITT: Okay.

MR. KELLAM: And they're out of Minnesota, too. I'm sorry.

CHAIRMAN SCHMITT: Again, sir, we have nothing to do with how much they paid for it or what kind of profit they make. That's not an issue in the zoning. But I appreciate your input. Thank you.

MR. KELLAM: Thank you very much.

CHAIRMAN SCHMITT: Any other public speakers?

MR. SABO: We have no further speakers.

CHAIRMAN SCHMITT: And, staff, give a presentation or -- and then I'll let the petitioner rebut.

MR. BOSI: Mike Bosi, Planning and Zoning director.

And as indicated, staff is recommending approval on the petition. They are taking advantage of the conversion of commercial to residential. This is an activity that is promoted, incentivized by our Growth Management Plan, incentivized through the allocation of 16 dwelling units per acre awarded if they converted the strip commercial. So this is something that the GMP is trying to promote in terms of the transition of these older strip commercial properties.

The compatibility issue staff was concerned, but the commitment to limit it -- the height to the 50 feet zoned height as currently -- it is currently zoned, staff feels is a much more compatible measure than what could have been exercised. And for all those reasons, staff is recommending approval.

CHAIRMAN SCHMITT: Okay, thank you. Okay.

With that, rebuttal from the petitioner, please.

MR. YOVANOVICH: Just briefly. 1989 is when the Board of County Commissioners said, "We don't want commercial on this piece of property." That's when they said it. That's 26 years before the first speaker spoke. So it has always been the intention that this property be a residential piece of property under the Growth Management Plan.

No disrespect to Naples Park. I think it's a wonderful community, but the commercial out front on 41 is not keeping with Naples and our image. Flat out fact. That's why the County Commission adopted the provision in the Comprehensive Plan.

The first speaker is incorrect on how Live Local works. Under Live Local, we would be allowed, as a matter of right, 47 units, of which only 40 percent of those units have to be rental. I'm not a math whiz, but I think that results in 28 for-sale units, and I forget -- 19 -- or what's the math? Help me, David -- 19 rental units. So I get the same number of for-sale units under Live Local as I would get under the straight rezone.

We would also get 19 rental units at the 120 percent income level. That's above market. That's above market.

So the reason we continued to go forward with the 28 units is we think that's the better use for the property. We've always had the option of Live Local when we bought the property, but we don't think that's the right development on the property.

So when the first speaker says, you know, if we would have done it, we would have done it, we always knew we had that as Plan B. That's not the right, in our opinion, option for 41, but it's a legal option. It's a legally entitled option at 100 feet. We don't choose that as our option, but it's our only other option.

You're not getting C-3 to the last -- to the second speaker -- third speaker, C-3's not an option. Not going to happen. And his modified Live Local isn't going to happen.

You have two option, 28 units, market rate under the existing Comprehensive Plan which, by the way, property owners also have rights, and we're asking for what we're legally allowed to ask for under the Comprehensive Plan.

And all the substantial competent evidence that's in the record supports what we're asking for, including our traffic analysis. With no disrespect to the first speaker, she's not a transportation consultant.

So we're asking you to go along with your staff's recommendation and recommend to the Board of County Commissioners approval of our rezone request to the 28 units that -- with a capping of 50 feet in height and our 33 two-way p.m. peak-hour trips.

CHAIRMAN SCHMITT: Thank you.

With that, I close the public hearing and open it for commissioner comment or questions.

Chuck.

COMMISSIONER SCHUMACHER: Mr. Bosi, question.

COMMISSIONER McLEOD: Chair, I have a -- oh, sorry.

COMMISSIONER SCHUMACHER: Actually, go ahead. Go ahead.

CHAIRMAN SCHMITT: Go ahead, Michelle.

COMMISSIONER McLEOD: Okay. I just wanted to address the desire of the third speaker, Guy Kellam, his desire to have commercial activity there at the corner instead of residential, and my thinking is -- and I just wanted to hear from my colleagues. Am I thinking this correctly that if -- if there was a need or demand for commercial there, we would have already seen something --

CHAIRMAN SCHMITT: Correct.

COMMISSIONER McLEOD: -- commercial go there. But there's, like, nothing going on commercial-wise there --

CHAIRMAN SCHMITT: No --

COMMISSIONER SCHUMACHER: I agree.

COMMISSIONER McLEOD: -- with new development.

COMMISSIONER SCHUMACHER: I think that Burger King's been empty a couple years now, correct?

MR. YOVANOVICH: Longer than that.

COMMISSIONER SCHUMACHER: Longer than a couple years. That property has sat vacant and dilapidated, to be honest with you, so I agree.

CHAIRMAN SCHMITT: Yeah. I would agree, Michelle. If there was going to remain commercial, that would have -- somebody would have jumped on that right now and had -- put in some kind of a commercial entity, but there's been certainly no -- no effort at all anywhere to try and retain that as commercial.

COMMISSIONER McLEOD: Right. And, you know, because I'm all about, you know, walkability and things like that. But again, I just don't see that there has been a need or an incentive to put commercial there. And besides, they're across the street from Mercato. So there's that opportunity, too, to walk there, correct?

COMMISSIONER SCHUMACHER: Correct.

CHAIRMAN SCHMITT: Yes.

COMMISSIONER McLEOD: Thank you.

CHAIRMAN SCHMITT: Certainly walkability crossing 41 or walking down the street. What is that place down the street? The yacht club or whatever? What is that one called?

COMMISSIONER SCHUMACHER: The North Naples County Club?

CHAIRMAN SCHMITT: Yeah, country club. All right.

COMMISSIONER SCHUMACHER: I had a question for Mr. Bosi.

CHAIRMAN SCHMITT: Go ahead, Chuck.

COMMISSIONER SCHUMACHER: One of the speakers said something about nightly rentals in Naples Park. Is that allowed? I didn't think we allowed --

MR. BOSI: It absolutely is allowed. VRBO allows for nightly rentals in their facilities. Airbnb. And we cannot restrict the short-term rentals. That's what they're talking about. And a lot of the Naples Park properties have transitioned to those categories. So it's just the reality of the -- of what the statutes allow.

COMMISSIONER SCHUMACHER: I'm not worried about that occurring on this property, and Mike can probably second this, since that's the world that we live in and get paid for versus here where we look forward to that 3-percent-of-nothing increase every year. That 3- to 5 million, you're not going to have nightly rentals.

CHAIRMAN SCHMITT: No.

COMMISSIONER SCHUMACHER: It's not going to be -- their declaration of condo will dictate a minimum rental amount, term. And if they want to -- if the residents want to change it,

then they can go through a procedure to do that.

CHAIRMAN SCHMITT: I would have to believe at that price range, there will probably be a pretty nice chunk of money also for upkeep and --

COMMISSIONER SCHUMACHER: Oh, yeah. Their assessments are going to be --

CHAIRMAN SCHMITT: The assessments, those kind of things, yeah.

COMMISSIONER SCHUMACHER: So I don't think that's going to be the type of community you're seeing there. And I think -- I love Live Local, and I think it would be great, but I don't think this is the right setting for it.

CHAIRMAN SCHMITT: Yeah.

COMMISSIONER SCHUMACHER: I don't think that a 100-foot-tall tower on 41 casting over Naples Park is an appropriate use.

CHAIRMAN SCHMITT: It would be a disaster.

COMMISSIONER SCHUMACHER: So, I mean, I --

CHAIRMAN SCHMITT: All right.

COMMISSIONER PETSCHER: I've just got a quick question.

CHAIRMAN SCHMITT: Mike.

COMMISSIONER PETSCHER: Yeah. You're -- the front -- can you go back to where you'll -- the vision from 92nd? Okay. You're taking away the two -- the two turning lanes -- there are the two turning entries on/off of 41.

MR. YOVANOVICH: Correct.

COMMISSIONER PETSCHER: Do you plan or could you possibly -- since it looks like the front of this building is on 92nd, could you possibly put a turning lane on 41 so people -- so the people that need to get into this complex would be able to not back up traffic on 41?

MR. YOVANOVICH: Well, we'll deal with all of that as part of the Site Development Plan.

COMMISSIONER PETSCHER: Okay.

MR. YOVANOVICH: And it's -- obviously, the State controls the road. And we'll deal with whether or not they're going to require a turn lane off of 41 to get onto 92nd or 93rd. We'll deal with that as part of the Site Development Plan review process.

COMMISSIONER PETSCHER: Okay. Just a question. Thank you.

CHAIRMAN SCHMITT: All right. With that, do I hear any commissioners making any recommendation?

COMMISSIONER SCHUMACHER: I make a motion to approve as presented.

CHAIRMAN SCHMITT: Do I hear a second?

COMMISSIONER PETSCHER: I'll second.

CHAIRMAN SCHMITT: Mike seconded.

COMMISSIONER McLEOD: I'll second it.

CHAIRMAN SCHMITT: And Michelle seconds.

All in favor, say aye.

COMMISSIONER SHEA: Aye.

CHAIRMAN SCHMITT: Aye.

COMMISSIONER SCHUMACHER: Aye.

COMMISSIONER PETSCHER: Aye.

COMMISSIONER McLEOD: Aye.

CHAIRMAN SCHMITT: Any opposed, like sign.

(No response.)

CHAIRMAN SCHMITT: It passes unanimously 5-0.

***Next item, 9D, and its companion item, 9E. These are 20230013 -- or correction -- 18397 and PL20230013845.

Note that we have to approve 9E first before 9D, but we'll hear them concurrently. One is the Comp Plan -- amendment to the Comp Plan. That's the Bonita Flores Residential Infill

Subdistrict and companion item 8928 Collier Boulevard PUDZ. Thank you.

Oh, yes, thank you. Disclosures.

MS. LOCKHART: Staff materials only.

COMMISSIONER SHEA: Staff materials only.

COMMISSIONER SCHUMACHER: Staff materials only.

COMMISSIONER PETSCHER: Staff materials only.

CHAIRMAN SCHMITT: Oh, did I -- I don't think I --

COMMISSIONER McLEOD: Staff materials and met with --

CHAIRMAN SCHMITT: Yeah, staff materials --

COMMISSIONER McLEOD: I spoke --

CHAIRMAN SCHMITT: I don't recall talking to the petitioner on this. Did I? No, I did not. Thank you. That was the next one. Sorry. I'm confused. Michelle.

COMMISSIONER McLEOD: Staff materials, and I had a conversation with Mike Bosi about this item.

CHAIRMAN SCHMITT: Okay. Thank you.

All right. All those wishing to speak on this matter, please rise to be sworn in.

THE COURT REPORTER: Do you swear or affirm the testimony you will give will be the truth, the whole truth, and nothing but the truth?

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

CHAIRMAN SCHMITT: All right. Petitioner.

MR. PHILPOTT: Good afternoon. My name is Josh Philpott on behalf of the applicant. I'm a principal planner with Stantec. And here today with me is the applicant, Michael Crijan, applicant and property owner, as well as Joel Blikstad, an engineer, if there are questions at the end.

But to save a little bit of time -- and I appreciate everybody's time today. I know it's been a long hearing. But I will try and be quick and efficient and run through both the GMPA and the rezoning in a single -- at a single time and answer questions in the end.

But just to get started, this application was submitted in September 2023 -- or excuse me -- we had our pre-application in 2023. So we've been at this for a minute. We have been going through the sufficiency process and a few of the other items related to the application request itself.

The property itself is approximately 9.49 acres at Collier Boulevard -- or excuse me -- on Collier Boulevard just south of the Brighton Boulevard entrance to Hacienda Lakes and north of the Hacienda Lakes Parkway entrance. So we're kind of sandwich between the new multifamily development at the corner of Hacienda Lakes Parkway and Hacienda Lakes DRI and PUD on the east side of Collier Boulevard.

Existing conditions, so the subject property has access or will be -- the proposed access is to Collier Boulevard. There isn't currently access to the property from the south. It's currently under -- excuse me -- or to the north. It's currently undeveloped and forested. There is a Collier County Utilities well on the southeast corner of the property, and I believe the eastern 150 feet is covered by an FP&L easement for transmission lines.

The GMPA request, the -- currently the property is in the rural -- excuse me -- Urban Residential Fringe Subdistrict that allows one and a half units per acre with a bonus up to about seven and a half units an acre with some bonus density. That is also the same future land use for the Hacienda Lakes development to the north. But to the south is the Collier Boulevard/Lord's Way mixed-use subdistrict. That was approved just a couple of years ago at 10 units an acre with an affordable housing component.

The request today before you is essentially that same request. It would -- while creating a new subdistrict, it is the same density and conditions that were approved under that Collier Boulevard Lord's Way mixed-use subdistrict.

As you can see on the left, to the north is Seven Shores -- the Seven Shores community of Hacienda Lakes. Immediately to the north is -- or Kingston Drive is that cul-de-sac road that is

kind of in the northeastern portion of the property. To the south is the preserve area of that Collier Boulevard/Lord's Way mixed-use subdistrict. It's preservation and open space. And then, again, access is to Collier Boulevard.

Again, the request is for 92 multifamily dwelling units with 30 percent of workforce housing. Fifteen percent of the units or 50 percent of the 30 percent workforce housing commitment will be to those qualifying as below 80 percent of the annual median income, and the other 15 percent of the total units will be for those under 100 percent of the annual median income for Collier County.

On top of that, 14 of the units, or 50 percent of the workforce units, will be reserved for essential service personnel. And those commitments are for a 30-year term and will be -- and are included as part of the developer commitments in the ordinance as well.

Again, those commitments are consistent with recent and similar past requests for higher densities that have been made by Collier County for other projects.

This is a -- the 2025 AMI calculations for the state -- or for Collier County and indicate the limitations on AMI by bedroom and number of -- the bedroom units, so...

COMMISSIONER SCHUMACHER: Can I ask a question real quick, sir? What size are these units proposed for this community? How many one-bedrooms? How many two-bedrooms? How many three-bedrooms? What are we doing?

MR. PHILPOTT: I will --

CHAIRMAN SCHMITT: Sir, you have to come up to the microphone, please. State your name.

MR. CRIJAN: Michael Crijan. I'm with Bonita Flores.

At this time, hard to say. I'd probably say we're looking probably 30 percent are going to be 3-2s, 40 percent are going to be 2-2s, and then 30 percent are going to be a one-bedroom unit.

COMMISSIONER SCHUMACHER: How many of those are going to be part of this affordable? What is your mix of three-bedroom, two-bedrooms, and one-bedrooms?

MR. CRIJAN: Again, it's early on. I don't think we have made those decisions yet.

COMMISSIONER SCHUMACHER: Okay. So I'm going to -- I'll just cut to the chase.

MR. CRIJAN: Sure.

COMMISSIONER SCHUMACHER: There is an apartment complex that went up on Immokalee Road that's now opened up. They have three-bedroom units but decided to not put that into their affordable housing commitment, so therefore, they only have one-bedroom and two-bedrooms. And since I'm married to a teacher, I know a lot of teachers, which then they tell me that one teacher and her husband would have qualified, but they didn't have any three-bedrooms, so they ended up -- now they're in Bonita Springs.

So what I'm looking for is a portion of whatever you're doing, a good mix of your threes and your twos and your ones.

MR. CRIJAN: And we'd be open to that --

COMMISSIONER SCHUMACHER: Okay.

MR. CRIJAN: -- to make it a healthy -- a healthy split between the product.

COMMISSIONER SCHUMACHER: Thank you. That's what I was looking for.

COMMISSIONER SHEA: Question on the affordable housing again. Just what would it take to change the 100 percent, 80 percent, down to 80/60 in terms of how many units would we -- if we tried to serve a lower population in terms of the AMI? I realize you'll probably reduce the number of units, but what are we talking about roughly?

MR. CRIJAN: That's a tough one. I do -- I do see your point. I think we'd have to go back, truthfully, and run our numbers to ensure that we could meet that. But we would -- again, if we can make it work, we would be open to that. We do believe in affordable housing. We do believe in living local to where you work. So I'd have to get back to you on that.

CHAIRMAN SCHMITT: And just for -- our next petition's going to really deal with the --

COMMISSIONER SHEA: Yes, I know.

CHAIRMAN SCHMITT: That --

COMMISSIONER SHEA: But we're sorely lacking in that.

CHAIRMAN SCHMITT: Yeah.

COMMISSIONER SHEA: Everybody's coming in at 80 to 100 percent -- or excuse me, 100 to 120.

CHAIRMAN SCHMITT: Yeah.

COMMISSIONER McLEOD: Can I make a comment on this, too, while we're on the subject?

CHAIRMAN SCHMITT: Go ahead.

COMMISSIONER McLEOD: Because I agree with -- I agree with Chuck and Paul. Statistically, there is not enough of the affordable units at the lower range, like Paul's saying. So there's a big concern on that. And then, yeah, I'm concerned about the makeup of these units. If we're only going to let them be one-bedroom, maybe two-, you're leaving out a family that is of moderate income. So I appreciate the petitioner being open to the possibility of making a commitment to something like that.

CHAIRMAN SCHMITT: Okay.

MR. PHILPOTT: I think, just for a little bit of history, we did initially start with a different mix of affordable -- affordability breakdown. Instead of 15 percent at 100 and 80, we did initially start at 10 percent at 120, 10 percent at 100, and 10 percent at 80. Recognizing the consistency with what has been approved recently by Collier County, we did adjustment -- and working with Collier County staff, we did make the adjustment to the 15 percent at 100 and 15 percent at 80.

One of the -- one of the challenges -- and I appreciate Mr. Crijan being open to the discussion of making additional changes. One of the challenges with this site is the necessary infrastructure necessary to support nine acres and only 92 units. While it seems like a significant number, it is not. And when you commit to 30 percent of those -- almost a third of those units to be affordable, the additional cost of crossing Collier Boulevard, offsetting the turn lanes and the roadways, along with the fill material and the connections of utilities, it's a substantial cost.

And I think on a smaller project of this size, it's a challenge to get down to 60, down below this. And we did look at it previously, and it was some of the discussion with Collier County staff throughout the application process. We did -- again, we started at 120, and we recognized that moving to that 15 percent at 80 and 15 percent at 100 is more consistent with the current approval process. But just getting to that infrastructure cost and reducing that number to 60 makes some financial challenges. But just some of the discussion that we've had with staff and the applicant through this process. I just want --

CHAIRMAN SCHMITT: Okay.

COMMISSIONER SHEA: He isn't finished.

CHAIRMAN SCHMITT: Finished? Go ahead.

MR. PHILPOTT: No, sir.

Just real quick -- I'll kind of run through this real quick. We've kind of talked about the majority of the issues. This is the proposed development plan that's in the PUD and agreed to as part of the developer commitments -- or the development plan. One of the things to note is that connection to Collier Boulevard. That connection itself, providing a driveway, a bridge, if you will, across that significant canal and then offsetting for right-of-way for the turn lane and the changes that will be necessary to that drainage to provide access is pretty significant.

However, we did design the site to focus on the development to the west along Collier to minimize the impact to the property to the northeast. We also -- by locating the stormwater in kind of the central part of the site, it provides a little bit of a buffer, as well as meeting the setback requirements from that well on the southeast corner of the property.

And then the preservation on the eastern portion of the property both blends with and connects with the existing preserve to the south as well allowing that corridor where FP&L -- the

FP&L transmission line there. So that's somewhat of the design of the site.

These are the standard development regulations that are included. This is the Master Concept Plan. Again, the proposed development is compatible with the surrounding existing development. It's consistent with the Collier County Growth Management Plan, complies with the Collier County Land Development Code, and meets the findings outlined in LDC Section 10.02.135.B.

We agree with staff's recommendation. We appreciate their time in working on this and working through this. I think in the beginning of the convers- -- the beginning of this presentation I mentioned that time frame of when it was submitted to where we are now, and I think part of that comes to the conversation with working with county staff to come up with an acceptable solution to them. So we appreciate their recommendation of approval and agree with their conditions and what the developer commitments are included in the PUD -- so thank you.

CHAIRMAN SCHMITT: Okay. I don't see any questions from the commissioners, so does that conclude your presentation?

MR. PHILPOTT: Yes, sir.

CHAIRMAN SCHMITT: No questions. Then we'll proceed now -- open it for any public -- any public comment from -- anybody signed up? Any public speakers?

MR. SABO: We have no public speakers.

CHAIRMAN SCHMITT: No public speakers. All right.

With that, we close the public hearing. Obviously -- or before we close the public hearing -- I'm jumping here. Staff presentation.

MR. BOSI: And as -- as indicated, staff has reviewed both the Growth Management Plan amendment as well as the PUD request. We find it consistent. Obviously, the GMP amendment, if it's approved, would be consistent with the Growth Management Plan.

We find -- compatibility as mentioned, this is -- they're taking the same lead that the subdistrict to the south, the Lord's Way, provided for with 10 units an acre.

And just to let you know, at the 30 percent -- with 30 percent under 100 percent AMI -- or 15 percent at 100 percent of AMI and 15 percent at 80 percent of AMI. Currently, if they were to service, say, 60 percent, like, if half -- 15 percent was at 80 percent or below and -- their current arrangement, they would be eligible -- at 20 percent they would be eligible for the 10 units they're requesting through the GMP amendment. So they're actually giving more than what our current -- than what our bonus density tables would allow for.

So they are providing for more affordable units than what our current code -- or our proposed code would demand, and I think -- and staff finds that that is significant in the sense that -- because if you would -- if you go down to the lower level to under 50 to 80, at 10 percent you're eligible for seven additional dwelling units. So we really do -- you don't have to go to the same percentage. So it's just a mix of numbers that you're trying to work out to allow you the higher percent of 30 percent at 80 and 100 or at 10 percent but having that located at the 60 units is a much lower number. So it's -- it's an evaluation in that regard.

Staff is recommending approval.

CHAIRMAN SCHMITT: Okay.

COMMISSIONER McLEOD: Chair, I have a question.

CHAIRMAN SCHMITT: Go ahead.

COMMISSIONER McLEOD: So I understand what the petitioner's saying, that this mix of 80 percent to 100 is typically what's being approved in the county; however, we're reaching the -- we're satisfying those numbers at that level. What's happening, though, is there's a deficit with the need of below that percentage. So would we -- would my colleagues support the idea of asking the petitioner to consider something less, like maybe all 80 percent and below AMI? We're the Planning Commission. There's statistical data out there that's saying, okay, "This bucket is getting filled, this bucket is empty." How do we as the Planning Commission help satisfy those needs?

CHAIRMAN SCHMITT: My only question on that is, if we do change it, it changes what was advertised. And I think they would have to come back with a -- do the analysis, and whether -- what they can afford economically, I mean, from a standpoint of viability of the project actually being built. If we reduce the qualifications -- all 80 percent or 80/60, they're going to have to run their numbers again from a viability standpoint.

And I'm asking staff, they would have -- we'd have to readvertise or --

COMMISSIONER SHEA: Well, you'd have to change your table, right, Mike?

CHAIRMAN SCHMITT: We'd have to change the table.

COMMISSIONER SHEA: We'd have to change our table in the LDC now, right?

MR. BOSI: Our change is being proposed to the Board of County Commissioners now. The table's static. It has nothing to do -- I mean, it's related to it, but they have a GMP amendment, so they are not utilizing the table. They're asking for an additional density through a GMP amendment, so they're not utilizing the table.

What I was trying to infer, the table would -- if they were rewarding that 60 percent, if they provided 10 percent of their units at 60 percent, they would be eligible for a lift of seven units an acre.

So you've got a base of four. So they could only do 10 percent of their units at 60 percent, and they would receive the same density they're asking for now at 30 percent.

COMMISSIONER SHEA: Yep. But it's -- I think like Michelle said, there's kind of that forgotten bottom. And we keep filling -- filling the jar on one end, and we're not helping on the other end.

MR. BOSI: So the other aspect that I think that you would need to consider is we have found that there's willingness to provide for that 30 percent at 80 and 100 percent through your market-rate providers, because they don't -- they do not live within the tax credit world. They do not live within the subsidized housing world. And when you get to that 60 percent or below, you need an affordable housing provider.

The majority of affordable housing that's provided for within this county has been -- in the past three to four years has been provided by for-profit developers. They have been providing for-profit development at 70 percent at market rate, 30 percent has been restricted; 30 percent was restricted at 100 percent and 80 percent.

We find the Ekos of Colliers, the McDowell Partners, those are the ones that are able to go the 50, 60 and even the 30 percent, the dedicated affordable housing providers.

When you have a market-rate provider, they need the -- they need the additional market-rate units for the offset. And Mr. Giblin could provide a little bit more deeper explanation. But that's why you see that -- the repeat of the 30 percent at 80 and 100 percent. It's the traditional affordable housing providers that live in the tax credit world, that lived in the subsidized housing that are getting revenue sources from outside that are able to subsidize. That's why they can go to so low. That's why we reward at only 10 percent. If you're at 60 percent, you get seven additional units. Well, that's because we recognize to provide that for that lift, you need that many more market rate to offset it. So that's another consideration.

The entity that's making the request is not an affordable housing provider, but they're willing to provide affordable housing at that 30 percent. So those are the considerations you really need to put on the table.

COMMISSIONER SHEA: Good explanation. Thank you.

COMMISSIONER McLEOD: Mike -- oh, go ahead. And I followed that explanation. I understand all of that. And I'm not asking -- I'm for the asking -- or I don't think we should ask to go down to the 60 percent range, but I'm suggesting all 80 percent to help fill the bucket that needs to be filled.

CHAIRMAN SCHMITT: Applicant, do you have a rebuttal?

COMMISSIONER SHEA: He said yes. Didn't I hear you say yes?

MR. CRIJAN: So I think it's important to recognize the specific project and what all needs

to go into the project in terms of infrastructure. Off the cuff, like, the bridge alone, we're looking at a million dollars.

CHAIRMAN SCHMITT: Yep.

MR. CRIJAN: The mitigation alone is probably going to creep up right around there as well. The soil that needs to be brought in, that's going to be up there, and a substantial impact to us.

Now, when we take all that into consideration and you want to, you know, divide that across 82 units out of, you know -- sorry, 92 units out of which, you know, 30 percent we are willing to give up to the affordable housing project, it becomes a little tough to underwrite the project and, you know, see it through to the end, and obviously, we want to deliver a nice product to Collier County, something that we can all be proud of. It becomes a little difficult at that point. We would have to go back and rerun all of our numbers.

COMMISSIONER SHEA: But what she's saying, for instance, is don't do 28. Do 20 but do all 80 percent. In other words, back down on the number of committed units, and sometimes that -- even though it's not the maximum number of affordable housing units, it's the maximum number of low-end affordable housing units we see.

CHAIRMAN SCHMITT: But they need so many at market rate to offset --

COMMISSIONER SHEA: Yeah, that's why I'm saying drop your -- drop your affordable, get more market. Somewhere there's a balance.

CHAIRMAN SCHMITT: I'm fine with the 80 and 100 percent, quite honestly.

COMMISSIONER SHEA: Oh, yeah, yeah.

CHAIRMAN SCHMITT: My concern is to do what Chuck said, and I want to make sure that the units -- the affordables are not just two- and one-bedrooms, that there are three-bedroom affordable units as well.

MR. CRIJAN: So we can do that matrix.

CHAIRMAN SCHMITT: So we have that clientele that can qualify. They want to buy a three-bedroom because they can qualify under the cost criteria for the three-bedroom.

MR. CRIJAN: Yep. So again, we're open to an even spread in that matrix.

CHAIRMAN SCHMITT: Well, we're going to make that a stipulation. We just don't know what the numbers are. But we'll leave that up to the staff to make a determination of how many three-bedrooms would be acceptable.

Go ahead, please.

MR. BOSI: And I was just speaking with Cormac. We do have previous language where we talk about the ratio. The ratio of affordable housing has to be spread across the ratio of their market-rate units, whether -- so if 30 percent's at -- 30 percent's at one, 30 percent's at two, and 40's at three, the same ratio for affordable is going to have to be applied to what's applied to the market rate.

CHAIRMAN SCHMITT: Okay. All right.

MR. BOSI: We have language we've imposed upon other petitions, so -- and Cormac has assured us that we have that language already prebaked.

CHAIRMAN SCHMITT: Okay.

COMMISSIONER McLEOD: I'm still struggling with this. We have these kinds of petitions coming before us almost every single meeting. So it's 80 to 100, 100 to 120. And when do we say, "Okay, we're done with that. Let's look at something else," or do we just keep approving the same limit?

COMMISSIONER SCHUMACHER: I think more importantly is which of those projects is actually built, because don't forget, there's a number of projects that we have approved that they haven't even broken ground on. Some of them are just sitting stagnant.

COMMISSIONER McLEOD: Right, but we know what's coming up because we've approved it. So we've got all of this inventory coming in this range but nothing to support those people. Those people at 100 percent AMI, those are -- those are -- those are people who make,

what is it -- what's the --

CHAIRMAN SCHMITT: Almost 100,000 a year.

COMMISSIONER McLEOD: 100 percent AMI? Is that -- yeah, 100,000 a year.

MR. BOSI: A hundred and thirteen.

CHAIRMAN SCHMITT: A hundred and thirteen.

COMMISSIONER McLEOD: So they make good money which needs good services.

COMMISSIONER SCHUMACHER: They still can't afford to live in Collier County.

COMMISSIONER McLEOD: So who's going to service them?

MR. GIBLIN: Commissioners, for the record, Cormac Giblin, your director of Housing Policy and Economic Development.

Perhaps I can provide some guidance in this subject. As Mr. Shea is your liaison to the Affordable Housing Advisory Committee, he attends those meetings regularly. And at one of our last meetings -- in fact, our most recent meeting, he heard a presentation about where the needs for affordable housing lie in Collier County, what's been approved, what the State and then other agencies say where our greatest needs are.

And I'll preface this by saying there is a need for affordable housing in Collier County across the entire income spectrum from homelessness up to first-time homebuyer at 140 percent of median income. So there are needs everywhere. No need has been completely satisfied yet.

Now, it's also true that over the past several years, you and the Board of County Commissioners have partnered with the development community and -- including a great number of affordable rental units mixed into market-rate developments at this 30 percent set aside of which half would be at 80 percent and the other half would be at 100 percent. We've seen several of those now get approved, go through the site development process, go through construction, and actually have ribbon cuttings and openings now with more in the pipeline to come.

We've seen the data tell us that there is a much greater need at the lower income spectrum in terms of housing need and need for more housing that's affordable for those at the lower end. That's always been the case. Those in the greatest need have -- those with the lowest incomes have the greatest needs.

I think where Commissioner Shea started the conversation was to try to steer some development towards meeting those with the greatest need. Is there a need to reassess that 70/30 relationship that the Board has been -- has approved recently, and maybe it's something more along the lines of 5 percent at 60, 15 at 80, and 80 percent at market.

COMMISSIONER McLEOD: Right.

MR. GIBLIN: You know, is there a balancing act out there that can help steer development to those of greatest need?

But let me -- again, I'll conclude by saying these developers are coming voluntarily. They are approaching the County to help address a problem, and that problem exists throughout the income spectrum. So whether they are providing units at 80 percent or 100 percent, those units are going to be filled by households that are in need in Collier County.

CHAIRMAN SCHMITT: Yep. Are these -- these are rentals or owner --

MR. GIBLIN: These are proposed to be rentals.

CHAIRMAN SCHMITT: For rentals, okay.

All right. Any other comments from the --

COMMISSIONER McLEOD: Just to continue this thought, then, what's the next step at changing those levels, Cormac?

CHAIRMAN SCHMITT: That's a Cormac question.

COMMISSIONER McLEOD: Mr. Giblin?

CHAIRMAN SCHMITT: The next step is going to the Board and asking to reevaluate the needs in the county and redo --

MR. GIBLIN: Yeah. I think the Board could receive a recommendation from the Planning Commission. Between now and then, the applicant could look at their numbers, sharpen their

pencil, if that's the will of the full -- if that's the recommendation of the Planning Commission; otherwise, you could continue just to approve these that meet a certain segment of need.

CHAIRMAN SCHMITT: Yeah. I don't want -- what I don't want is a project that forces them to fold their tent and leave.

MR. GIBLIN: Exactly.

CHAIRMAN SCHMITT: Because this is all about economic viability. And I know what it costs for mitigation. I mean, PHUs alone. And then if you're into a 404 issue there. I don't know if a wetlands issue --

MR. PHILPOTT: (Nods head.)

CHAIRMAN SCHMITT: But you've got to go through the ERP process. You've got to go through the 404 process anyway because you're going to go through Section 7 consultation. All that, millions of dollars. PHUs. The bridge alone is -- yeah, it's a million dollars. Paul and I could probably attest to what it costs for the bridge.

MR. GIBLIN: Yeah. Commissioner --

CHAIRMAN SCHMITT: And I just want to make sure -- I'm not saying I want you to make 40 or 50 percent profit, but I don't want you to walk and fold your tent and leave because it's not economically viable. We've had that before.

MR. GIBLIN: I was going to mention, Commissioner, we have had that before, and in our view, a development that can commit to something that they can -- that can be built --

CHAIRMAN SCHMITT: Right.

MR. GIBLIN: -- is better than a development that makes a commitment that cannot be built.

CHAIRMAN SCHMITT: Cannot be built. Thank you. That's well said and well put, because that's exactly what I don't want to create is a situation where, well, it's on the books and it's zoned, but the numbers aren't there.

MR. GIBLIN: Correct.

CHAIRMAN SCHMITT: And given what it costs for construction these days is another matter.

COMMISSIONER McLEOD: Okay. So --

CHAIRMAN SCHMITT: I look at this as -- and I agree with you, Michelle, but I look at this as at least we're getting 80 and 100 percent units.

COMMISSIONER McLEOD: Okay. If I may just ask one other question based on Cormac's experience. So, Cormac, well said, that saying that you just said. Knowing that that is a possibility but also knowing that we need to fill these other buckets, what do you recommend? Should we propose something to the commissioners, the County Commissioners, to consider a different range?

MR. GIBLIN: I think that this discussion has put the Commission and any future developers on notice of maybe where the County's needs are heading, and that may be enough.

COMMISSIONER SHEA: It seems like it would start with the Affordable Housing Commission making the recommendation --

CHAIRMAN SCHMITT: Yeah.

COMMISSIONER SHEA: -- to the staff.

MR. GIBLIN: Yes.

CHAIRMAN SCHMITT: Well -- and, Michelle, just to jump the gun here, our next petition, I think, is going to address those needs you're discussing.

COMMISSIONER McLEOD: Oh, no. I shouldn't say this already, but I love the next petition.

CHAIRMAN SCHMITT: Mr. Davies is back there jumping up and down. Sit down, Mr. -- Noel's running. He's already got his notebook and leaving.

No -- okay.

COMMISSIONER McLEOD: All right. So, Paul, can we -- can we ask you to bring this

up at AHAC, a possible recommendation to the Commission?

COMMISSIONER SHEA: Yes. I think -- I'll talk with Cormac. We'll figure out what to do at the next meeting.

COMMISSIONER McLEOD: Excellent. Thank you.

CHAIRMAN SCHMITT: All right.

And with that, Staff, you've already presented.

Applicant, anything -- rebuttal or closing comments from the applicant? Any closing comments from the applicant?

MR. PHILPOTT: Just to address one issue, and maybe -- maybe, unfortunately, muddy the water a little bit. There was a comment made about increasing the 80 to 20 percent and rather than 15 and 15, having 20 at 80 percent. I believe if -- did I not -- was that not --

COMMISSIONER SHEA: Um-hmm.

MR. PHILPOTT: -- not discussed?

CHAIRMAN SCHMITT: That was the discussion, but --

COMMISSIONER SHEA: It's more for future, really.

CHAIRMAN SCHMITT: For future reference. We're still at your 80 percent and 100, 14 and 15, as presented.

MR. PHILPOTT: Okay. Thank you.

CHAIRMAN SCHMITT: All right. I'll close the public hearing. I hear -- any discussions from the commissioners? Like I said, I support the project, but I'm going to make sure the stipulation is clearly stated that staff will review to make sure that the -- that there's an adequate spread of three-, two-, and one-bedroom units.

MR. PHILPOTT: Yes.

COMMISSIONER SCHUMACHER: Is that a motion?

CHAIRMAN SCHMITT: That's a motion from me --

COMMISSIONER SCHUMACHER: I'll second that.

CHAIRMAN SCHMITT: -- yes. I recommend approval. And there's a second. All in favor, say aye.

COMMISSIONER SHEA: Aye.

CHAIRMAN SCHMITT: Aye.

COMMISSIONER SCHUMACHER: Aye.

COMMISSIONER PETSCHER: Aye.

COMMISSIONER McLEOD: Aye.

COMMISSIONER SHEA: We're approving on both, right?

CHAIRMAN SCHMITT: And that's approving on both with the stipulation that by approval, we're actually approving the GMP first and then the PUDZ. But we're voting them both the same. Do we need two separate -- just we'll vote, and then they'll both be approved.

MR. BOSI: And it's specific -- and the add on the condition is to have the condition that there has to be an equal ratio of affordable housing for each bedroom type --

CHAIRMAN SCHMITT: Right.

MR. BOSI: -- the number of bedroom types that's proposed.

CHAIRMAN SCHMITT: Right. And I'm glad Chuck brought that up, because that does -- some of the income things, you're not knocked out of the --

COMMISSIONER SCHUMACHER: We forget. We skip over it.

CHAIRMAN SCHMITT: Yeah. We skip over it.

Okay. So we have a motion and a second. All in favor, say aye.

COMMISSIONER SHEA: Aye.

CHAIRMAN SCHMITT: Aye.

COMMISSIONER SCHUMACHER: Aye.

COMMISSIONER PETSCHER: Aye.

COMMISSIONER McLEOD: Aye.

CHAIRMAN SCHMITT: Michelle?
COMMISSIONER McLEOD: Yes, affirmative.
CHAIRMAN SCHMITT: Any opposed, like sign.
(No response.)
CHAIRMAN SCHMITT: I hear none. It's 5-0.
Thank you.
***With that, we'll take a two-minute for Mr. Davies to collect his team.
MR. BOSI: That requires --
CHAIRMAN SCHMITT: No, the next one requires EAC.
MR. BOSI: Oh, the next one. Okay. Thank you.
CHAIRMAN SCHMITT: The next one requires EAC. So I've got a note.
MR. BOSI: Okay. Ray was scaring me.
CHAIRMAN SCHMITT: ***All right. The next petition -- open the public hearing. The next petition, PL20240013221, that's the Santa Barbara Landing RPUD. I note that this does require EAC approval.
And with that, disclosures. Amy.
MS. LOCKHART: Text materials only.
COMMISSIONER SHEA: Staff materials only.
CHAIRMAN SCHMITT: I spoke to Mr. Davies on the phone about the petition.
COMMISSIONER SCHUMACHER: Staff materials and conversation with Mr. Davies.
COMMISSIONER PETSCHER: Staff materials only.
CHAIRMAN SCHMITT: Michelle?
COMMISSIONER McLEOD: Staff materials -- staff materials and spoke with Mike Bosi about this item.
CHAIRMAN SCHMITT: Okay. Okay. Any persons wishing to speak on this matter, please rise to be sworn in.
THE COURT REPORTER: Do you swear or affirm the testimony you will give will be the truth, the whole truth, and nothing but the truth?
(The speakers were duly sworn and indicated in the affirmative.)
CHAIRMAN SCHMITT: All right.
Noel, you're up.
MR. DAVIES: Thank you, Mr. Chairman. Good afternoon, Planning Commissioners.
For the record, Noel Davies with the law firm of Davies Duke on behalf of the applicant, McDowell Housing Partners, specifically MHP Collier IV, LLC.
This is a proposed PUD amendment for a 100 percent affordable housing project. I have with me today Christopher Shear, my client representative; Patrick Vanasse and Rachel Hansen with the Neighborhood Company are my client's planners. Mike Pappas with RWA Engineering is our civil engineer. Yury Bykau with TR Transportation Consultants is our transportation engineer, and Jeremy Sterk with Earth Tech Environmental is our environmental expert.
The subject property is approximately 6.74 acres and comprises Tract B of the existing Santa Barbara Landings RPUD. It is located just south of Radio Road on the east side of Santa Barbara Boulevard.
This is our property here at the south end of this red box labeled Tract B. The property is currently vacant but has existing entitlements for market-rate multifamily units at a density of seven units per acre across the entire PUD.
My client is requesting today to increase that to eight units per acre, so only one additional unit per acre, and also to convert those existing market-rate multifamily units to 100 percent affordable housing units with the full 30-year commitment through the County's affordable housing density bonus agreement.
My client is the contract purchaser of Tract B only, which is its own tract with its own entitlements and requirements within the existing PUD separate and distinct from Tract A of that

PUD which, likewise, has its own different requirements and development standards. Only Tract B, not Tract A, has a pending PUDA application before you today, and that is the requested amendment.

And with that, I would like to invite Mr. Shear up briefly, and then he'll turn it over to Mr. Vanasse. Thank you very much.

MR. SHEAR: Thanks, Noel.

And good afternoon. Pleasure to be here. Chris Shear with McDowell Housing Partners, president of McDowell Housing Partners.

You know, we are not new to the county. We've been active for the last about five years. This would mark our fourth project. We've closed -- sorry. We've completed three 100 percent affordable housing developments, two senior developments out in Hacienda Lakes. Both of those respectively 160 units. And as you saw on the presentation, this is the second phase of an 82-unit family development that we built in front of Calusa Elementary School on Santa Barbara.

This project is unique in the sense that we are coming to you with funding in hand. We have received a CDBG DR award, so these federal funds that were administered by Florida Housing Finance Corporation for Hurricane Ian impacted areas to provide some resiliency in housing and to re-establish some of the housing that was lost with the storm. So we have those funds in hand.

We have -- you know, our typical outlets for our other sources of financing are ready to go. We are, at this point, just working through these final entitlements and hoping to put a shovel in the ground by the first part -- probably the first quarter of next year if all goes well. You know, this is a process, but we're motivated.

We love working with the County. We're vested here, and we're long-term owners of these assets. So we are not building this with the intention of turning around and looking for a buyer. We will own these assets for a minimum of 15 years, but probably much longer than that, and they will be affordable for a much longer period than that. Our restrictions on these developments run at a minimum 50 years, but in most cases we're extending that to 99 years.

So with that, I'm just here to answer any questions, and I really appreciate you guys hearing me. Thanks.

MR. VANASSE: Okay. Good afternoon. My name is Patrick Vanasse. I'm a certified planner with the Neighborhood Company. It's a pleasure to be here to talk about this Santa Barbara PUD amendment, and it's especially a pleasure to be here today when we represent folks that are working very hard to provide affordable housing to this county. They are filling a need.

And in listening to the previous application, they are providing affordable housing for low- and very-low-income individuals.

So it's a pleasure to be here. I will go through some of the details. Before getting into those details, though, I just want to give you a little history, a little context.

The subject property was originally developed in 1987, and it was developed with an apartment complex at that time, 248 units. Then in 2006, this was a time in the county where we were seeing a lot of condo conversions, and this was one of those projects. The apartment complex went through the process and converted to condominiums. And as part of that process, they went in and got a rezone, and as part of that PUD rezone, there was an approval for 291 total units; 248 of those units were assigned to Tract A, which was the existing condos, and the other remaining 43 were assigned to Tract B.

So now let's fast forward to 2006. Over that time, the ownership of Tract E changed a little bit, and those owners were coming into the county to ready the property for a potential sale. And one thing they did is they had to clean up some antiquated language in the PUD, and they also had to change ownership descriptions within that PUD.

So at that time, they made some light changes to the master plan. We're going to quickly look at that. And there were minor modifications made to the Tract B.

So this is the PUD master plan. This is the -- the most recent master plan from the HEX.

And I forget to mention that. Those changes were minor. They were considered an insubstantial change to the PUD. And I'm going to zoom into Tract B, which is on the right side of your screen. If you look here, some of those minor changes were really clarifying access issues, both vehicular and pedestrian access. And I'll talk about how we are making some slight changes to that moving forward.

So as Noel mentioned, we are here primarily to seek a slight increase in density to go from seven units per acre to eight units per acre. That's on the gross acreage of the PUD. And that will allow us to increase the number of units on Tract B from 43 to 84. And the increase is needed for several reasons. Obviously, with the funding that they have secured, they need a minimum number of units. Also there are efficiencies with building more units and clustering those units, and that allows them to provide a quality affordable product.

So also, as Noel mentioned, 100 percent of those units will be affordable and will fall in the low- and very-low-income categories.

So this is the changes we are making to Tract B. A few things we'd like to highlight is we were cognizant of our neighbors, and the intent was to try to maintain the master plan to be as closely as possible to what was currently approved but make some certain changes to cluster the units, bring those units closer to Santa Barbara to create more separation and buffering from adjacent properties. It was also important for us to maintain the preserves in their current location, because those preserves do provide significant separation, buffering, and shielding from adjacent properties.

Also, we were aware that Tract A was -- wasn't very fond of us putting more traffic within their -- their tract. So we came forward with a new access point to Tract B. That access point will have a turn lane and provide ease of access to this community.

Also, what we've done is we had two internal vehicular interconnections. We've eliminated the one to the west, and we kept the one to the east for emergency vehicles only. Again, that will not be used by the residents. The residents will not go with the Tract A. They will use the dedicated access point off of Santa Barbara; however, we had to keep that open for fire and rescue.

Also, we did want to keep pedestrian access, so there is interconnection with Tract A. We know that there are school-aged children over there, and now they can walk through the project. And we also have a connection leading from Tract B to Calusa Elementary. That was added as part of the 2006 insubstantial change. We know that the final location and details of that crosswalk and connection might change as part of SDP. And we're talking, working with the school board, and we'll find a good solution for both parties.

So the next two slides I've got renderings of what is anticipated over there. As you can see, we have clustered the development. We are asking for a few additional changes also as part of this request, not just the density. But those changes are all related to being able to cluster and being able to build a feasible, practical multistory, multifamily building.

So as you can see here, we pushed the units towards Santa Barbara. We've created some open space in the middle. We've created separation and also have space for water management and for a tot lot and recreational space for the families in this project.

This is a rendering looking from Santa Barbara towards the building. Again, attractive building, very similar to their current project right across the street, Ekos Phase 1. Nice quality, multifamily project.

As I mentioned, in order to allow this project to move forward and this particular design, there were numerous conditions in the PUD that had to be tweaked, and we had to make some small adjustments. So I'll go quickly through that list. One of the requirements was to have an 8-foot precast wall along the eastern boundary of Tract B.

As I mentioned, we have maintained a wide preserve in that area. The width is about 127 feet. And we believe that is sufficient to provide screening and buffering. So what we're asking for is to eliminate the need for that wall where we have a wide preserve. The preserve does neck down where the interconnection -- the emergency interconnection is, and where it does neck

down, we have kept that 8-foot wall, and we've identified that on the master plan.

We are asking for an increase in height from 30 feet and two stories to 50 feet and four stories. Again, this is giving us the ability to cluster our units and come up with a multistory building that will provide construction efficiencies.

One of the requirements was that the units had to be a minimum of 750 square feet. You've seen this with many multifamily buildings that are providing one-bedroom units that 750 is a little large. And we are committing to 650 square feet instead.

Another condition that was in the PUD was to have structures that contain no more than four units. Again, in order to fit 84 units on the site and to have a feasible project, having numerous multiple buildings, meeting -- being able to fit water management, being able to fit open space, being able to provide separation between the buildings and aggravate parking, it just wasn't feasible, just didn't work. We had to do a larger building instead.

As part of the amendment, we do have to add language to the PUD for the affordable housing density bonus, so we've added that. We've made some minor reconfiguration of the master plan. We talked about that. And we've changed the ownership and PUD monitoring language.

And lastly, we've got two deviations. First deviation is for the ability to provide noncontiguous preserve. Instead of having one large preserve, having two large preserves on Tract B. We're not changing the configuration to what is currently approved. When it was approved, the County did allow for noncontiguous preserves. That's how it got approved. And we're maintaining those two separate preserves.

The other deviation is for a slight reduction in parking. We are asking for a 10 percent parking reduction. That is standard for many multifamily projects throughout the county. And also, as mentioned, McDowell has developed -- this is the fourth project in the county. They understand this market. They understand their needs. They know what they need for their residents, and they feel very comfortable that they have ample parking to meet those needs.

CHAIRMAN SCHMITT: Patrick, can you go back to the slide -- a couple slides previous just to clarify, because it requires EAC -- this one. The split in the reserve requires EAC approval. But you are not making any changes.

MR. VANASSE: No.

CHAIRMAN SCHMITT: This has been approved for many years the way this is.

MR. VANASSE: Exactly.

CHAIRMAN SCHMITT: The way the road comes through. But it still will require -- it requires an EAC approval. So I want my colleagues to realize that that's what the EAC approve -- vote is doing is approving the preserve to be what essentially was already approved years ago.

MR. VANASSE: Yes.

CHAIRMAN SCHMITT: Okay. Thank you.

MR. VANASSE: It's two separate preserves. Our requirement is for 1.75 acres.

CHAIRMAN SCHMITT: Yes.

MR. VANASSE: We're maintaining 1.75 acres.

CHAIRMAN SCHMITT: You still meet the requirement.

MR. VANASSE: Right.

CHAIRMAN SCHMITT: Thank you. I just wanted to make sure. Sorry I interrupted. We had a little chaos up here when I went out of power here.

MR. VANASSE: Okay. This next slide differs a little bit from what you have in your packet. So I'm just going to spend a little time clarifying what the change is.

Obviously, every PUD contains language about PUD monitoring moving forward and reporting back to the County of whatever is built and commitments that are met.

So McDowell will be that entity moving forward. But there is language there about meeting certain commitments and implementing those commitments. We just want to clarify, and that's why we have that language, that McDowell will be responsible for commitments associated with Tract B only. And that's a little different and was not in your packet. That's something that

we worked out with staff, and we were told to just bring it forward and present it to you today.

So I don't think I need to spend a whole lot of time on this, but I think we're all happy to see what kind of affordable housing is being provided by this project. So let me go through this. We are providing 84 units. Those will be one- and two-bedroom units. One hundred percent of those units will be affordable housing. Seventy-one units will fall within 51 to 80 percent AMI category, and 13 units will fall below the 30 percent AMI. So, again, private entity providing 100 percent affordable housing.

Just to quickly wrap up, we have fully reviewed the staff report. We concur with their findings, conclusions, and the recommendation for approval.

In my professional planning opinion, I believe we meet all PUD review criteria. We are consistent with the Land Development Code. We are consistent with the Comp Plan. And we respectfully request a recommendation for approval. So we're happy to answer any questions you may have.

CHAIRMAN SCHMITT: Well, my screen is out, but do we have any questions from the -- any of the commissioners?

COMMISSIONER SCHUMACHER: I'll hold mine till the end.

CHAIRMAN SCHMITT: Michelle?

COMMISSIONER McLEOD: No thank you, Chair.

CHAIRMAN SCHMITT: For now we'll hold off.

COMMISSIONER McLEOD: I'm good.

CHAIRMAN SCHMITT: Okay. With that -- thank you, Patrick. With that, we'll open up any public speakers.

MR. SABO: Yes -- yes, can you hear me?

CHAIRMAN SCHMITT: Go ahead.

MR. SABO: Yes, Mr. Chairman. Two public speakers. J. Tanghe and Frank Cooper. J. Tanghe is first.

MR. TANGHE: Good afternoon, Mr. Chairman, Commissioners. Thank you for having me, and thank you for your time and consideration of what I have to offer.

My name is John Tanghe, and I live at 7777 Scarlet Court, Naples, Florida. We're the property immediately connecting to Tract B.

One of the things -- I'm not going to -- we're fine with the expansion, number of units and so on, but one of the things that we're very, very concerned about is that when our residents purchased their homes, they were assured that if and when there was any kind of development on both Tract A and Tract B that there would be an 8-foot concrete wall set there.

Now, there's a couple of reasons that we would like to make sure -- and they didn't give a timeline, so that's immaterial to us. But if there's construction to be progressing, we would like to know that we are going to receive the wall that was part of the initial PUD.

Obviously, from a privacy standpoint, the developer is saying that they're going to build -- maintain part of their preserves, and that's not quite acceptable because there's a couple -- if you were there and you saw, there's a couple of sections that the preserves are thin to none, and that's just strictly from a privacy point of view and disappointing to the residents that thought or knew that there was a wall going to be built. Again, to repeat, according to the original PUD.

One of the major concerns, way more important than the privacy factor, or the aesthetics, is that from a -- from a flooding mitigation point of view, we already suffer from water shed from Section A and B, and here's why. In 1986, Plantation had two water egress avenues. Once our lakes filled up and our streets drained into the lakes -- in fact, Radio Road drains into our subdivision which drains into our lakes, which is supposed to go to Santa Barbara on the east and to Davis.

Well, in 1986, Calusa Elementary was built, and they put an entire parking lot. They eliminated 50 percent of our water egress onto the Santa Barbara section. And I -- I wasn't part of it at that point. I think there was some kind of litigation or kicking and screaming and everything,

but it is what it is. So now we have 50 percent less of the water overflow than what we had initially when the subdivision was developed.

Now, another part of our problem is there is -- the remaining 50 percent drains -- is supposed to drain to Davis. We have, between Radio Road and Santa Barbara, hundreds of apartments that were not there a few years ago, and we are suffering, dangerously suffering because our -- all of that cement and concrete from that development, that water's got to go somewhere, and we have been feeling massive increases in our flooding.

I have two residents, the parents have two little girls, they have a trampoline in the backyard, and they can't use it. So now we have a trampoline in the front yard of one of our residents, and that looks awful.

Anyway, again, without addressing any kind of height or number of unit increases, it is the wish that the residents of Plantation subdivision have you please amend or enforce the fact that we are -- have been expecting and we really do need a good wall.

I think Tract A is something we have to address separately. It was my understanding before that Tract B couldn't be sold off until Tract A and B were both outfitted with a wall. Now, that's not official. It's just in the back of my mind.

Our president passed away a few years ago, and he was an original owner, so he knew all of this. I inherited this, being on the board. So excuse my possible inaccuracy.

But, anyway, I thought that that was not supposed to even change hands. Tract B was not to be sold off until there was a wall built or, for sure, the promise of one. Thank you so much.

Any questions anybody has?

CHAIRMAN SCHMITT: Well, just the -- I'm going to ask the applicant to address the wall, either Patrick or Noel, because I want a clarification on the site plan with the wall to go. But you're saying that the wall was a requirement of the PUD? And --

MR. TANGHE: Yes.

CHAIRMAN SCHMITT: And Patrick is asking us to remove the wall or a portion thereof.

MR. TANGHE: Correct.

CHAIRMAN SCHMITT: So we'll address that shortly. But the second piece, the water storage and water displacement, this development is going to have to go through the ERP process, Environmental Resource Permitting, process through this Florida -- South Florida Water Management District. And any design that they propose, they're going to have to demonstrate to the Water Management District that they're going to retain or store or show where the water will be displaced.

MR. TANGHE: Right.

CHAIRMAN SCHMITT: But they are not allowed to trespass any water onto your condominium properties. So I don't know what else you're looking for, because that's really a state issue, and it's through the ERP process. So I'm not --

MR. TANGHE: I'm familiar.

CHAIRMAN SCHMITT: What assurances are you looking for?

MR. TANGHE: I actually -- I'm hoping that a continuous wall bordering that entire property will -- right now we take on floodwater from them. That's happening. I've had flood -- Stormwater Management, Collier County, at my kitchen table twice to talk about this, to look at all the maps and everything like that, and they surveyed the whole thing.

And they said that, well, yeah -- they admitted that the addition of Calusa Elementary definitely did not help in our overflow mitigation at all. And the route that we're supposed to be going through now has all the new apartments on it. We're supposed to go through the Enclave development, which is directly behind us, and then further onto Davis where the big church is there. I don't know if you're familiar. But anyway, that's not happening properly only because of the amount of flooding we have. We've had less rain in the last two years, and the flooding is just through the roof.

CHAIRMAN SCHMITT: Well, but --

MR. TANGHE: And again, I've dealt with them.

CHAIRMAN SCHMITT: This applicant is not going to solve your flooding problem. I don't know what you're asking.

MR. TANGHE: I think a wall would help a lot. We take on water.

CHAIRMAN SCHMITT: Well, walls are not used to solve water management.

MR. TANGHE: I'm just suggesting because we were promised a wall --

CHAIRMAN SCHMITT: Okay.

MR. TANGHE: -- and I think it will help. I live there.

CHAIRMAN SCHMITT: Okay.

MR. TANGHE: I know how much water we take on from there. Thank you.

CHAIRMAN SCHMITT: All right.

Well, Patrick, before you reply, I want to go to the next speaker. Then we'll give you a chance to rebut.

Next public speaker, please.

MR. SABO: Mr. Chairman, next speaker is Frank Cooper.

MR. COOPER: Good afternoon, Commissioners. Thank you for letting me speak to you-all today.

My name is Frank Cooper. I represent Tract A owners, Santa Barbara Landings HOA and Granada Lakes Villas Condominium Association.

I'm the past president for the last nine years. I sold my last unit there this fall and -- yeah, I'll say January, and no longer own a unit there but have been there since then. Well, I started there in 2010.

You've already heard the history to some degree from -- on the Tract B property. I want to fill in some blanks just so you're clear, because Tract A, which is the 248 units, we're not opposed to the development of Tract B and the project. We've met with the owners originally, the applicant, and we bandied about different solutions. And one of the things we asked about was access, and they went to the County and said, we'll get access from Santa Barbara versus the internal roadway from Granada Lake Villages, Santa Barbara Landings.

So we support them. Our issue deals with the PUD itself and some issues that were originally made with the PUD promises to the County, same as this gentleman just spoke to you earlier about.

Again, you heard the apartments were built in 1987. It was an SDP. The six acres where Tract B is right now was originally the wetlands on the property. The property was fully developed except there were six acres of wetlands, so they stayed out of the wetlands and built the 248 units on the uplands.

In 2005, a gentleman from Miami purchased the property. They're the current owners. They set up two entities. One they needed to develop to convert the existing apartments to condominiums and another entity to own Tract B. So that's St. George. They are still the current owners of Tract B. They have it under contract to our applicant here to purchase Tract B.

In 2005, they came to the county and said, "We want to make a residential PUD and submit the entire property to PUD and make two tracts," Tract A, the existing units, which were fully developed, and then Tract B, which would be we want a density bonus, and we'll build 43 units on those units with the density bonus. Because at that point Santa Barbara and Radio Road were in the activity zone, and the density in the -- the affordable density bonus applied, and they got 43 units.

As part of that zoning in 2005 with the RPD, they came into the County, came to the County Commissioners and said, "We're going to build this. Plantation is concerned about the property, and we're going to build an 8-foot wall on the entire eastern boundary along the property as part of the approval of the process." So you'll see in the master plan on the eastern boundary there's now a wall dictated on Tract A and Tract B.

The PUD at that point also said that wall would be built with the development of Tract B.

In addition, because we're using up the six acres of wetlands that was on the original property, we're going to keep roughly -- we'd like to keep three acres of wetlands. We'll keep one and a half acres, roughly, on Tract B, and we're going to recreate one and a half acres of wetlands on Tract A, which is the residential community. They were going to take an existing piece of property in there, which was, at that point, a water retention area/dry retention area, as well as open space, which, you know, the kids were playing in.

And in these condominium documents -- as part of the PUD document, they said, "We're going to tell all the owners in the HOA documents about this PUD." And at this point the HOA and the owners of that property will not be responsible for any commitments associated with Tract A, associated with doing the development of Tract B, which -- went back and said -- part of the development of Tract B said, "Build this wall, and also, we're going to convert one and a half acres of property to a preserve."

In the condominium documents, that one and a half acres that they wanted to -- or the bulk of that one and a half acres on Tract A that were going to be preserves is notated as park and retention areas. Never bothered -- the developer never told the condominium owners anything about the residential development in terms of the PUD. He did mention in the condo docs that Tract B would be future development but nowhere any requirements for Tract A.

That's fine and all. And so we all went on. Everybody went on. Tract A, there's no new development in Tract A. It was already built. And Tract B -- and, of course, the recession came, and he failed and went on his merry way.

The property was turned over to the owner association in 2012 formally, and we had -- in 2020 -- in the meantime, he's been -- the developer was trying to sell the property. He had the signs up, et cetera.

In 2020, he found another buyer, and they wanted to make changes to the property, which you had already mentioned. You saw with the HEX decision pursuant to Patrick's earlier slides.

One of the HEX's decisions at that time basically said the wall would -- well, first of all, the wall -- the original PUD said the wall would be built when Tract B is developed. So no wall required for Tract A originally. It was multifamily against multifamily. There's a fence there, and there was landscaping, but not a buffer because there wasn't required a buffer in 1987 multifamily versus multifamily.

So -- but anyhow, so the PUD said at that -- in 2005, when you build Tract B, the developer will build the wall on both properties. Well -- so the HEX decision took out that requirement and just said a wall will be built on both properties but took out the time frame in terms of when the wall would be built. So therefore -- that you heard earlier about, "Well, when's the wall coming?"

Basically, the HEX said, "No, the wall will come, but we don't know when and we don't care when," but accordingly.

At that time they did not want to discuss the preserves because it was an insubstantial change. But we raised the issue in 2020 about the preserves, et cetera.

So at this point there are no preserves on Tract A. The area in Tract A that the master plan says that they're going to recreate preserves is, at that point, called on the condo docs and HOA documents, park and retention area.

At this point -- so Tract B wants to be developed now, and part -- the PUD -- and if you read the PUD, right -- now even their PUD says that there will be three acres of preserves -- three-plus, or whatever it is, 1.1 -- one and a half, roughly, will be on Tract B, and the other one and a half acres are on Tract A.

There are no preserves on Tract A. The developer no longer owns Tract A, since he's long gone. The PUD also said the homeowners of Tract A aren't responsible for any of the commitments made with the PUD, because it was only set up so they could develop Tract B.

So what our issue is today -- not that we're opposed to Tract B. We support it. Our problem is how do you want to handle the commitments that were made in the PUD for Tract A,

which are still there? Basically, build a wall on the eastern property boundary and put these preserves in.

We don't -- the condo association isn't putting in preserves, doesn't -- doesn't want to convert the land that was promised to all the owners, 248 owners, as a park area to put preserves in. We shouldn't have to pay for the preserves. They're only there, put in, in other words, so Tract B could be developed.

And again, the PUD says the homeowners aren't responsible for any of the commitments the developer made, and including with the wall. The HEX examiner said, instead of having the wall built when Tract B would be done, which was a requirement for Tract B, well, we'll just build it sometime, but we don't know when.

We met with the County. We've discussed this issue. They have not been able to come up with any answers on it. Well, Mike -- we've had several meetings with Mike and Ray about it. So at this point, the last discussion was, come bring it up to you guys, see what you guys think.

So it's not a matter of not -- saying Tract B can't be developed. It's a matter of how do you want to handle the requirements that were in the PUD originally that there would be a wall on Tract A and there would be preserves recreated on Tract A at the time that Tract B was developed when and, in fact, Tract A has no bearing on Tract B or vice versa. So that's --

CHAIRMAN SCHMITT: Well, I followed everything you said, and that's really pretty complicated.

The fact that the developer's no longer on Tract A doesn't remove the responsibility. And I heard you state that the responsibility's not the homeowners'. Well, it -- I mean, that's a legal issue, but I --

MR. COOPER: That's the PUD document itself.

CHAIRMAN SCHMITT: The PUD says --

MR. COOPER: It's not the responsibility of the homeowners or the association.

CHAIRMAN SCHMITT: Well, who's responsible then?

MR. COOPER: Tract B, would be our opinion. County would say different. I don't know. You tell me.

CHAIRMAN SCHMITT: I'm not -- I'm not an attorney. I'm just an engineer, so...

MR. COOPER: Yeah, I know. So I say, the PUD specifically, if you read it -- Paragraph 5.2 in the proposed PUD -- you can read it right there. You have it -- says the homeowners and the association's not responsible for commitments in the PUD.

CHAIRMAN SCHMITT: But -- but --

MS. ASHTON-CICKO: So if I could chime in.

CHAIRMAN SCHMITT: Go ahead.

MS. ASHTON-CICKO: The section he's talking about is 2.12.B of the PUD ordinance, which was modified by HEX Decision 21-01. And I'm just going to read the last sentence which is applicable. First I'm going to read it as it was before.

It said, "The 8-foot-high precast wall shown on the conceptual master plan shall be constructed concurrent with the development of the residential units in Tract B." So it was a timing issue as to when the wall had to go in. And I think at one time the developer did own both Tract A and B. But kicking the can down the road didn't say that this was a requirement that the developer of Tract B complete. So it was too ambiguous to be enforceable against the owner of Tract B.

Then the language was changed in the HEX decision that just changed it to say that the wall will be constructed along the eastern boundary of the PUD. So before it was a timing --

CHAIRMAN SCHMITT: Okay. I'm confused on walls now. We've got an --

MR. COOPER: No, no.

CHAIRMAN SCHMITT: -- eastern boundary.

MR. COOPER: What I'm missing is if you would go to Section 5.2 of the PUD, second paragraph. I can read it for you, if you'd like, out of the PUD.

CHAIRMAN SCHMITT: Go ahead, please.

MR. COOPER: "These development commitments will be enforced through provisions agreed to and included in the declaration of covenants and restrictions or similar recorded instrument." They weren't, but anyhow.

"Such provisions must be enforceable by lot owners against the developer, its successors and assigns, regardless of turnover or nor to any property or homeowner association."

So Tract B owners are the successors when this contract goes through. But basically, the PUD on the commitments said the homeowner association is not responsible for these commitments, which goes back to the preserves and goes back to the wall. The HEX decision just changed the timing of the wall; did not eliminate the wall.

CHAIRMAN SCHMITT: I would leave that up to a judge to make that determination, but I'm going back -- we're talking about a wall on the eastern boundary?

MR. COOPER: Eastern boundary.

CHAIRMAN SCHMITT: And a wall on the southern -- your southern boundary?

MR. COOPER: Just -- no. Our eastern boundary.

COMMISSIONER SHEA: Part of the east.

MR. COOPER: The whole length of the property. If you look at the length of the property from -- basically from Radio Road to the back corner of the property on the eastern boundary.

CHAIRMAN SCHMITT: Is that that whole --

MR. COOPER: The whole wall.

CHAIRMAN SCHMITT: -- wall? The entire wall.

MR. COOPER: That's what the -- that's what your existing PUD says right now. And that's -- even in the HEX decision, the wall stayed. It just said the timing.

CHAIRMAN SCHMITT: And what I heard John say is you want that wall constructed along the entire eastern boundary.

MR. TANGHE: Yes, sir.

MS. ASHTON-CICKO: They want -- the developer -- and they'd like the developer of Tract B to construct it.

CHAIRMAN SCHMITT: I don't see how I can make the developer of Tract B construct that wall on Property A.

MR. COOPER: Well, that's the problem.

CHAIRMAN SCHMITT: I have no authority to do that. I'm going to look to my colleagues. But I --

MR. COOPER: No, I understand that. So our problem goes back to -- we suggested that the County -- and this is what they said, bring it up to you, and let you all talk about -- is that requirement for the wall, at least on Tract A, be eliminated as well as the preserves -- the recreated preserves on Tract A be eliminated, because they're not -- they've not been enforced. They didn't -- they took the timing issues out of it, and it -- now it becomes an open-ended question, and the homeowners aren't responsible pursuant to the existing document.

MS. ASHTON-CICKO: So that's an option.

CHAIRMAN SCHMITT: But my property manager's here. I'm going to depend on them. But the homeowner -- I mean, the developer is gone --

MR. COOPER: Yep.

CHAIRMAN SCHMITT: -- on Tract A.

MR. COOPER: That's correct.

CHAIRMAN SCHMITT: It seems to me that that would then revert to the management association, to the condo association. But you're saying there's language that prohibits that?

MR. COOPER: Yeah, right in the PUD. And you have it in your copies right now. The existing PUD even has the same language, even the proposed PUD.

MS. ASHTON-CICKO: So there was another option mentioned, which is to remove the requirement --

(Simultaneous crosstalk.)

MS. ASHTON-CICKO: -- to have a wall in A.

CHAIRMAN SCHMITT: I mean, it's 25 years. It's not been enforced.

MR. COOPER: That's what we suggest. We suggest remove the requirement for the wall on Tract A, remove the requirement for the preserves on Tract A, the recreated preserves, and then Tract B can do what they want with their section of the wall.

CHAIRMAN SCHMITT: Yeah. I mean, you've been living for 20-something years without this preserve.

MR. COOPER: We don't want it. We don't want it.

CHAIRMAN SCHMITT: Well, I can understand it was required. Somehow it wasn't enforced.

MR. COOPER: It was required because Tract B wanted to eliminate the preserves that were on the property to start with.

CHAIRMAN SCHMITT: I understand.

MR. COOPER: Which is fine. They did it, and they asked for it. The County said, yeah, we'll let you eliminate them.

MS. ASHTON-CICKO: Yeah. You can make a recommendation that there be changes on Tract A to remove the wall, and the second one would be either to remove the preserve requirement or convert it to an open space, that it's not going to be a preserve, but it would just be open space.

CHAIRMAN SCHMITT: But now it acts as an open space.

MR. COOPER: It's open space, and it will stay open space.

CHAIRMAN SCHMITT: And a park.

MS. ASHTON-CICKO: So you can say --

CHAIRMAN SCHMITT: Is it secondary --

MR. COOPER: It's "water retention park" on the condominium documents.

CHAIRMAN SCHMITT: For a secondary use, though, is it still considered a water retention area?

MR. COOPER: Yes, still -- the drains are still there in the middle where, when the lake overflowed, it collects the water and dry -- it's a dry retention area.

CHAIRMAN SCHMITT: A dry retention area?

MR. COOPER: Yeah.

CHAIRMAN SCHMITT: So you're comfortable with that?

MR. COOPER: Yeah. We don't want to change that. We don't want to change anything. We just want to eliminate the requirements so it can't come back in 10 years and somebody say, "Wait, where's the preserves? Where's the wall?"

CHAIRMAN SCHMITT: I mean, I'm at the point where it's 20-something years, and we just eliminate it.

MR. COOPER: Yeah.

CHAIRMAN SCHMITT: In the document.

MR. COOPER: That's all we're asking for.

CHAIRMAN SCHMITT: We make a recommendation it goes -- as a recommendation to eliminate the requirement --

MR. COOPER: On Tract A for the wall.

CHAIRMAN SCHMITT: -- Tract A.

MR. COOPER: And the recreated preserves on Tract A.

CHAIRMAN SCHMITT: So you're removed from that burden.

MR. COOPER: That's all we want.

CHAIRMAN SCHMITT: But John says he wants the wall.

MR. COOPER: That's between you and John.

CHAIRMAN SCHMITT: Sorry. I just want to make sure I understand.

MR. COOPER: Yeah. He's -- now, listen, he's in Plantation. Plantation is single-family homes that back up against Tract B. Against Tract A, it's First Lakes Condo and Sable Lakes

Apartments. So it's multifamily against multifamily all the way for Tract A.

CHAIRMAN SCHMITT: And that's my point I was going to make. It's multifamily against multifamily. There's no requirement for a wall.

MR. COOPER: Yeah. So for Tract A -- so Tract B, you all do what you need to do. But for Tract A -- to eliminate the wall on Tract A and eliminate recreated preserves in Tract A pursuant on your master plan.

MR. TANGHE: And I agree --

CHAIRMAN SCHMITT: Sir, you have to come up to the microphone if you're going to -- I'll ask you to come up to the microphone and give your -- so we can resolve this issue.

MR. TANGHE: Thank you.

We do not require -- in spite of the fact that we'll suffer some from their watershed, the wall at Tract A is multifamily to multifamily. It's actually across the road from my single residence, so it's not that important. If we landed up with eliminating the Tract A wall, and I guess preserves, and make sure that we get a Tract B wall, which is very, very important, because that's where -- what's where all of our backyards are, and that's where we get a lot of the flooding, and that would mitigate a good portion of that, so --

COMMISSIONER SCHUMACHER: Again, I think we're getting --

CHAIRMAN SCHMITT: Where's the Tract B wall now we're talking about then?

MR. TANGHE: Tract B wall is right behind my backyards.

CHAIRMAN SCHMITT: Just that section of -- that's still multi -- there's a preserve there. So you're asking for a wall. There's a preserve, and you're asking for a wall on a property.

MR. TANGHE: On our property line, yeah, on the separation of properties. The preserve is -- has nothing to do with the water mitigation, which is most important to us. We just watch the water coming from there.

COMMISSIONER SCHUMACHER: But there's no wall there now?

MR. TANGHE: That's correct.

COMMISSIONER PETSCHER: But there's a fence on Tract A the whole way, correct?

MR. TANGHE: Yes, that's correct.

COMMISSIONER PETSCHER: Who maintains that, the fence; the condo owners of --

MR. TANGHE: The condo owners. And we've actually -- actually went to the expense of having a small berm put up near that fence because we take on water from -- not that much, but we do take on water from the parking lot and that dry reserve/preserve -- the dry recreation area that you --

CHAIRMAN SCHMITT: I mean, I --

MR. TANGHE: But we're good.

CHAIRMAN SCHMITT: I don't see any way I can force the developer -- at this stage, force the developer of Tract B to deal with your water retention or water displacement issue on Tract A. That's not their responsibility. They -- he's responsible for Tract B.

MR. COOPER: I think part of the -- excuse me. Part of the problem is, so you understand, Tract B right now, again, is a wetland area. All the water from Tract A goes into that area, Tract B. There's an outfall into Tract B, and that Tract B, which is a preserve, wetland, basically is a wetland design. Takes water, fills up, and then there's an actual outfall. It comes out onto Santa Barbara. So when that thing is full -- no, no, the outfall -- the formal outfall comes out on Santa Barbara. And that water may back up into that preserve area and overflow into Plantation, but -- but that's where water's not sufficiently going out onto Santa Barbara.

CHAIRMAN SCHMITT: Okay.

MR. COOPER: So -- but that's why they're getting water, because it is a wetland now. It's not a dry area.

CHAIRMAN SCHMITT: Well, again, thank you. And no other comments, because I'm going to try and clarify this with the applicant.

COMMISSIONER SHEA: Mike's got a comment.

CHAIRMAN SCHMITT: But before Mike -- before Mike talks, because Mike wants to talk, you're using the term "wetland," and wetland is a very definitive term. I'm a former retired Army Corps of Engineer district commander. I very much know the 404 process, Section 7 consultation, those kind of things that involve wetlands. This is -- if it's a -- if there's been a JD here and it's determined to be jurisdictional wetlands, they have to deal with that through the permitting process.

MR. COOPER: Yeah, I understand, but that's what it was in 1987. That's why it was not built on.

CHAIRMAN SCHMITT: Okay. All right. Mike?

Thank you. Thank you, sir.

MR. BOSI: Mike Bosi, Planning and Zoning.

And I just wanted to give you an orientation. The majority of Tract A -- well, not a majority, but all of Tract A is adjacent to multifamily to multifamily. The portion on Tract B starts here, and that's where you really see you have some single-families across the street and ten single-family here. That's where the wall -- where the gentleman was saying he would like to see the wall.

The applicant is proposing the preserve area here and then with a small segment of wall here as part of a deviation that they're requesting. Just to give you their orientation of where the wall is required and what it abuts next to.

CHAIRMAN SCHMITT: Well, are we talking CMU brick wall, or are we talking slots? Are we talking precast? I mean, I -- this is residential against residential. Typically a wall is not required.

MR. BOSI: No.

CHAIRMAN SCHMITT: And, I mean, they could even buy vinyl fencing, a wall, that type of stuff. I -- you know, it's -- we're talking more of screen than a functionality.

Okay. Thank you, Mike.

Patrick, for the record -- I don't know if you've got your -- Stantec has -- your engineering team.

MR. VANASSE: We do have our engineer here.

CHAIRMAN SCHMITT: Because is this a jurisdictional wetlands?

MR. VANASSE: A portion of it is wetland, but --

CHAIRMAN SCHMITT: But you'll go through the JD process? You'll go through the 404 process?

MR. VANASSE: Yes, exactly.

CHAIRMAN SCHMITT: And if there's mitigation, avoidance mitigation, compensation, you'll go through all that?

MR. VANASSE: Exactly. I think the more appropriate term for that area, it was indigenous -- existing indigenous vegetation.

CHAIRMAN SCHMITT: Yeah. That's where I was going.

MR. VANASSE: Some of it was wetlands. But we have the opportunity to develop in that area.

CHAIRMAN SCHMITT: But you still have to go through the ERP process as well --

MR. VANASSE: Right.

CHAIRMAN SCHMITT: -- and present your facts to the Water Management District that you are going to deal with water runoff, water displacement, and water storage?

MR. VANASSE: Yeah.

CHAIRMAN SCHMITT: Okay.

MR. VANASSE: Two quick points on the wall. We -- this is Tract B, so what you see is we are trying to maintain the wall right here where we do not have the wider preserve. Actually, this is -- is the existing -- I'll go to our proposed over here. So where we do not have preserve, we would maintain the wall. In this area, we have 127 feet wide of preserve.

CHAIRMAN SCHMITT: Do you have aerial? Let me see the aerial of that.

MR. VANASSE: Yeah.

CHAIRMAN SCHMITT: How thick is this preserve now?

MR. VANASSE: It's pretty thick. And I just wanted to tell you, if we were coming in multifamily abutting single-family, our requirement would be for a 15-foot B buffer.

CHAIRMAN SCHMITT: Type B buffer.

MR. VANASSE: Yes, yes, with no wall.

CHAIRMAN SCHMITT: With no wall.

MR. VANASSE: And now we've got 127 feet of preserve with an allocation for once we -- we clear the exotics, there's a planting area, if needed. So it's going to be providing opacity.

CHAIRMAN SCHMITT: Yeah. You'll have to clear the exotics --

MR. VANASSE: Yeah.

CHAIRMAN SCHMITT: -- but it will allow for the undergrowth to grow, all right.

MR. VANASSE: Yeah.

And from a water management standpoint, I just want to point out that we -- right now it just sheet-flows, and it goes, obviously, to the lower areas. We are going to have a state-of-the-art water management system, and we will be obligated to control, maintain, and manage our water on site. So the conditions will be approved [sic] through the development.

CHAIRMAN SCHMITT: Correct. And if they -- if the neighboring property believes there's some kind of trespassing of water flow onto their property, there's -- you guys will have to deal with that. But you're going to have to demonstrate, again, as part of your engineering ERP process, Environmental Resource Permit.

MR. VANASSE: Yep.

CHAIRMAN SCHMITT: Okay. And, Patrick, you're saying that the section of wall -- there's a portion of the wall you are committing to construct?

MR. VANASSE: Correct.

CHAIRMAN SCHMITT: Okay. Any questions? My screen is not lit up, but any questions from any of the commissioners?

COMMISSIONER McLEOD: Chair?

CHAIRMAN SCHMITT: Yes. Go ahead, please.

QUESTIONING ATTORNEY: Chair, I just want to make mention that I really appreciate the speakers on this issue. Especially the second speaker who explained things so well and being that they're so complicated, or complex, and I appreciate him taking the initiative to do this to try to clear up all of this so that nobody has to deal with this in the future.

So I just want to make that point. Great speakers. Thank you for being here today and helping us out with this.

COMMISSIONER SCHUMACHER: I agree.

CHAIRMAN SCHMITT: I agree.

COMMISSIONER SCHUMACHER: I wish we would have started the morning with them.

CHAIRMAN SCHMITT: Paul, go ahead.

COMMISSIONER SHEA: So the issue of relieving Tract A of the two requirements is not really something we can deal with, right?

CHAIRMAN SCHMITT: We can put it in the amended PUD.

COMMISSIONER SHEA: We can?

CHAIRMAN SCHMITT: Yeah.

COMMISSIONER SHEA: Oh, okay.

CHAIRMAN SCHMITT: Yeah. We'll just make it a stipulation. Put it in the PUD.

COMMISSIONER SHEA: Okay, good.

CHAIRMAN SCHMITT: That's the entire -- it's the entire PUD being amended, and we can add our requirement.

MR. BOSI: And it's -- I think we're having to task of consent of the Tract A owner to make those modifications.

CHAIRMAN SCHMITT: Yeah.

MR. BOSI: I don't think there's any objection to that.

MR. COOPER: I have a --

CHAIRMAN SCHMITT: Sir, we'll ask you to come back up again, because I haven't closed the public hearing yet.

MR. COOPER: One of our board of director members is here, if you'd like to have him actually say it because, again, I'm not on the board anymore.

CHAIRMAN SCHMITT: No.

MR. COOPER: But we -- yes, we -- Tract A will be happy to consent to be added to the petition to remove these -- as part of this amended thing to remove the Tract A requirements.

CHAIRMAN SCHMITT: Okay. All right.

With that, staff presentation. And I'll turn it over to the applicant if they have any summary comments.

MR. BOSI: Mike Bosi, Planning and Zoning director.

Aside from the issues that I knew that we could not -- staff address, the Tract A, we've reviewed the proposal related to the Tract B, the increase within the density. We think that the secondary access point is a key component that will allow for better interplay between Tract A -- the existing development and the proposed development.

We do recognize that this is 100 percent of affordable housing. We are hitting levels of need that the market-rate providers cannot provide for, so we are in strong support of the proposed affordable housing restrictions as well as the overall development.

Based upon that, staff is recommending -- offering a recommendation of approval to the Planning Commission.

CHAIRMAN SCHMITT: Okay. Any questions, Commissioners?

COMMISSIONER SHEA: So you're okay with leaving the application with a wall -- partial wall, not the entire wall, as requested on the Tract B?

MR. BOSI: And that's -- staff did not have any opposition. There was no letters that had made that request. Staff is -- would -- staff is fine with the modifications on Tract A.

The relationship -- the preserve at 123 feet of width does seem pretty -- seems adequate to provide compatibility. I just don't -- I kind of have a tendency to agree with the Chair. I'm not sure if the wall would provide for water management improvement to the adjoining tract.

CHAIRMAN SCHMITT: Technically, it cannot. You cannot -- if they were to berm it or some other aspect, they would have to identify that in their permit application. But from an engineering perspective, the wall is not a measure that they would submit through their permitting process. And I could have the engineer come up and state emphatically the same thing, but that's not acceptable as part of the water management process.

So it would have to be a berm of some sort if they wanted -- if that was part -- and I leave that up to them. In the permitting process, they have to design what they have to do to meet the requirements of the district.

All right. With that, applicant, any closing comments before I close the public hearing?

MR. DAVIES: Thank you, Mr. Chairman.

A couple final remarks. I'm just going to lead with this is a 100 percent affordable housing project with the levels that are sorely needed in the county. So that is -- that's the overlay, so to speak, behind this project.

We're building the portion of the wall that you heard. This is preserved in an ample amount, way more than what would be required under the Type B buffer in the portion where there wouldn't be a wall.

I appreciate the comments and the history that the -- that the speakers gave. There are a number of facts that I have to disagree with and object to for the record. We didn't read the

documents the way that he did. What I'm hearing from him is what he's been talking with my client about for some time, which relates to their property, a different property within the PUD. I'll leave it with your discretion and the advice of your attorney as to whether and how you add that to my client's application.

We're happy to cooperate with whatever you want to do with that. We just don't think it would be fair for my client to have to build a wall along this entire stretch when that's not property that my client's purchasing.

As to our property, we're going to -- we're going to buffer it with the wall, with the preserve. We've accommodated the neighbor by providing our own access point down here separately.

We're doing a very, very reasonable density for this project, an increase of one unit per acre, and we're taking existing multifamily market-rate units, and we are converting them to affordable units with only an increase of one unit per acre over the whole PUD, and we're doing it at those low and extremely low levels.

So I understand the position shared with the neighbor. We've done our best to accommodate that. We think we've got ample buffering and support so that adverse impacts on them and on the neighbor to the east will be more than sufficiently mitigated. But those are the changes that my client needs in order to provide this affordable housing to the County.

CHAIRMAN SCHMITT: Yeah. Mr. Davies, I would support -- I believe -- in fact, you could argue legally if this were to go to court, what's stated in the documents I don't even believe would be legal, because somehow those -- that requirement for Tract A would revert to the current condo association. But we're just going to mitigate that.

MR. DAVIES: I don't doubt that they would have a claim against someone, but it's not against my client.

CHAIRMAN SCHMITT: I would agree. So there's -- I would leave the fine judges and attorneys in this county to deal with that. But we can mitigate it by just eliminating it. You support the fact if we just eliminate the requirements that were stated? And it sounds like Mr. Cooper would agree that the preserve would stay -- would -- the preserve requirement would be removed, that it would remain a recreational area and a secondary as a water management dry retention area, and the second would be the removal of the requirement for the wall. And I would -- I'm looking for staff to concur with that as well if we make that as a stipulation.

COMMISSIONER PETSCHER: On Tract A?

CHAIRMAN SCHMITT: On Tract A.

MR. BOSI: Absolutely.

CHAIRMAN SCHMITT: Okay.

MR. DAVIES: We've got no objection, to be clear, to whatever the pleasure of the Commission is with respect to Tract A. We don't want any delays in the process with respect to my client's project for that, but we're happy to cooperate with whatever's needed to memorialize that in their favor.

CHAIRMAN SCHMITT: Okay.

MR. DAVIES: But we don't want it to impact what we're proposing on Tract B. Thank you.

CHAIRMAN SCHMITT: Okay. All right. With that, I close the public hearing. Open to any comments to fellow commissioners.

COMMISSIONER SCHUMACHER: I would --

CHAIRMAN SCHMITT: Michelle, is she still here?

COMMISSIONER McLEOD: Yep, I'm still here.

COMMISSIONER SCHUMACHER: I'd make a motion to approve --

COMMISSIONER McLEOD: Yeah, I could --

COMMISSIONER SCHUMACHER: Go ahead, Michelle.

CHAIRMAN SCHMITT: Go ahead.

COMMISSIONER McLEOD: Please. No, no, no. Please, make a motion.

COMMISSIONER SCHUMACHER: I was just going to say I was going to make a -- make a motion to approve with the amendment to the PUD for Tract A, to remove the preserve requirement on Tract A as well as the --

CHAIRMAN SCHMITT: Requirement for the wall.

COMMISSIONER SCHUMACHER: -- requirement for the wall --

CHAIRMAN SCHMITT: On Tract A.

COMMISSIONER SCHUMACHER: -- and recognize the dry retention park area open space.

COMMISSIONER McLEOD: I second.

CHAIRMAN SCHMITT: And with that, the stipulation as agreed to by the petitioner on Tract B. That portion that's stated on the record would still have a wall.

COMMISSIONER SCHUMACHER: As presented.

CHAIRMAN SCHMITT: As presented.

COMMISSIONER SHEA: Second.

COMMISSIONER McLEOD: I'll second that motion.

CHAIRMAN SCHMITT: And discussion?

COMMISSIONER PETSCHER: Yeah. My only concern is that Tract B was always supposed to have a wall, and if Tract B was always supposed to have a wall, the property owners of Plantation were always promised a wall, and it was in the PUD. So now we're just eliminating half the wall and saying, "Okay, half a wall's okay and preserve on the other half is acceptable."

CHAIRMAN SCHMITT: That's a good point, but we typically -- and for discussion, we typically -- it's typically a Type B buffer, residential against residential.

COMMISSIONER PETSCHER: Yeah. I just wanted to get your guys' opinions on it.

COMMISSIONER SCHUMACHER: I think 25 years -- I mean, you had plenty of time to --

COMMISSIONER McLEOD: It's more than 25.

CHAIRMAN SCHMITT: More than 25.

COMMISSIONER McLEOD: Thirty-eight years.

COMMISSIONER SCHUMACHER: The way it read, you know, you and I both know once the developer turns over, you're on your own.

COMMISSIONER PETSCHER: Yeah.

COMMISSIONER SCHUMACHER: So if that wall never went in and you're trying to pin it on two different owners for Tract B, it's -- it doesn't pass the muster, because it was even stated it's not even in the documents. It was left out of the association documents, left in the PUD, which your condo docs and your master docs, you've kind of -- you've got to go together. Those are your contracts. And if it's in there but it's in the PUD -- it's like we say on the county side were we don't deal with the association documents.

CHAIRMAN SCHMITT: Right.

COMMISSIONER SCHUMACHER: So...

COMMISSIONER PETSCHER: I just wanted a discussion.

CHAIRMAN SCHMITT: No, it's a good point, but I think the depth of the preserve is more than adequate to screen against this development.

COMMISSIONER SCHUMACHER: And I think with the new -- with this development going in, they have to retain their own stormwater. The stormwater --

CHAIRMAN SCHMITT: Absolutely.

COMMISSIONER SCHUMACHER: They can't go onto to the neighboring property.

CHAIRMAN SCHMITT: Right.

COMMISSIONER SCHUMACHER: So...

COMMISSIONER McLEOD: Hey, Mike?

CHAIRMAN SCHMITT: All right. With that, I call the question.

COMMISSIONER McLEOD: Oh.
CHAIRMAN SCHMITT: We have a motion and a second.
COMMISSIONER SHEA: Michelle's got a question.
CHAIRMAN SCHMITT: Michelle?
COMMISSIONER McLEOD: Yes.
CHAIRMAN SCHMITT: I closed the public hearing. I'm sorry. Go ahead, Michelle.
COMMISSIONER McLEOD: Okay. Mike, I wanted to address your concern, too, because I get where you're coming from. But when I looked at the layout of this space, Tract A, the distance between the houses where the wall was supposed to go is significantly expansive unlike Tract B where the houses are, like, back to back. So it would make more sense to have the wall there. So that was my thinking.
CHAIRMAN SCHMITT: Yeah.
COMMISSIONER PETSCHER: Yeah.
CHAIRMAN SCHMITT: But you're still a pretty good distance away from the building that's going to be constructed.
MR. DAVIES: We are.
CHAIRMAN SCHMITT: I mean, that's 100-something feet, you said, the thickness of that preserve?
MR. DAVIES: Yeah, 127, I believe, yeah.
CHAIRMAN SCHMITT: All right. Well, we have a motion on the floor and a second. Call the question. All in favor, say aye.
COMMISSIONER SHEA: Aye.
CHAIRMAN SCHMITT: Aye.
COMMISSIONER SCHUMACHER: Aye.
COMMISSIONER PETSCHER: Aye.
COMMISSIONER McLEOD: Aye.
CHAIRMAN SCHMITT: Any opposed? Any opposed, like sign.
(No response.)
CHAIRMAN SCHMITT: And voting as the EAC, I ask a second motion -- same motion, voting as the EAC. All in favor, say aye.
COMMISSIONER SHEA: Aye.
CHAIRMAN SCHMITT: Aye.
COMMISSIONER SCHUMACHER: Aye.
COMMISSIONER PETSCHER: Aye.
COMMISSIONER McLEOD: Affirmative.
CHAIRMAN SCHMITT: Any opposed?
(No response.)
CHAIRMAN SCHMITT: It passes unanimously, both as EAC and as the petition.
MS. ASHTON-CICKO: Just for the record, can we just indicate that the approval of the PUD also included the approval of the affordable housing agreement?
COMMISSIONER SCHUMACHER: That's correct.
CHAIRMAN SCHMITT: Yes, thank you.
MS. ASHTON-CICKO: Okay. Thank you. I just needed to clarify that.
CHAIRMAN SCHMITT: On the record, yes.
MR. DAVIES: Thank you. Have a good day.
COMMISSIONER SHEA: Good job, Chair.
CHAIRMAN SCHMITT: Mr. Cooper, thank you for that. Boy, that was complicated. I tried to follow it.
MR. COOPER: I hope that just solves the problem for all of us.
CHAIRMAN SCHMITT: Well, I hope that just solves the problem.
MR. COOPER: Well, it does.

MR. BOSI: Chair, just a reminder, we do have to vacate the premise at 3 o'clock for the Board of County Commissioners.

CHAIRMAN SCHMITT: We could vacate it in five minute.

Terri, do you need a break? Are you good?

THE COURT REPORTER: I'm good.

CHAIRMAN SCHMITT: ***Richard. All right. Please, please, we've got to continue with this. Richard seeing that there's nothing of substance other than some word changes, I make a motion to approve.

COMMISSIONER PETSCHER: I second.

COMMISSIONER SHEA: Second.

COMMISSIONER McLEOD: Second.

CHAIRMAN SCHMITT: All in favor, say aye.

COMMISSIONER SHEA: Aye.

CHAIRMAN SCHMITT: Aye.

COMMISSIONER SCHUMACHER: Aye.

COMMISSIONER PETSCHER: Aye.

COMMISSIONER McLEOD: Affirmative.

CHAIRMAN SCHMITT: Any opposed, like sign.

(No response.)

COMMISSIONER SHEA: He wants to say something.

CHAIRMAN SCHMITT: Do you want to put something on the record?

MR. HENDERLONG: I just want to make sure that your motion includes -- because there's a staff recommendation --

CHAIRMAN SCHMITT: Yes.

MR. HENDERLONG: -- and a DSAC, and DSAC has a different recommendation.

CHAIRMAN SCHMITT: Oh, okay.

MR. HENDERLONG: That your motion includes -- and I'll read it to you. This, here, very simply, that you approve Petition 20250000180 with approval including the staff's recommendation to, A, Item 4, and the subject matter of B. What we're asking for you under B is that the industrial zoning district, when the comparable-use determination language was crafted by definition, we analyzed and found that the industrial zoning district did not have the provision for a comparable-use determination to be made. So we're asking that that text be brought back to the Planning Commission in the next round with an LDC amendment that deals with that language. So that's what your Portion B of the motion --

CHAIRMAN SCHMITT: Yes.

MR. HENDERLONG: -- is allowing us to proceed.

CHAIRMAN SCHMITT: Yes.

MR. HENDERLONG: We have to have your direction on it.

COMMISSIONER SHEA: What did DSAC ask for that you didn't accept?

MR. HENDERLONG: DSAC was asking for two things. The first one was that streetlighting as it relates to -- and I'll just put -- I can do it very simply here.

There it is. There it is. It's on your screen. Basically, there in the Administrative Code, they wanted to strike the word where it relates to engineering plans that pertain to insubstantial changes to construction plans in an SDPI, that we strike the words "the applicant's professional engineer licensed to practice in the state" and instead insert "prepared by a licensed professional in the state of Florida qualified to design the proposed change and willing to take the liability."

That same language was also part of No. 2, which was really the broader subject matter that they discussed streetlighting designs. There -- they believed that an -- a landscape architect would be -- should have the right to be able to come in and submit those design plans and be prepared by some kind of a professional.

But what we ended up -- in our analysis we found -- we went back and looked at the

Florida Statute for professional regulations with engineers and concluded that we would -- you would amend the -- Item 4, you would add these words, "professional" before the word "electrical engineer," and then we would strike out of the Administrative Code "an irrigation designer or landscape architect"; that streetlighting plans had to be sealed and signed by a professional or electrical engineer. And that's really the general crux of the problem.

COMMISSIONER SHEA: I'm not -- the one on the screen there, I'm trying to read that. It said "sealed by" scratch out "a professional or electrical engineer." So the electrical doesn't have to be professional?

MR. HENDERLONG: No, he is.

CHAIRMAN SCHMITT: He is.

MR. HENDERLONG: The electrical engineer is by state license. I won't go through the codes, but I've got it here in text if you want me to get into that for you.

COMMISSIONER SHEA: No, no. I just -- "or" seemed to be the wrong --

MR. HENDERLONG: No. Yeah. Well, here was the debate. You had an engineer. They're getting streetlighting plans that are coming in. The manufacturer has the certified engineer. He certifies the illumination levels, right? And then also the manufacturer has illumination levels.

The concern was that a designer, not necessarily an engineer, be it an electrical engineer or an engineer, could come in, and that's what they're trying to achieve is Jeff Curl, landscape architect, wanted the ability that he could sign off that his signature, as a landscape architect, would serve as the same purpose.

And so we're clarifying that the code already acknowledged electrical. And this goes back to Mark Strain to -- Commissioner Schmitt about -- I remember him having a discussion that an electrical engineer -- a master electrical engineer is more important once you put these streetlights up; that the wiring and all that is certificated and correct outside of the fact that the manufacturer, who is the engineer that comes up with the structure of the unit itself, was separate. So that's why we have either/or.

CHAIRMAN SCHMITT: Well, a master electrician is different than an electrical engineer.

MR. HENDERLONG: Correct.

CHAIRMAN SCHMITT: If you're a master electrician, you're a technician -- you're certified and licensed, but as a -- to enforce the -- and apply the code, the electrical code --

MR. HENDERLONG: Yes.

CHAIRMAN SCHMITT: -- Uniform Building Code. But a professional or electrical engineer is a certificated engineer, licensed professional.

MR. HENDERLONG: Okay. Right.

CHAIRMAN SCHMITT: It's different.

COMMISSIONER SHEA: That's why I was wondering what the "or" is there for. Isn't it "professional electrical engineer"?

CHAIRMAN SCHMITT: I mean, the way you -- it would probably be better to say "a professional engineer or professional electrical engineer." But the way it's written, it implies both.

COMMISSIONER SHEA: Yeah.

CHAIRMAN SCHMITT: So if you were reading the language, it's a professional -- "professional or electrical engineer."

COMMISSIONER SCHUMACHER: To really throw a wrench into it, we could say, "Shall be signed and sealed as required by the State of Florida."

CHAIRMAN SCHMITT: That's probably the better way of saying it.

MR. HENDERLONG: Give me a minute, and I'll pull that part up. There was a narrative on that. If you look on Page -- yeah, take a look at Page 5 in our document. I don't have it up here, but it said very clearly that we reviewed the Florida Regulations of Professions and Occupation, Chapter 481.303, Part 2, for landscape architecture and found that it does not authorize street lightning plans or photometrics as a professional service for landscape architect; however, the

Board of Professional Engineers by Florida Administrative Code 61G15-33.004, the responsibility rules for professional engineers concerning the design of an electrical system does address the designs of lighting streets and, more specifically, federal -- Florida Administrative Code 61G15-33.011, certification of electrical systems of public systems, that basically any such verification shall constitute an engineering certification as that item is defined in the Florida Statute -- Florida Administrative Code.

So when we sat down with Jaime Cook's group and asked them what languages they want, this was their recommendation.

MR. BOSI: And can I just summarize? You asked a question of what DSAC asked for. They wanted the inclusion of an irrigation designer or a landscape architect. Through our research, we made the determination from Florida Statute that it has to be a professional engineer or an electrical engineer that has to submit it. That's the summary of what they wanted and what we're proposing.

COMMISSIONER SHEA: But does the electrical engineer not have to a professional engineer?

CHAIRMAN SCHMITT: Yes.

COMMISSIONER SHEA: So why don't you just say "a professional engineer"?

CHAIRMAN SCHMITT: Just say "a professional engineer."

COMMISSIONER SHEA: That "or," that really bothers me. You put the "or," it changes -- it confuses me.

MR. BOSI: We will make that modification.

CHAIRMAN SCHMITT: Professional engineer solves --

MR. BOSI: Professional engineer.

MR. HENDERLONG: Make that recommendation.

CHAIRMAN SCHMITT: And, typically, these are done in packages and kind of pieces. The landscape architect normally comes up with the design, but he then has to have the PE sign off. That's what they do, so -- okay.

COMMISSIONER SCHUMACHER: So you're going to amend that motion?

CHAIRMAN SCHMITT: We make -- we amend the motion as staff to just say "professional engineer," but all-terrain as proposed by staff. I propose to recommend approval. Do I hear a second?

COMMISSIONER SCHUMACHER: Second.

CHAIRMAN SCHMITT: All in favor, say aye.

COMMISSIONER SHEA: Aye.

CHAIRMAN SCHMITT: Aye.

COMMISSIONER SCHUMACHER: Aye.

COMMISSIONER PETSCHER: Aye.

CHAIRMAN SCHMITT: Michelle?

COMMISSIONER McLEOD: Aye; affirmative.

CHAIRMAN SCHMITT: All right. 5-0, passes.

Thank you, Richard.

MR. HENDERLONG: Thank you very much.

CHAIRMAN SCHMITT: Well done. You almost stole victory out of the jaws of defeat or --

MR. HENDERLONG: This -- you saved the best for last, right?

COMMISSIONER SCHUMACHER: We did. We did, yeah.

CHAIRMAN SCHMITT: Thank you. And 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 2:59 p.m.

COLLIER COUNTY PLANNING COMMISSION

Joseph K. Schmitt
JOE SCHMITT, CHAIRMAN

These minutes approved by the Board on 10/16/2025, as presented __X_____ or as corrected _____

TRANSCRIPT PREPARED ON BEHALF OF FORT MYERS COURT REPORTING BY TERRI L. LEWIS, RPR, FPR-C, COURT REPORTER AND NOTARY PUBLIC.