



FW: Southwest Florida Regional Planning Council-Executive Director

Wednesday, November 30, 2011 1:13 PM

From: "Flint, Richard N." <Richard.Flint@gpmlaw.com>

To Executive Committee Southwest Florida Regional Planning Council

Re: Candidacy of Jeff Ruggieri as Executive Director

NOV 30 2011

Dear Members of the Executive Committee:

The Friends of Cape Haze Inc (FOCH), is a Florida not for profit corporation created to protect, preserve, and enhance the natural environment of the Cape Haze Peninsula and the surrounding air and waters thereof.

FOCH has been a very active participant in Charlotte County land use planning matters. Our area includes the coastal zone in West County.

We understand you are conducting a search for a new Executive Director and that one of your candidates is Jeff Ruggieri, former Charlotte County Director of Growth Management.

Unfortunately, our experience with Mr. Ruggieri is that he has been hostile to citizen input in the community development process. He has been unwilling to listen to citizens and uncooperative in responding to citizen input and questions. He has been particularly resistant to protection of the Coastal High Hazard Area (CHHA).

Most recently FOCH participated in the Smart Charlotte 2050 comprehensive plan rewrite. One of the plan proposals, introduced at the very last minute, after initial DCA review, was to create a new class of movable density, called RAPID density which the County would make available in so-called revitalizing areas in West County, including the CHHA area of Placida (the intersection of 775 and 771, at the Boca Grande Causeway).

FOCH objected to this plan and eventually sued the County to overturn it. This suit resulted in a settlement in which the County agreed that no RAPID density could be used in the Placida area and that any changes would have to go through a comp plan amendment process, with full public involvement.

Mr. Ruggieri was identified by the County as its expert witness, in support of its plan. When his deposition was taken, under oath, Mr. Ruggieri acted as though he knew almost nothing about the plan or the Placida area, as to which he was supposed to be an expert. After his deposition the County notified FOCH that Mr. Ruggieri would not be its expert after all.

We will supply you with the entire deposition, but some examples will give you a sense of Mr. Ruggieri's attitude and approach.

-Mr. Ruggieri answered that he didn't recall over 120 times during his deposition of only 89 pages.

-When asked what he'd done on the Smart Charlotte Plan Mr. Ruggieri said he was project manager and that his role was , "meets deadlines." (p. 18). He declined to give any further information except to say that he coordinated and delegated. He couldn't recall who he delegated to. (p. 19). Later he agreed he "attended meetings." (p. 30). He couldn't recall if he took notes. (p. 31. See also p. 43). At this point his attorney suggested a recess. (p.31).

-Mr. Ruggieri couldn't recall if the County has any actual hard file regarding the 2050 Plan. (p. 32).

-Mr. Ruggieri couldn't recall if he provided comments on drafts of the 2050 Plan prepared by his staff, (p. 34), and wasn't sure if someone approved the staff work before it was submitted. (p. 34).

-Importantly, Mr. Ruggieri was not sure that he had ever reviewed the public comments provided on the 2050 Plan. (p. 39. See also p. 45). Later when asked if he had reviewed them he said, "Not that I recall." (p. 39). He doesn't recall if there were any minutes or other records of any public meetings held. (p. 48).

-At p. 32 Mr. Ruggieri couldn't recall if he'd ever met with Mr. Robert Berntsson, attorney for the developer/intervenors in the FOCH case, regarding the 2050 Plan. Later, when asked again, he admitted receiving comments from Mr. Berntsson and having meetings with him. (p. 49-50). Somewhat later, when asked yet again, he further admitted that he had met with Mr. Berntsson who was representing someone who owned a parcel in the revitalizing area and who submitted comments to him. (p.83-84).

-Mr. Ruggieri couldn't recall who was responsible for including the Placida area as one of the areas to receive additional density. (p. 52, 54, 57). He didn't recall whether there was data and analysis available to support the designation of the Placida area (p. 58), though he agreed such data was required. (p. 63). He didn't recall any county consultation with anyone in the 771/775 area in connection with the decision to designate it for additional density. (p. 64-65).

-Mr. Ruggieri gave his expert opinion that the 771/775 area met the revitalizing area criteria, even though he couldn't remember the criteria or the definition of revitalizing area. (p. 66-67). He had no facts to support his opinion. (p. 67).

-When asked to describe the 771/775 area Mr. Ruggieri stated it was "buildings, some grass, some trees." "A bridge, some mangroves." He described the bridge as "one that goes over water." (p. 74). He wasn't sure what any of these facts had to do with the revitalizing area designation. (p. 75).

What is regrettably clear is that Mr. Ruggieri was either woefully ignorant of the Charlotte Comprehensive Plan process or that he was obstructionist, with no respect for the legal process in which he was involved. This echoes the experience of citizens

in trying to deal with him. He was available to developers and their representatives, not to the public.

Finally, it should be noted that Mr. Ruggieri makes much of the online public input process for the Charlotte Plan. As citizens we should note that the on line comment

process was extraordinarily difficult to navigate for anyone not well-experienced in computers. It was even impossible to directly print the draft of the plan from the County website. The system impeded, rather than assisted, public input. And, as is apparent from Mr. Ruggieri's deposition, he paid virtually no attention to comments received through that process.

This is information we believe you should have in considering your candidates.

Very truly yours,
Friends of Cape Haze Inc
By Richard Flint, President
11000 Placida Road
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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

CASE NO.: 10-9457GM

FRIENDS OF CAPE HAZE, INC.,

PETITIONER,

vs.

DEPARTMENT OF COMMUNITY AFFAIRS
AND CHARLOTTE COUNTY,

RESPONDENTS.

DEPOSITION OF JEFFREY C. RUGGIERI
Volume I of I
Pages 1 through 93
Telephonic

Wednesday, January 26, 2011
10:23 a.m. - 1:00 p.m.
Sleep Inn & Suites
806 Kings Highway
Port Charlotte, Florida 33980

Stenographically Reported By:

DANA G. STURDEVANT, RPR

Registered Professional Reporter

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NO EXHIBITS MARKED

1 Deposition taken before Dana G. Sturdevant,
2 Registered Professional Reporter, and Notary Public in and for
3 the State of Florida at Large in the above cause.

4 *****

5 THE REPORTER: Do you solemnly swear that the
6 testimony you are about to give will be the truth, the
7 whole truth, and nothing but the truth, so help you God?

8 THE WITNESS: Yes.

9 THEREUPON,

10 JEFFREY C. RUGGIERI,

11 having been first duly sworn, was examined and testified as
12 follows:

13 DIRECT EXAMINATION

14 BY MR. KELSKY:

15 **Q. Tell me your name and professional address, please.**

16 A. Jeffrey Ruggieri. My professional address,
17 18500 Murdock Circle, Port Charlotte, Florida 39 -- I don't
18 even know what the zip code is -- Room B205.

19 **Q. Okay. Have you ever been deposed before?**

20 A. Yes.

21 **Q. On how many occasions?**

22 A. I can recall one.

23 **Q. Was that in conjunction with your work with the**
24 **county?**

25 A. Yes.

- 1 Q. Okay. When did that deposition take place?
- 2 A. Don't recall.
- 3 Q. What was the case about?
- 4 A. A utility issue.
- 5 Q. How long ago was your deposition?
- 6 A. Don't recall.
- 7 Q. Do you have a copy of it anywhere?
- 8 A. Not personally.
- 9 Q. When you say "not personally," what do you mean?
- 10 A. I don't have it on my person or in my office at the
- 11 county.
- 12 Q. Have you ever testified at trial?
- 13 A. No.
- 14 Q. Have you ever testified in an administrative
- 15 hearing?
- 16 A. Not that I'm aware of.
- 17 Q. Have you ever testified in front of an ALJ?
- 18 A. Not that I'm aware of.
- 19 MR. FAIRMAN: Do you know what an ALJ is?
- 20 Why -- why don't you explain what an ALJ is?
- 21 Q. (BY MR. KELSKY) An administrative law judge.
- 22 A. Not that I'm aware of.
- 23 Q. Well, real briefly, I represent Friends of Cape
- 24 Haze, Inc. It's a not-for-profit corporation in Charlotte
- 25 County. And I'm going to ask you a series of questions today.

1 If you don't understand any of my questions, please let me
2 know. Okay?

3 A. Sure.

4 Q. You have to use words to respond to my question.
5 You can't nod your head, shake your head, or go umh-hum or
6 uh-uh. Do you understand?

7 A. Yes.

8 Q. If I ask you a question and you answer it, I'm going
9 to assume you understood the question; is that fair?

10 A. Yes.

11 Q. Please allow me to finish my question before you
12 answer, and I'll extend the same courtesy to you, so that
13 we're not talking over one another, to make it easier for the
14 court reporter to take down. Okay?

15 A. Yes.

16 Q. All right. If you need to take a break for any
17 reason, just let me know. Okay?

18 A. Yes.

19 Q. Okay. What is your home address?

20 A. 4085 Joann Terrace, North Port, Florida 34286.

21 Q. And your date of birth?

22 A. May 23rd, 1974.

23 Q. Do you have a college degree?

24 A. Yes.

25 Q. From where?

- 1 A. University of Rhode Island.
- 2 Q. When did you get that?
- 3 A. 1996.
- 4 Q. Do you have any postbaccalaureate training?
- 5 A. Yes.
- 6 Q. Do you have a master's degree?
- 7 A. Yes.
- 8 Q. From where?
- 9 A. Georgia Institute of Technology.
- 10 Q. And what is your degree -- what is your -- what is
- 11 your degree in?
- 12 A. Can you be more specific?
- 13 Q. What kind of master's degree do you have?
- 14 A. A master's of city planning.
- 15 Q. Do you have any postmaster's training?
- 16 A. Be more specific, please.
- 17 Q. Are you pursuing a doctorate?
- 18 A. No.
- 19 Q. Are you certified by any organization as a planner?
- 20 A. Yes.
- 21 Q. What -- what organization?
- 22 A. American Institute of Certified Planners.
- 23 Q. When did you get that certification?
- 24 A. Don't recall.
- 25 Q. What does it take to become certified?

- 1 A. A certain level of professional experience and
2 passing a test.
- 3 **Q. Is the test oral or written?**
- 4 A. Written.
- 5 **Q. When did you take that exam?**
- 6 A. Don't recall.
- 7 **Q. Have you -- did you take it more than once?**
- 8 A. Yes.
- 9 **Q. Did you fail the first time you took it?**
- 10 A. I did.
- 11 **Q. Did you pass it the second time?**
- 12 A. Yes.
- 13 **Q. Are you required to maintained a certain amount of**
14 **continuing education courses, in order to keep that license**
15 **active?**
- 16 A. Yes.
- 17 **Q. How many per year?**
- 18 A. Don't know.
- 19 **Q. How many classes did you attend in 2010?**
- 20 A. Don't remember.
- 21 **Q. Do you keep a list anywhere of the courses that you**
22 **attended?**
- 23 A. I do not.
- 24 **Q. Have you had to recertify?**
- 25 A. Be more specific.

1 Q. Do you have to renew your certification in the AICP
2 after so many years?

3 A. Not following the question.

4 Q. All right. What's unclear about it?

5 A. Renew my certification.

6 Q. Sure. There are many organizations that issue
7 certifications to people. To maintain a member in that
8 organization, they have to continue taking a certain amount of
9 educational classes, and they then have to reapply to obtain a
10 certification to keep it current. Did you have to do
11 something like that, in order to maintain your standing in the
12 AICP?

13 A. Is your question: Do I need to reapply?

14 Q. No. My question is: Do you have to do anything to
15 recertify?

16 A. Still not following the question.

17 Q. Where is the AICP located?

18 A. Be more specific, please.

19 Q. What city is the AICP located in?

20 A. Don't know.

21 Q. Do you have a certification number or other
22 identifying -- whether it's letters, numbers, a combination of
23 the two, that you were issued by the AICP when you became
24 certified?

25 A. Don't recall.

- 1 Q. Do you have a certificate somewhere that identifies
2 your certification with the AICP?
- 3 A. Yes.
- 4 Q. Where is that certificate?
- 5 A. On my wall.
- 6 Q. In your office or at home?
- 7 A. In my office.
- 8 Q. What's the first job you had following your master's
9 degree?
- 10 A. City of Houston -- a planner for the City of
11 Houston.
- 12 Q. When did you have that job?
- 13 A. 1999.
- 14 Q. Were you a planner for them?
- 15 A. Yes.
- 16 Q. How long did you work there?
- 17 A. Don't recall the specifics.
- 18 Q. Approximately.
- 19 A. Approximately two and a half years.
- 20 Q. Did you solely work there as a planner, or did your
21 job duties change?
- 22 A. Be more specific -- specific, please.
- 23 Q. All right. Tell me all the jobs you held with the
24 City of Houston.
- 25 A. Planner, senior planner.

1 Q. When did you become senior planner?

2 A. Don't recall.

3 Q. What type of work did you do as a senior planner for
4 the City of Houston?

5 A. We reviewed subdivision plats for consistency with
6 the city's subdivision ordinance, on consistency with the
7 city's major thoroughfare plan. I conducted the public
8 hearings that were required by state statute for replats.
9 That's all I can recall at this time.

10 Q. Why did you leave that job?

11 A. I took another job.

12 Q. Were you -- did you leave on -- of your own accord,
13 or were you fired from that job?

14 A. I left of my own accord.

15 Q. What was the next job you had following the City of
16 Houston?

17 A. I worked as a senior planner.

18 Q. For?

19 A. Northrup & Associates, N-O-R-T-H-R-U-P.

20 Q. Where was that job?

21 A. City of Houston.

22 Q. How long did you work there?

23 A. Don't recall.

24 Q. Approximately.

25 A. Three years, approximately.

1 Q. What was your job title there?

2 A. Senior planner.

3 Q. Did you have any other job titles while you were
4 there?

5 A. No.

6 Q. What did you do as a senior planner for the city of
7 Houston -- excuse me, for Northrup & Associates?

8 A. Land entitlement work, land development work. Did
9 some landfill permitting, wetlands permitting, GIS work,
10 mapping. That's all I can recall at this time.

11 Q. Were you working on behalf of governments, or on
12 behalf of developers?

13 A. Nongovernmental.

14 Q. Why did you leave that job?

15 A. I took another job.

16 Q. Was it your decision to leave Northrup & Associates,
17 or were you terminated?

18 A. It was my decision.

19 Q. Where you go next?

20 A. Sarasota, Florida.

21 Q. Did you work for the county?

22 A. Be more specific, please.

23 Q. Did you work for the Sarasota County board of county
24 commissioners?

25 A. No.

1 Q. Who did you work for?

2 A. I worked for a company called Kimley-Horn &
3 Associates.

4 Q. Can you spell that, please?

5 A. K-I-M-L-Y [sic] H-O-R-N & Associates.

6 Q. What was your job title when you worked at
7 Kimley-Horn & Associates?

8 A. Senior planner.

9 Q. Did you hold any other jobs there, during the period
10 of time that you worked for Kimley-Horn & Associates?

11 A. Not that I can recall.

12 Q. What years did you work there?

13 A. What years? 2005 and 2006.

14 Q. What did do you as a senior planner for
15 Kimley-Horn & Associates?

16 A. Land entitlement work, project management for
17 entitlement projects, land development kind of things.

18 Q. Were you performing work on behalf of government or
19 nongovernmental entities?

20 A. Nongovernmental.

21 Q. Why did you leave that job?

22 A. Take another job.

23 Q. Was it voluntary or involuntary?

24 A. Voluntary.

25 Q. And where did you work after Kimley-Horn &

1 **Associates?**

2 A. Charlotte County.

3 **Q. Have you been continuously employed with Charlotte**
4 **County since you left the Kimley-Horn & Associates job?**

5 A. Yes.

6 **Q. What job titles have you held with Charlotte County?**

7 A. Planning services manager, director of growth
8 management, director of building and growth management.

9 **Q. How long did you hold the planning and service**
10 **manager job?**

11 A. Don't recall.

12 **Q. How long have you been director of growth**
13 **management?**

14 A. Don't recall.

15 **Q. And how long have you been the director of building**
16 **and growth management?**

17 A. Approximately six months.

18 **Q. What does the director of growth management do?**

19 A. Oversees the county's comprehensive plan, zoning
20 code, land information services, excavations. That's all I
21 can think of at this time.

22 **Q. What is the difference between the department -- the**
23 **director of growth management and the director of building and**
24 **growth management?**

25 A. Well, the -- what is the difference? Please be more

1 specific.

2 Q. Well, is the director of building and growth
3 management a new title, or has it existed prior to the time
4 that you were director of growth management?

5 A. It's an -- as far as I know, it's a new title.

6 Q. Okay. Are you the first director of building and
7 growth management for Charlotte County?

8 A. I don't know.

9 Q. Well, tell me, as someone who is the director of
10 building and growth management, how your job differed from
11 that being the director of growth management.

12 A. I took on the functions -- overseeing the functions
13 of the building department. Building permitting, code
14 enforcement.

15 Q. How long were you the director of growth management,
16 approximately?

17 A. Don't recall.

18 Q. Well, using the development of the Smart
19 Charlotte 2050 Comprehensive Plan, did that process occur
20 before you were director of growth management?

21 A. Be more specific, please.

22 Q. Were you responsible for the initial preparation of
23 the Smart Charlotte 2050 Comprehensive Plan?

24 A. You've to be more specific. I'm not -- I'm
25 losing -- you're losing me on responsible.

1 Q. Was it part of your job duties to develop the Smart
2 Charlotte 2050 Comprehensive Plan?

3 A. Yes.

4 Q. Is it all right with you, during the course of this
5 deposition, if we just refer to that comprehensive plan as the
6 2050 Plan?

7 A. Yes.

8 Q. Did you begin the development of the 2050 Plan while
9 you were the director of growth management?

10 A. No.

11 Q. Prior to you, was there somebody whose function it
12 was to develop the 2050 Plan?

13 A. I don't know.

14 Q. How far along was the 2050 Plan preparation at the
15 time you assumed the role of director of growth management?

16 A. Can't recall.

17 Q. When you began your role as director of growth
18 management, were you the one who initiated the development of
19 the 2050 Plan?

20 A. No.

21 Q. Who was the director of growth management before
22 you?

23 A. Not sure.

24 Q. Who was your immediate predecessor as director of
25 growth management?

1 A. Nobody.

2 Q. Okay. So you were -- are you the first person, as
3 far as you know, as far as you're aware, to be the director of
4 growth management for Charlotte County?

5 A. Yes.

6 Q. Did your job -- strike that.

7 What did a planning service manager do?

8 A. Responsible for the day-to-day duties of the zoning,
9 or the administration of the zoning code in the comprehensive
10 plan.

11 Q. Did you begin working on the 2050 Plan while you
12 were the planning service manager?

13 A. Yes.

14 Q. Did you have to report to anybody in Charlotte
15 County as the planning service manager?

16 A. Yes.

17 Q. Who did you report to?

18 A. Be more specific, please.

19 Q. Who was your immediate supervisor?

20 A. The director of community services, community
21 development.

22 Q. Who was that?

23 A. Mike Konefal.

24 Q. Is he still with the county?

25 A. No.

1 Q. Did you begin the development of the comprehensive
2 plan when you were working as a planning service manager for
3 Charlotte County?

4 A. Yes.

5 Q. Had anybody begun working on the comprehensive plan
6 before you assumed the job title of planning service manager?
7 We're talking about the 2050 Plan.

8 A. I don't know. I can't recall.

9 Q. Presently, who is your immediate supervisor?

10 A. Kelly Shoemaker.

11 Q. What is Kelly Shoemaker's title?

12 A. Assistant county administrator.

13 Q. Are you -- do you consider yourself the person
14 responsible for the ultimate preparation of the 2050 Plan?

15 A. Be more specific, please.

16 Q. Tell me what your role was in the preparation of the
17 2050 Plan.

18 A. Well, project manager essentially, if I had to
19 choose a role.

20 Q. What does the project manager do?

21 A. Meets deadlines.

22 Q. And?

23 A. Well, meets deadlines.

24 Q. Who sets the deadlines?

25 A. Well, there's internal deadlines, there's external

1 deadlines.

2 **Q. Okay. Who sets the internal deadlines?**

3 A. Project manager.

4 **Q. And who sets the external deadlines?**

5 A. The State, the Department of Community Affairs.

6 **Q. As the project manager, did you coordinate the**
7 **various people who were going to work on the preparation of**
8 **the comprehensive plan?**

9 A. Some.

10 **Q. Did you delegate any responsibilities to anyone**
11 **within the county to work on various portions of the**
12 **comprehensive plan?**

13 A. Yes.

14 **Q. Okay. And to whom did you delegate?**

15 A. Can't recall.

16 **Q. Who works for you -- well, strike that.**

17 **In the county, who works in your department that you**
18 **would delegate to?**

19 A. Inga Williams, Jie Shao, William Byle, Matt Trepal,
20 Steven Ellis, Roxann Read, Maggie Horton, John MacDonald,
21 Nicole Dozier, Jim Fendrick.

22 **Q. Of the people you just listed, who had a role in the**
23 **development and/or preparation of the comprehensive plan, the**
24 **2050 Plan?**

25 A. Everyone I just mentioned.

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Q. Okay.

A. In my department.

Q. And did you delegate responsibilities to each of those individual people for purpose of the development and preparation of the 2050 Plan?

A. Be more specific, please.

Q. Well, what was unclear about it? What do you need clarification of?

A. Delegating to specific people.

Q. Okay.

A. I'm not sure on the -- the intent, what you're trying to get at. There's a lot of answers there.

MR. KELSKY: Okay. Can you list -- read back to me all the people that he mentioned?

(Requested portion was read.)

Q. (BY MR. KELSKY) Okay. What did Inga Williams do with respect to the 2050 Plan?

A. I don't recall the specifics.

Q. What did Jie Shao do with respect to the preparation of the 2050 Plan?

A. Don't recall.

Q. What did Will Byle -- William Byle do with respect to the preparation of the 2050 Plan?

A. Bill worked on the coastal planning element.

Q. What did Matt Trepal do with respect to the

- 1 **preparation of the 2050 Plan?**
- 2 A. Don't recall.
- 3 **Q. What about Steve Ellis?**
- 4 A. Steven worked on the housing element.
- 5 **Q. What about Roxann Read?**
- 6 A. Don't recall.
- 7 **Q. What about -- is it Maggie Horton?**
- 8 A. Maggie produced the maps.
- 9 **Q. The FLU maps? The span maps? All the maps? Some**
- 10 **of the maps?**
- 11 A. I don't recall.
- 12 **Q. What about John MacDonald?**
- 13 A. Worked on maps.
- 14 **Q. Nicole Hozier?**
- 15 A. Nicole Dozier.
- 16 **Q. Dozier, excuse me.**
- 17 A. Don't recall.
- 18 **Q. What about Jim Fendrick?**
- 19 A. Don't recall.
- 20 **Q. What is your county e-mail address?**
- 21 A. jeff.ruggieri@charlottefl.com.
- 22 **Q. Do you keep all the e-mails that you receive as a**
- 23 **county employee?**
- 24 A. No.
- 25 **Q. Under what circumstances do you keep or delete an**

1 e-mail received as a county employee?

2 A. You have to be more specific.

3 Q. Well, what is the criteria that you have to delete
4 e-mails that you receive as a county employee?

5 A. I'm not sure I have one.

6 Q. Do you use Outlook as a county employee? Is that
7 your e-mail client?

8 A. I believe it is, yes.

9 Q. Which version of Outlook are you using?

10 A. Not sure.

11 Q. Do you keep all of the e-mails that you sent in your
12 sent folder in connection with the work you perform as
13 county -- as a county employee?

14 A. No.

15 Q. How often do you delete your deleted item folder?

16 A. Not sure.

17 Q. Do you use a smart phone?

18 A. Be more specific.

19 Q. Do you use either a BlackBerry or an iPhone?

20 A. Yes.

21 Q. Okay. Which phone do you use?

22 A. Be more specific.

23 Q. What model and make of phone do you use?

24 A. A little more specific, please.

25 Q. Do you have an iPhone?

- 1 A. I do.
- 2 Q. Is it an iPhone 3, 3GS, or 4?
- 3 A. I have a 3GS.
- 4 Q. Who is the service provider?
- 5 A. Apple.
- 6 Q. Who is your telephone service provider?
- 7 A. AT&T.
- 8 Q. In your iPhone is your e-mail connected to your --
- 9 your Charlotte County address?
- 10 A. No.
- 11 Q. Do you receive e-mails on your iPhone that are
- 12 related to your work as a county employee?
- 13 A. No.
- 14 Q. Have you ever had a BlackBerry?
- 15 A. Yes.
- 16 Q. Do you have texting capability on your AT&T phone?
- 17 A. Yes.
- 18 Q. What is your cell phone number?
- 19 A. Be more specific, please.
- 20 Q. Do you have more than one cell phone?
- 21 A. Yes.
- 22 Q. Okay. Do you have a cell phone specifically
- 23 dedicated to work?
- 24 A. Yes.
- 25 Q. What is that number?

1 A. Don't recall.

2 Q. Do you carry it with you?

3 A. Yes.

4 Q. Is it on you now?

5 A. Umh-hum. Yes.

6 Q. And you don't know your cell phone number for work?

7 A. I do not, no.

8 Q. Does the cell phone that you use for work have
9 e-mail capability?

10 A. Yes.

11 Q. Is that cell phone tied into -- excuse me, strike
12 that.

13 Is the cell phone e-mail address that you have for
14 work the same e-mail address that you have in your office?

15 A. Yes.

16 Q. Does that phone have texting capability?

17 A. I'm not sure.

18 Q. Is that a phone that's actually provided to you by
19 Charlotte County?

20 A. Yes.

21 Q. What type of phone is it? Is it a BlackBerry? Is
22 it a iPhone? Some other similar smart phone?

23 A. I believe it's a BlackBerry.

24 Q. Do you know who the service provider is?

25 A. No.

1 Q. Do you e-mail from that phone?

2 A. Yes.

3 Q. When you e-mail from that phone, does it show up
4 into your Outlook account?

5 A. Yes.

6 Q. Have you ever e-mailed from your personal account --
7 strike that.

8 Have you ever used your personal e-mail account to
9 communicate with anybody about your work through Charlotte
10 County?

11 A. Can't recall.

12 Q. What is your personal e-mail address?

13 A. Be more specific, please.

14 Q. How many personal e-mail addresses do you use?

15 A. Quite a few.

16 Q. Okay. Can you put a number on quite a few?

17 A. No.

18 Q. Is it more than three?

19 A. Not sure.

20 Q. Is it more than five?

21 A. Not sure.

22 Q. Is it more than 10?

23 A. Not sure.

24 Q. What is your primary e-mail address that you use
25 outside of work?

- 1 A. Don't have a primary e-mail address.
- 2 Q. You have more than 20 e-mail addresses?
- 3 A. Not sure.
- 4 Q. How about more than 50?
- 5 A. No.
- 6 Q. Somewhere between 20 and 50?
- 7 A. Not sure.
- 8 Q. Was there an organizational chart prepared in
9 connection with the development of the 2050 Plan internally,
10 at the county level?
- 11 A. Be more specific, please.
- 12 Q. Sure. As project manager, did you ever create some
13 type of chart identifying what each person's role would be in
14 the preparation of the 2050 Plan?
- 15 A. Can't recall.
- 16 Q. Do you know whether one exists?
- 17 A. Excuse me?
- 18 Q. Do you know whether there is an organizational chart
19 that exists?
- 20 A. Yes.
- 21 Q. And who has possession of the organizational chart?
- 22 A. The human resources department.
- 23 Q. How many pages is it?
- 24 A. Not sure.
- 25 Q. Is it more than five?

- 1 A. Not sure.
- 2 **Q. Is it relatively easy to get your hands on?**
- 3 A. Be more specific, please.
- 4 **Q. How -- what would it take for you to be able to get**
5 **a copy of that organizational chart?**
- 6 A. I would probably contact the HR department.
- 7 **Q. You could do it in person or by telephone?**
- 8 A. I could.
- 9 **Q. Is it a time-consuming venture to ask for that**
10 **information?**
- 11 A. Yes.
- 12 **Q. Okay. How many minutes or seconds would it take to**
13 **do that?**
- 14 A. Not sure.
- 15 **Q. Who in the human resources department would have a**
16 **copy of this organizational chart?**
- 17 A. Not sure.
- 18 **Q. Was it -- did you transmit to the human resources**
19 **department this organizational chart?**
- 20 A. Be more specific.
- 21 **Q. Who is the person for -- responsible for**
22 **transmitting the organizational chart to the human resources**
23 **department?**
- 24 A. Not sure.
- 25 **Q. Was it something that you created, or something that**

1 somebody else created?

2 A. I created it.

3 Q. Do you have a copy of it on your computer?

4 A. Not that I'm aware of.

5 Q. Was it a Word document? A WordPerfect document? A
6 PDF?

7 A. I don't -- I don't know what the format is.

8 Q. When did you create it?

9 A. Not sure.

10 Q. Do you believe you deleted it?

11 A. No.

12 Q. Do you -- okay. Do you have -- is your computer
13 hooked into a server?

14 A. My computer? I can assume.

15 Q. Do you have a computer file on your -- your
16 individual computer at Charlotte County that is specific to
17 the 2050 Plan?

18 A. Not sure.

19 Q. Is there such a file on a server maintained by the
20 county?

21 A. Not sure.

22 Q. If I were sitting at your computer and I wanted to
23 access the 2050 Plan, as far as drafts, documents, memos, what
24 would that folder be called, and how would I do that?

25 A. Be more specific, please.

1 Q. If you're sitting at your desk and you wanted with
2 to see a draft of a particular portion of the comprehensive
3 plan, what would you do to be able to look at that document?

4 A. You're asking what would I do to find --

5 Q. Yeah.

6 A. -- an old draft?

7 Q. Umh-hum.

8 A. I would probably ask somebody where they are.

9 Q. Did you prepare any writing of the comprehensive
10 plan?

11 A. Not that I can recall.

12 Q. Did you create any text that was used in the
13 comprehensive plan?

14 A. Not that I recall.

15 Q. Okay. Who -- name one person who prepared text in
16 the comprehensive plan.

17 A. Everybody I named earlier prepared text in the --

18 Q. Okay.

19 A. -- comprehensive plan.

20 Q. Did you have to approve the text that went into the
21 comprehensive plan?

22 A. No.

23 Q. Who was responsible for approving the text that went
24 into the comprehensive plan?

25 A. Each individual person that worked on it.

1 Q. Well, as the project manager, what was your
2 responsibility to oversee the preparation of the comprehensive
3 plan?

4 A. Meet deadlines.

5 Q. Okay. Is that the only involvement you had in the
6 development of a comprehensive plan?

7 A. No.

8 Q. Okay. What else did you do in connection with the
9 preparation of the comprehensive plan?

10 A. Attended meetings.

11 Q. Okay. What meetings did you attend?

12 A. Can't recall.

13 Q. Did you ever meet with the general public in
14 connection with the preparation of the 2050 Plan?

15 A. Yes.

16 Q. How many meetings did you attend?

17 A. Can't recall.

18 Q. Is it more than three?

19 A. Can't recall.

20 Q. More than 10?

21 A. Can't recall.

22 Q. More than 20?

23 A. Can't recall.

24 Q. More than 50?

25 A. Can't recall.

- 1 Q. How about 100?
- 2 A. No.
- 3 Q. Somewhere between 50 and 100?
- 4 A. Can't recall.
- 5 Q. Do you make notes of your attendance at these
- 6 meetings?
- 7 A. Can't recall.
- 8 Q. Have you ever taken notes at any one of these
- 9 meetings?
- 10 A. Can't recall.
- 11 MR. ROONEY: Jeff, do you need a break?
- 12 THE WITNESS: I need one to go and get a drink.
- 13 MR. KELSKY: Go ahead.
- 14 MR. ROONEY: Off the record.
- 15 (Brief recess was held.)
- 16 Q. (BY MR. KELSKY) Have you held any other jobs in any
- 17 capacity, other than what you've told me about, from the time
- 18 you graduated from your -- Georgia Institute of Technology
- 19 through today?
- 20 A. Be more specific.
- 21 Q. What other places of employment have you had since
- 22 you graduated from Georgia Institute of Technology through
- 23 today, that you've not told me about?
- 24 A. None.
- 25 Q. Do you consider yourself an expert in comprehensive

1 **planning?**

2 A. Yes.

3 **Q. What qualifications do you have that would render**
4 **you to be an expert in planning?**

5 A. My certification as a certified planner would.

6 **Q. Has anyone ever sought to retain you as an expert on**
7 **planning, independent of your role as a county employee?**

8 A. Not that I can recall.

9 **Q. In the course of the preparation of the 2050 Plan,**
10 **you had told me that you had meetings with the general public,**
11 **and I didn't get -- I was unable to elicit an actual number of**
12 **meetings that you had, but do you remember a meeting that you**
13 **had with Percy Angelo, Deb Highsmith, Misty Nichols, and**
14 **Julianne Thomas at some point in time?**

15 A. Don't recall.

16 **Q. Did you ever meet with Mr. Berntsson, who's sitting**
17 **here, regarding the 2050 Plan?**

18 A. Don't recall.

19 **Q. Are you aware of whether anyone from the county met**
20 **with Mr. Berntsson regarding the 2050 Plan?**

21 A. Don't recall.

22 **Q. Is there somewhere an actual hard file in the**
23 **Charlotte County offices regarding the 2050 Plan, to the**
24 **extent that it showed data and analysis, notes or memo from**
25 **meetings, drafts, and a final product?**

1 A. Don't recall.

2 Q. There's not a file drawer, or file cabinet, or
3 anything like that?

4 A. Don't recall.

5 Q. Would somebody other than you be responsible for
6 maintaining such a file, if it exists?

7 A. Not sure.

8 Q. Did you have any internal meetings, with any of the
9 county employees that you identified previously, with respect
10 to the preparation of their portions of the comprehensive
11 plan?

12 A. Yes.

13 Q. How many meetings did you have?

14 A. Don't recall.

15 Q. Did you review any drafts of the comprehensive plan
16 before its final version was ultimately submitted to the
17 county?

18 A. Be more specific.

19 Q. Sure. Were there drafts prepared for each element
20 of the comprehensive plan prior to a final product?

21 A. Yes.

22 Q. Did you review those drafts prior to the time that
23 the final product was prepared?

24 A. Yes.

25 Q. Did you provide input to the person preparing those

1 **drafts regarding what it is that they wrote or prepared?**

2 A. Be more specific.

3 **Q. Who is ultimately responsible for reviewing the**
4 **work, that was prepared by the individuals that you identified**
5 **above, up through and including the time that the final work**
6 **product was prepared?**

7 A. Each individual that I mentioned was responsible for
8 their tasks that were assigned to them.

9 **Q. Did you review their work product before it was**
10 **submitted in its final form?**

11 A. Yes.

12 **Q. Okay. Why would you do that?**

13 A. As the project manager, I would review the drafts.

14 **Q. Okay. What -- did you provide comments to those**
15 **drafts?**

16 A. Can't recall.

17 **Q. Did somebody provide comments on those drafts?**

18 A. Can't recall.

19 **Q. Were they circulated among anybody before they**
20 **reached its final form?**

21 A. Can't recall.

22 **Q. Did you have to approve their final draft before it**
23 **was included in the comprehensive plan?**

24 A. No.

25 **Q. Who was responsible for approving the final version**

1 of the comprehensive plan before it was submitted to the
2 county?

3 A. There's no approval. There's not a -- there's no
4 formal approval process, I guess, if that's what you're
5 asking.

6 Q. So, for example, you mentioned William -- is it
7 Byle?

8 A. Bill Byle, yes.

9 Q. Bill Byle? Bill Byle, you said, was responsible for
10 planning the coastal element; is that correct?

11 A. Correct.

12 Q. Okay. He just did his work, and you accepted it as
13 is, and it was transmitted as part of the overall plan?

14 A. Correct.

15 Q. Was -- did somebody have to review his work and
16 approve it before it could be submitted?

17 A. Not sure.

18 Q. Why would you review the plan under those
19 circumstances -- strike that.

20 Why would you review the drafts of the plan
21 before -- if it's not something that you had to approve of?

22 A. Not sure.

23 Q. Are there policies and procedures that exist within
24 the county for the project manager, setting forth what those
25 tasks would be as project manager, for purposes of the

1 **preparations of the 2050 Plan?**

2 A. Not sure.

3 **Q. Have you ever seen any?**

4 A. Not sure.

5 **Q. Did the county retain any outside companies to do**
6 **any work on the 2050 Plan?**

7 A. Yes.

8 **Q. What outside companies were retained or employed**
9 **with respect to the 2050 Plan?**

10 A. Glatting Jackson, which was later bought out by
11 AECOM.

12 **Q. Anyone else?**

13 A. I can't recall anybody else.

14 **Q. You said AE --**

15 A. -- COM, C-O-M.

16 **Q. Okay. Who was responsible for hiring Glatting**
17 **Jackson?**

18 A. Board of county commissioners.

19 **Q. Was that something that you facilitated on behalf of**
20 **the board?**

21 A. Correct.

22 **Q. What were they hired to do?**

23 A. Initial visioning for the comprehensive plan, and to
24 create a program that would house the electronic version of
25 the comprehensive plan.

1 Q. When you say "visioning" -- that's what you said,
2 correct, the word "visioning"?

3 A. Correct.

4 Q. Okay. What do you mean by the word "visioning"?

5 A. A cursory kind of review of the issues pertaining to
6 growth -- future growth in the county, a foundation to build
7 some policies on, that would go into the comprehensive plan.

8 Q. The second thing you said that they did was a
9 program -- they created a program to house an electronic
10 version of the comprehensive plan; is that correct?

11 A. That's correct.

12 Q. Okay. When you talk about a program, is that
13 software that the county had to purchase, or was it software
14 that was specifically made for the county?

15 A. It was for software that was specifically made for
16 the county.

17 Q. Do you know whether -- whether the county owns that
18 software or it's licensed?

19 A. I'm not sure.

20 Q. Did you have any role in the -- in the development
21 of that software?

22 A. Be more specific.

23 Q. What was it -- did you provide Glatting Jackson with
24 any -- with any aspects of the program that you wanted it to
25 accomplish?

1 A. Be a little -- clarify aspects.

2 Q. Okay. Let me clear it up. Did you provide them
3 with any criteria that you wanted to see in the software?

4 A. Yes.

5 Q. All right. What criteria was that?

6 A. That it be available for public comment, and inline
7 definitions were very important. External hyperlinks were
8 very, very important, the ability for staff to comment in
9 realtime to public comment or any other comment that was on --
10 on the web. And that's all I can recall at this time.

11 Q. Okay. Was Glatting Jackson able to create that
12 software?

13 A. Be more specific.

14 Q. Was that software ever created?

15 A. Yes.

16 Q. Who created the software?

17 A. The name precludes [sic] me. It was a -- Glatting
18 Jackson subbed the effort to a college.

19 Q. A university?

20 A. A university.

21 Q. But the software was still delivered to the county
22 as a product of Glatting Jackson; is that correct?

23 A. No.

24 Q. Okay. Who copyrighted the software?

25 A. I am not sure.

1 Q. Did the final software product provide the county
2 with an ability -- availability -- excuse me.

3 Did the final software product allow the county to
4 receive public comment?

5 A. Yes.

6 Q. Okay. Who was responsible for receiving that public
7 comment when it was transmitted through the software?

8 A. Be more specific, please.

9 Q. Whose job, if there was such a thing, to review the
10 comments provided by the public through the software?

11 A. To review the comment -- okay. That was Jim
12 Fendrick.

13 Q. Were the comments collected and saved in a
14 particular area?

15 A. I'm not sure.

16 Q. Did you ever review those comments?

17 A. Not sure.

18 Q. Were they ever provided to you?

19 A. Not sure.

20 Q. You mentioned also that that software allowed staff
21 to comment in realtime; is that correct?

22 A. Can you say that again, please?

23 Q. You had mentioned that the software, that was
24 ultimately prepared, allowed staff to comment on real -- in
25 realtime. Did I understand you correctly?

1 A. Yes.

2 Q. Did the software actually do that?

3 A. It can.

4 Q. Okay. Was it ever used in that fashion?

5 A. In realtime?

6 Q. Yeah.

7 A. No. We had a 24-hour turnaround time.

8 Q. Okay. When you say "staff," I assume you're
9 referring to county staff.

10 A. Yes.

11 Q. Was that function ever used on the software?

12 A. Be more specific, please.

13 Q. Was the staff comments, the 24-hour turnaround time,
14 ever reviewed by you?

15 A. Can't recall.

16 Q. Would Jim Fendrick be responsible for overseeing the
17 staff comments made in realtime?

18 A. No.

19 Q. Who would be responsible for maintaining that
20 information?

21 A. I can't recall.

22 Q. Do you know how many public comments were made when
23 the software became live?

24 A. Approximately 770 substantive comments. We got a
25 lot of ads for Viagra and things like that. It's true.

1 Q. So you said 770 substantive comments?

2 A. Yes.

3 Q. Did you review them?

4 A. Not that I recall.

5 Q. How do you know there were 770?

6 A. That's the information I received.

7 Q. From who?

8 A. Can't recall.

9 Q. When did you receive that information?

10 A. Can't recall.

11 Q. Were comments made by residents, businesses,
12 attorneys, independent of the information that was transmitted
13 through software?

14 MR. FAIRMAN: Objection to form.

15 You can go ahead and answer.

16 A. Can you restate your question, please?

17 Q. (BY MR. KELSKY) Sure. I assume that there are
18 other -- there are other methods of comments being made,
19 separate and apart from those that were submitted through the
20 computer; is that correct?

21 A. Restate the question, please.

22 Q. All right. Did you have public hearings on the
23 2050 Plan?

24 A. Yes.

25 Q. Were people able to submit comments at those public

1 hearings?

2 A. Yes.

3 Q. Were those -- were comments actually made at those
4 public hearings?

5 A. Yes.

6 Q. Were you present when those comments were made at
7 public hearings?

8 A. Yes.

9 Q. Were those comments made at public hearings verbal?

10 A. Yes.

11 Q. Did somebody from the county record the nature of
12 the comments made by people at the public hearings?

13 A. Yes.

14 Q. Who was responsible for reducing those verbal
15 comments to writing in the county?

16 A. Not sure.

17 Q. Okay. Have you seen the written -- excuse me.

18 Have you seen the county-prepared written version of
19 the comments that were made by people who attended public
20 hearings and submitted verbal comments?

21 A. Not sure.

22 Q. Do you know how many substantive comments were made
23 at public hearings?

24 A. Not sure.

25 Q. Who would be responsible for having that

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information?

A. Not sure.

Q. Where would it be maintained?

A. Not sure.

Q. Were comments made at the hearings that you attended?

A. Yes.

Q. Did you take any notes, create any memoranda, reflecting comments made by the public?

A. Not sure.

Q. Did you have any meetings with anybody in private that you would characterize as being a comment on the proposed 2050 Plan?

A. Can't recall.

Q. Did you ever have any meeting with anybody, outside of the general public, regarding the preparation of the 2050 Plan?

A. Can't recall.

Q. Did anybody in the county, to your knowledge, meet with any person outside of the general public, as it relates to the preparation of the 2050 Plan?

A. Restate the question, please.

Q. Sure. Did you ever have any meetings in person, one to one, where you received comments on the 2050 Plan?

A. Can't recall.

1 Q. Do you know what is -- what is -- from -- what is
2 your understanding of the term "comments" as it relates to,
3 for example, the 7770 substantive comments that came in over
4 the computer?

5 A. Restate the question, please.

6 Q. You had mentioned to me that the county -- through
7 the software that was prepared in conjunction with the
8 preparation of the county plan, you had told me that there
9 were approximately 770 substantive comments that were
10 received. With that in mind, what is your definition of the
11 term "comments"?

12 A. I don't have a definition.

13 Q. What do you understand it to mean?

14 A. I guess it would be a response to a policy that was
15 in the comprehensive plan, whether to improve it, change it,
16 add to it, delete it. It would have been a response to
17 whatever comment was posted online.

18 Q. Did you receive any comments, as you've just
19 defined, personally, outside of a public meeting?

20 A. Restate the question, please.

21 Q. What's unclear about the question so I can clarify
22 it?

23 A. The breadth of it.

24 Q. Okay. Well, I'm -- I'm trying to be broad here, so
25 that I can --

1 A. Okay.

2 Q. -- get an error -- an answer and narrow --

3 A. All right. I will answer it.

4 Q. -- it down.

5 Did you ever receive similar comments, under the

6 term that you just defined --

7 A. Umh-hum.

8 Q. -- privately and not in a public meeting?

9 A. Can't recall.

10 Q. Did you ever receive any correspondence from anybody

11 at your office --

12 A. Umh-hum.

13 Q. -- that would be considered a comment that was not

14 made either over the Internet or at a public meeting?

15 A. When you say the Internet, you mean the online?

16 Q. The software -- --

17 A. The software.

18 Q. -- that you're talking about.

19 A. Yes.

20 Q. Okay. How many of those comments did you receive?

21 A. I'm not sure.

22 Q. What did you do with those comments that came in?

23 A. Not sure.

24 Q. Did you turn them over to anybody?

25 A. Can't recall.

1 Q. Did you throw them out?

2 A. No.

3 Q. Okay. If you didn't throw them out, where would
4 they be?

5 A. Well, if I received them through e-mail, they're in
6 my e-mail. If I received them through mail, I would have
7 given them to my assistant to file.

8 Q. Who's your assistant?

9 A. Gail Moore.

10 Q. When you say you would have given them to her to
11 file, where would they be?

12 A. Not sure.

13 Q. Did you ever ask to review them, those comments,
14 after they were initially received by you?

15 A. Be more specific, please.

16 Q. Sure. Something comes in the mail -- let's take a
17 letter.

18 A. Umh-hum.

19 Q. You get something in the mail, you review it, you
20 provide it to your assistant for filing.

21 A. Umh-hum.

22 Q. Did you ever, after that period of time, ask to
23 rereview those letters that you received?

24 A. I can't recall.

25 Q. How many letters do you think you received?

1 A. Can't recall.

2 Q. Do you know whether those letters were scanned and
3 then discarded?

4 A. I do not know.

5 Q. Is there such a system in the county, whereby
6 correspondence is received, and then scanned, and then
7 discarded?

8 A. There is a process.

9 Q. Was that process in effect for the comprehensive
10 plan?

11 A. Not that I'm aware of.

12 Q. Okay. Do you receive your voice mails in your
13 Internet box?

14 A. Be more specific.

15 Q. Sure. I'll give you an example. When I get a --
16 when I get a call, and I'm not there, and it goes to my voice
17 mail --

18 A. Yeah.

19 Q. -- a copy of the voice mail is transmitted to me via
20 e-mail --

21 A. Okay. You said Internet --

22 Q. -- in a -- in a verbal form.

23 A. -- box. I didn't know what that was.

24 Q. I'm sorry, I meant e-mail.

25 A. Okay. Yes.

1 Q. Do you -- do you receive your voice mails in that
2 **fashion?**

3 A. Yes.

4 Q. Okay. Did you receive any voice mails that you
5 **would characterize as a comment on the 2050 Plan?**

6 A. Not that I can recall.

7 Q. Okay. At the public meetings, where there were
8 **verbal comments made, was there a clerk present who was taking**
9 **notes of the meeting?**

10 A. Not that I can recall.

11 Q. Okay. Were the meetings -- were the public
12 **meetings, were there ever minutes prepared of those public**
13 **meetings?**

14 A. I'm not sure.

15 Q. Did you ever see any minutes?

16 A. Not that I can recollect.

17 Q. Did you ever see written correspondence from any
18 **attorney, outside of the county attorney's office, of course,**
19 **that you would characterize as a comment on the 2050 Plan?**

20 A. Yes.

21 Q. Okay. What attorneys did you receive comments from?

22 A. Can't recall.

23 Q. Can you name one?

24 A. I remember the substance. I don't remember the
25 **name. I can't recall.**

1 Q. Did you receive comments from anybody in this
2 room -- actually, that would be one person in this room,
3 Mr. Berntsson -- regarding the 2050 Plan?

4 A. Oh, have I received? Yes.

5 Q. Well, do you know how many times or how many
6 comments Mr. Berntsson provided to you?

7 A. I do not.

8 Q. Were any of the comments regarding any of the
9 property that is located in the 771/775 area of Charlotte
10 County?

11 A. Not that I can recall.

12 Q. Was that written correspondence the type of comment
13 that you would provide to your assistant for filing?

14 A. Be more specific, please.

15 Q. Was the written correspondence, was it in -- that
16 you -- well, strike that.

17 With respect to Mr. Berntsson --

18 A. Umh-hum.

19 Q. -- was it written correspondence that you received?

20 A. I'm not sure. That's -- I don't recall.

21 Q. Did you ever have any meetings with him one to one,
22 regarding the preparation of the 2050 Plan?

23 A. Yes.

24 Q. How many meetings?

25 A. I don't recall.

1 Q. When were they?

2 A. Don't recall.

3 Q. Did you make any notes from them?

4 A. Don't recall.

5 Q. Was there any memoranda prepared?

6 A. Don't recall.

7 Q. Did you incorporate any of his comments into the
8 ultimate preparation of the 2050 Plan?

9 A. Don't recall.

10 Q. Do you know whether he met with any of the county
11 staff, outside of you, regarding the preparation of the
12 2050 Plan?

13 A. I do not know.

14 Q. Do you remember on whose behalf he was providing the
15 comments on?

16 A. I do not.

17 Q. Did you ever speak with Karen Brodeen regarding the
18 preparation of the 2050 Plan?

19 A. Not that I know of.

20 Q. At any of the meetings that you attended, did you
21 receive any comments upon the 771/77 -- 77 -- strike that.
22 We'll get it clearer.

23 At any of the meetings that you attended, did you
24 receive any comments regarding the 771/775 area of Charlotte
25 County?

1 A. Not that I recall.

2 Q. At any time prior to the transmittal of the
3 2050 Plan in its final version, did you ever receive comments
4 or review comments from anybody regarding the 771/775 area?

5 A. Not that I can recall.

6 Q. For purposes of this deposition, is it okay that I
7 refer to the 771/775 area as the revitalization area in that
8 location? Do you -- do you know what I mean by that?

9 A. I do know what you mean, but it will probably -- it
10 may cause problems in your questioning because there's more
11 revitalization areas than that.

12 Q. Okay. But if I refer to 771/775, do you understand
13 what that means in the context of that particular
14 revitalization area?

15 A. I do.

16 Q. Okay. So if I refer to that as 771/775, that would
17 be okay with you?

18 A. Yes.

19 Q. All right. Prior to the 2050 Plan, was there ever a
20 neighborhood framework for Charlotte County?

21 A. Not that I'm aware of.

22 Q. Okay. Who is the -- strike that.

23 When we talk about visioning, you mentioned with the
24 Glatting Jackson group, what does visioning mean?

25 A. Taking a survey of the most important, pressing

1 issues, to get a good foundation for creating a plan.

2 **Q. Were the -- was that group responsible for**
3 **suggesting or identifying the neighborhood framework that was**
4 **actually incorporated into the plan?**

5 A. Don't recall.

6 **Q. Who is responsible for creating that neighborhood**
7 **framework?**

8 A. Be more specific, please.

9 **Q. Whose idea was it to establish a neighborhood**
10 **framework that was ultimately incorporated into the 2050 Plan?**

11 A. Don't recall.

12 **Q. As project manager, did you delegate to anyone**
13 **delegate to anybody within the county to come up with the**
14 **neighborhood framework?**

15 A. Don't recall.

16 **Q. Do you know who Frances Chandler-Marino is?**

17 A. Yes.

18 **Q. Who is she?**

19 A. She was the project manager for Glatting Jackson,
20 later AECOM, that I dealt with for our contract with them,
21 pertaining to the 2050 effort.

22 **Q. How -- how large, in terms of dollars, was the**
23 **county contract with Glatting Jackson?**

24 A. Can't recall.

25 **Q. Were you responsible for negotiating that contract?**

1 A. Be more specific.

2 Q. What role did you have in the preparation of that --
3 of the contract that was ultimately agreed to between the
4 county and Glatting Jackson?

5 A. A small role.

6 Q. And what was that role?

7 A. Can't recall.

8 Q. How familiar are you with the 2050 Plan?

9 A. Familiar.

10 Q. Okay. Do you understand all of the elements that
11 exist in the plan?

12 A. Be more specific.

13 Q. Do you -- are you familiar -- well, for example, you
14 mentioned the coast -- the coastal element.

15 A. Umh-hum.

16 Q. Are you familiar with the coastal element, the
17 entire coastal element section?

18 A. I'm familiar with it, yes.

19 Q. Okay. Would that be true of the Future Land Use
20 section?

21 A. Yes.

22 Q. And the other remaining sections of the plan?

23 A. No.

24 Q. Okay. What parts of the plan are you not familiar
25 with?

1 A. Housing.

2 Q. Any other plan -- any other part of the plan that
3 you're not familiar with?

4 A. Not that I can think of.

5 Q. When was the first time you talked with anybody
6 about the neighborhood framework?

7 A. Can't recall.

8 Q. Is the neighborhood framework something that was
9 created by the Glatting Jackson group?

10 A. Don't recall.

11 Q. Was the development of the neighborhood framework
12 originally designed to apply to only residential areas?

13 A. No.

14 Q. Are you familiar with the compact growth mixed-use
15 element? Designation, excuse me.

16 A. Yes.

17 Q. What is your understanding of what that means?

18 A. It's a Future Land Use designation for a different
19 type of development.

20 Q. What type of development?

21 A. Mixed use.

22 Q. Where can that element be applied?

23 A. Not sure. Don't recall. Have to read the policies.

24 Q. Can it be applied to the 771/775 area?

25 A. Not sure.

1 Q. Who would have that information in the county?

2 A. Any one of the planners.

3 Q. Any one of the planners?

4 A. Sure.

5 Q. Because you're a planner, aren't you?

6 A. I am.

7 Q. But you don't know?

8 A. I'm not in front of my computer. If you let me use
9 my iPhone, I could find out for you.

10 Q. Why don't you do that? Why don't you use your
11 iPhone?

12 A. I'll try. I don't know if it will come up here.

13 (Discussion off the record.)

14 MR. FAIRMAN: Just so it's clear, we'll voice an
15 objection to the question or requirement to do that,
16 similar to requiring the deponent to make a drawing or a
17 diagram. But without waiving the objection, he can go
18 ahead and do it.

19 Q. (BY MR. KELSKY) While you are bringing it up, where
20 are you looking?

21 A. (No response.)

22 Q. While you're waiting for it to come up, how are
23 you --

24 A. I'm looking through it -- I'm looking through the
25 comprehensive plan online.

1 Q. The 2050 Plan that's --

2 A. Correct.

3 Q. -- actually on the Charlotte County website?

4 A. Absolutely.

5 Q. Are you looking at the FLUM, or the -- what I'm
6 going to call the SPAM?

7 A. I'm looking at the Future Land Use Guide.

8 Okay. Can you repeat your question now, please?

9 MR. KELSKY: Why don't you read it back, please?

10 (Requested portion was read.)

11 Q. Do you have the question?

12 A. I do.

13 So compact growth mixed use, this type of
14 development shall only be located in revitalizing and emerging
15 neighborhoods.

16 Q. And is the 771/775 a revitalization area per the
17 2050 Plan?

18 A. Yes.

19 Q. Are you familiar with what the maximum density is
20 that's allowable under the CG -- the compact growth mixed use?
21 Do you know what the maximum allowed --

22 A. I don't recall.

23 Q. Does 65 units per acre sound about right?

24 A. Don't recall.

25 Q. Who would have that information?

1 A. A planner.

2 Q. Like you?

3 A. Yes.

4 Q. If I wanted to find out that information, is it
5 available on the 2050 -- is it on the -- available on the
6 website under the 2050 Plan?

7 A. Yes, it is.

8 Q. And where specifically would I look?

9 A. The Land Use Guide, Appendix I.

10 Q. What approvals would need to be -- what -- strike
11 that.

12 What approvals by the county would need to be made,
13 in order to change the 771/775 area to the compact growth
14 mixed use designation? What's the process?

15 A. Some kind of Future Land Use change.

16 Q. Anything else?

17 A. Possibly a rezoning.

18 Q. Anything else?

19 A. Not that I can recall.

20 Q. Does the Future Land Use change require the county
21 to go through the FLUM amendment process?

22 A. Yes.

23 Q. How did the 771/775 area come to be designated --
24 designated as a revitalization area?

25 A. Can't recall.

- 1 **Q. What does revitalization area mean?**
- 2 A. Can't recall.
- 3 **Q. Who came up with the definition?**
- 4 A. Can't recall.
- 5 **Q. Was there data and analysis obtained to support the**
6 **designation of that area as a revitalizing area?**
- 7 A. Can't recall.
- 8 **Q. Did you ever see any?**
- 9 A. Can't recall.
- 10 **Q. Who would have that information within the county?**
- 11 A. Not sure.
- 12 **Q. What is the difference between a revitalizing area**
13 **and an economic center?**
- 14 A. Not sure.
- 15 **Q. Is the 771/775 in the Coastal High Hazard Area?**
- 16 A. Not sure.
- 17 **Q. Who would have this information?**
- 18 A. Regional planning commission.
- 19 **Q. Who is -- who is on the regional planning**
20 **commission?**
- 21 A. Not sure. No. Okay. Southwest or PC. Sorry, I
22 thought I misspoke.
- 23 **Q. Who at the county sits on that board?**
- 24 A. Not sure.
- 25 **Q. Who would have that information at the county?**

1 A. Not sure.

2 Q. What is RAPID density?

3 A. Be more specific, please.

4 Q. What does the term "RAPID," R-A-P-I-D, "density"
5 mean?

6 A. Revitalizing Area Planning Incentive Density.

7 Q. Okay. And how many RAPID -- can I refer to it as
8 RAPID? Would you --

9 A. You can.

10 Q. -- understand what I mean?

11 A. Please, yes.

12 Q. Okay. How many RAPID density units are available in
13 the county?

14 A. Not sure.

15 Q. Can RAPID density units be transferred into the CHHA
16 from non-CHHA areas?

17 A. No.

18 Q. When we use the term "density" and "units," what
19 does a unit mean?

20 A. A dwelling unit, living unit. In terms of hotels,
21 it would be a hotel unit with a kitchen. An apartment unit,
22 condo unit, single-family household. It can mean different
23 things.

24 Q. But when we talk about RAPID density units, does
25 that include all of the things that you just mentioned?

- 1 A. Yes.
- 2 Q. And how -- what is the -- well, strike that.
3 How is a hotel unit with a kitchen defined?
- 4 A. Not sure.
- 5 Q. Are you familiar with the county's TDU program?
- 6 A. Yes.
- 7 Q. What does TDU stand for?
- 8 A. Transfer Development Units.
- 9 Q. Are the TDU units, the same unit for purposes of the
10 RAPID density units? Does it mean the same thing?
- 11 A. The unit is the same.
- 12 Q. In the Coastal High Hazard Area, under the new plan
13 is it -- can TDU units be stacked on top of RAPID density
14 units, for purposes of calculating density in the area?
- 15 A. Be more specific, please.
- 16 Q. Sure. Is there a difference between a RAPID unit
17 and a -- and a TDU unit?
- 18 A. Can you clarify difference?
- 19 Q. Okay. Let me give you an example.
- 20 A. Thank you.
- 21 Q. Maybe we'll go this way.
22 So I'm working under the assumption that in the
23 771/775 area is a revitalizing area, correct?
- 24 A. Correct.
- 25 Q. And that area is also located in the Coastal High

1 **Hazard Area, correct?**

2 A. Not sure.

3 **Q. Okay.**

4 A. But we can go with your example.

5 **Q. Well, let's assume, for purposes of this question,**
6 **that it's in the Coastal High Hazard Area.**

7 A. Okay.

8 **Q. My understanding is, under the new plan, the only**
9 **RAPID density units that can be transferred in the Coastal**
10 **High Hazard Area are units from another Coastal High Hazard**
11 **Area. Are you with me so far?**

12 A. It's very clear in the plan, yes.

13 **Q. Okay. Let's assume that there is only room for**
14 **three units in a particular area. Okay? RAPID density units.**
15 **Let's just assume there's three units available, and let's**
16 **assume that those three units could be transferred from one**
17 **CHHA -- Coastal High Hazard Area to another Coastal High**
18 **Hazard Area. I'm just -- I'm asking you to assume this for**
19 **purposes of the question. If there's only three units --**
20 **three RAPID units available, would you still be allowed to**
21 **transfer a TDU unit into the same location?**

22 A. Honestly, I'm just not following you. I don't
23 understand the question.

24 **Q. If you're able to transfer a RAPID density unit from**
25 **one area in the Coastal High Hazard Area to another Coastal**

1 **High Hazard Area, are you allowed to also transfer a TDU to**
2 **that Coastal High Hazard Area?**

3 A. There would be nothing to preclude that. There
4 would be no reason to, so it's kind of a non-situation.

5 **Q. I don't understand the last part of your answer.**

6 A. Part of the revitalizing plan is to use RAPID
7 density. So if you have the opportunity, through the board of
8 county commission action, to get free density, you would not
9 purchase density. But if you chose to choose purchase -- if
10 you chose to purchase density, by all means you could. So
11 that's kind of where I'm going with you here.

12 **Q. Okay. So you could get free density, and then**
13 **purchase density as well?**

14 A. There's nothing to preclude that, that I'm aware of.

15 **Q. And if I understood your last answer, you would --**
16 **if I understand your last answer, it's why would you purchase**
17 **density if you could get it for free. But there is a**
18 **possibility that you can get it for free and purchase units;**
19 **is that correct?**

20 A. That's correct.

21 **Q. Were you responsible for determining the areas in**
22 **the county that would be characterized as revitalizing areas?**

23 A. No.

24 **Q. Is that a Future Land Use element, or a housing**
25 **element, the revitalizing areas?**

1 A. Restate the question.

2 Q. What element of the plan is particularly applicable
3 to the revitalizing area?

4 A. It's more applicable to the Future Land Use element
5 than the housing element.

6 Q. And who at the county level was -- that you
7 delegated to, is responsible for the Future Land Use element?

8 A. There was more than one person.

9 Q. Okay. Well, who are those people?

10 A. Inga Williams, Jie Shao -- the only ones I can
11 recall at this point in time. They were free to consult with
12 others, as they saw fit.

13 Q. Who actually created the draft Future Land Use
14 element of the plan?

15 A. Not sure.

16 Q. Did the determination of the 771/775 revitalizing
17 area require the review of data and analysis to support the
18 change in the designation to revitalizing area?

19 A. Yes.

20 Q. What data and analysis was reviewed?

21 A. Can't recall.

22 Q. Did any outside company prepare the data and
23 analysis documentation?

24 A. No.

25 Q. So it was strictly internal?

1 A. We didn't hire an outside company to prepare the
2 data and analysis.

3 **Q. Which of the planners would have been responsible**
4 **for reviewing the data and analysis?**

5 A. Can't recall.

6 **Q. In the planning phase for the ultimate document,**
7 **that became the 2050 Comprehensive Plan, did the county speak**
8 **with any of the residents or businesses in the 771/775 area?**

9 A. Clarify the planning stage, please.

10 **Q. In the drafting phase of the 2050 Plan, did the**
11 **county consult with residents and businesses in the 771/775**
12 **area?**

13 A. Not that I'm aware of.

14 **Q. Were you ever present at a public meeting where**
15 **comments were submitted, specifically about the 771/775 area,**
16 **as it relates to redesignating it as a revitalizing area?**

17 A. Not that I can recall.

18 **Q. Was any correspondence provided to the residents or**
19 **businesses of this area regarding the designation as a**
20 **revitalizing area?**

21 A. Be more specific, please. Or restate the question.
22 I'm not sure.

23 **Q. Did the county take overt action to communicate the**
24 **change in designation to revitalizing area, during the**
25 **drafting phase of the 2050 Plan?**

1 A. Can you clarify overt action?

2 Q. **Pointed correspondence to specific addresses.**

3 A. Not that I'm aware of.

4 Q. **All right. Telephone calls to specific addresses.**

5 A. Not that I'm aware of.

6 Q. **All right. E-mail communications with particular**
7 **people.**

8 A. Not that I'm aware of.

9 Q. **Who established the criteria for -- well, strike**
10 **that.**

11 **Who established the criteria for what would become a**
12 **revitalizing area?**

13 A. Can't recall.

14 (Discussion off the record.)

15 Q. **(BY MR. KELSKY) Do you know the criteria for what**
16 **is meant by a revitalizing area?**

17 A. Not at this time.

18 Q. **What would you have to look at, to allow you to**
19 **determine the criteria?**

20 A. Review the comprehensive plan.

21 (Discussion off the record.)

22 MR. KELSKY: Off the record for right now.

23 (Brief recess was held.)

24 Q. **(BY MR. KELSKY) All right. As you sit here today,**
25 **do you have an opinion, within a reasonable degree of**

1 **probability from the standpoint of a planner, as to whether**
2 **the 771/775 area is a revitalizing area?**

3 A. Restate that -- you're asking for my opinion --

4 Q. **I ask -- yeah.**

5 A. -- in your question?

6 Q. **Yes.**

7 A. All right. Yes, I have an opinion.

8 Q. **What is your opinion?**

9 A. That it meets the criteria.

10 Q. **Okay. Tell me all the reasons to support your**
11 **opinion as to why the 771/775 area is a revitalizing area.**

12 A. Well, it meets the criteria that we established.

13 Q. **Okay. Tell me the criteria -- tell me -- strike**
14 **that.**

15 **Tell me why the 771/775 area meets the criteria for**
16 **a revitalizing area.**

17 A. I don't know the criteria off the top of my head.
18 Don't remember it anymore.

19 Q. **Are you -- have you been made aware as to whether**
20 **you're going to testify as an expert at the final hearing on**
21 **behalf of the county?**

22 A. No.

23 MR. ROONEY: That's right. You haven't.

24 THE WITNESS: Oh, okay.

25 MR. KELSKY: What's that?

1 MR. ROONEY: I was letting him know I haven't
2 discussed it with him.

3 THE WITNESS: Yeah.

4 Q. (BY MR. KELSKY) Well, let me represent to you that
5 it's been represented to me that you're going to testify as an
6 expert on behalf of the county at the final hearing. Okay?

7 With that in mind, I understand it's your opinion
8 that the 771/775 area meets the criteria of a revitalizing
9 area. What I want to know is specifically what facts you have
10 to support that opinion.

11 A. Be more specific.

12 Q. Well, you rendered the opinion that it --

13 A. Correct.

14 Q. -- meets the criteria of a revitalizing area. I
15 want to know, in your opinion --

16 A. Umh-hum.

17 Q. -- as you sit here today --

18 A. Umh-hum.

19 Q. -- every fact that you have that supports that
20 opinion.

21 A. I didn't bring any information with me today.

22 Q. What would you have --

23 A. I wasn't asked to.

24 Q. -- to review?

25 A. I'm not sure.

1 Q. Did you review anything in preparation for this
2 deposition?

3 A. No.

4 Q. When did you arrive at the opinion that the 771/775
5 area is a revitalizing area?

6 A. Don't recall.

7 Q. Prior to today, did you ever have the opinion that
8 the 771/775 area was a revitalizing area?

9 A. Yes.

10 Q. Okay. When did you first formulate that opinion?

11 A. Don't recall.

12 Q. How far -- how much prior to the date of this
13 deposition did you come up with the opinion that it was a
14 revitalizing area?

15 A. Don't recall.

16 Q. Can you define what a revitalizing area is?

17 A. Not right now.

18 Q. Were you the one, for purposes of creating the
19 comprehensive plan, to determine the criteria for a
20 revitalizing area?

21 A. Don't recall.

22 Q. Specifically what portion of the plan would you have
23 to look at, to determine the criteria of what a revitalizing
24 area is?

25 A. Either the Future Land Use element, the framework

1 document, or the appendix -- Future Land Use appendix --
2 Future Land Use Guide, Appendix I.

3 Q. Specifically what element of the Future Land Use
4 element -- excuse me, strike that.

5 What number of the Future Land Use element is the
6 term "revitalizing area" defined?

7 A. Restate the question.

8 Q. Where is revitalizing area defined?

9 A. Not sure.

10 Q. Who came up with the definition?

11 A. Don't recall.

12 Q. Have you ever looked at any data to support the
13 opinion you've rendered that the 771/775 area is the
14 revitalizing area?

15 A. Yes.

16 Q. What data did you look at?

17 A. Age of housing stock.

18 Q. What other data did you look at?

19 A. Don't recall.

20 Q. When did you look at the age of housing stock data?

21 A. Don't recall.

22 Q. Who prepared that data?

23 A. Jie Shao.

24 Q. How do you spell Shao?

25 A. S-H-A-O. It's J-I-E, also.

1 Q. Where did Mr. Shao obtain that data?

2 A. Ms. Shao.

3 Q. I'm sorry, when did Ms. Shao obtain that data?

4 A. I'm not sure.

5 Q. How did she go about collecting the data?

6 A. Not sure.

7 Q. What documents were prepared, based upon the data

8 that she obtained?

9 A. A spreadsheet and a map.

10 Q. Were you involved in the creation of the definition

11 of revitalizing area?

12 A. Don't recall.

13 Q. Did you approve any draft of the Future Land Use

14 element portion of the plan, where revitalizing area is

15 defined?

16 A. Don't recall.

17 Q. You mentioned that you looked at the age of housing

18 stock data in support of your opinion that the 771/775 area is

19 a revitalizing area; is that correct?

20 A. That's not correct.

21 Q. Okay.

22 A. Well, the question was phrased differently. You

23 asked me what data did I look at.

24 Q. Okay. What about the data, that you looked at,

25 supports your position that the 771/775 area is a revitalizing

1 **area?**

2 A. The question is off, though. There was nothing. I
3 don't remember analyzing the data. The question was had I
4 seen any data, and I have seen it.

5 **Q. You've seen it, though, correct?**

6 A. I have seen it, correct. I didn't analyze it or --
7 it was in passing.

8 **Q. Did you simply accept Ms. Shao's -- well, strike**
9 **that.**

10 **Was Ms. Shao the one who actually confirmed that the**
11 **771/775 area is a revitalizing area?**

12 A. Not that I -- I don't know. I don't recall.

13 **Q. Was the 771/775 area defined as a revitalizing area**
14 **before any data was collected in that area?**

15 A. I don't recall.

16 **Q. Was there anything specific, in the age of housing**
17 **stock that you reviewed, that supports the characterization of**
18 **the 771/775 area as a revitalizing area, as you sit here**
19 **today?**

20 A. Don't recall.

21 **Q. Other than the age of housing stock, what other data**
22 **exists to support the contention that the 771/775 area is a**
23 **revitalizing area?**

24 A. Don't recall.

25 **Q. Since I've been asking you questions about the term**

1 "revitalizing area," do you remember any of the other
2 criteria, other than age of housing stock, that exists to make
3 that -- to meet that definition of revitalizing area under the
4 plan?

5 A. Not presently.

6 Q. So why then are you able to give the opinion that
7 the 771/775 area is a revitalizing area?

8 A. Because of the process we went through to get there.

9 Q. Define the process.

10 A. The process is, create the criteria, apply it to the
11 area, and see what -- see if it's applicable.

12 Q. Okay. Tell me --

13 A. That's the process.

14 Q. Tell me what you did in the -- with respect to the
15 771/775 area, to evaluate the data to meet the criteria for
16 the definition.

17 A. I can't remember I did anything specifically.

18 Q. Would it be important for you to review the data, in
19 order to determine whether the 771/775 area meets the criteria
20 to define it as a revitalizing area?

21 A. Yes.

22 Q. Okay. What would you need to look at, in order to
23 determine whether or not that area, the 771/775 area, is a
24 revitalizing area?

25 A. The comprehensive plan.

1 **Q. Okay. What specifically in the comprehensive plan**
2 **would you need to look at, to determine that that area is a**
3 **revitalizing area?**

4 A. I can't -- can't think off the top of my head. I
5 would have to review it.

6 **Q. Okay. When you say "review it," what would you be**
7 **reviewing?**

8 A. I would be reviewing the comprehensive plan, table
9 of contents.

10 **Q. Okay. Would you be looking at specific elements of**
11 **the plan?**

12 A. Possibly.

13 **Q. Okay. What elements would you look at?**

14 A. Not sure.

15 **Q. In the table of contents, what would you be looking**
16 **for?**

17 A. Revitalizing area.

18 **Q. Anything else?**

19 A. Nothing comes to mind.

20 **Q. What type of land use -- strike that.**

21 **Have you ever been to the 771/775 area?**

22 A. Yes.

23 **Q. All right. When was the last time you were there?**

24 A. Can't recall.

25 **Q. Okay. How would you describe the area in its**

- 1 **current state?**
- 2 A. How would I describe the area in its current state?
- 3 **Q. Yeah. What does it looks like?**
- 4 A. It's buildings, some grass, some trees.
- 5 **Q. Anything else?**
- 6 A. Sure.
- 7 **Q. What?**
- 8 A. A bridge, some mangroves.
- 9 **Q. What else?**
- 10 A. Can't recall anything specific.
- 11 **Q. What kind of bridge is there?**
- 12 A. One that goes over water.
- 13 **Q. How many lanes is it?**
- 14 A. Don't recall.
- 15 **Q. How old is the bridge?**
- 16 A. Not sure.
- 17 **Q. How old are the buildings?**
- 18 A. Which one?
- 19 **Q. You mentioned you saw buildings in the area. How**
20 **old are they? Any of them? All of them? Some of them? Can**
21 **you tell me how old they are?**
- 22 A. One of them was from the 1950s.
- 23 **Q. Is that 1950s building of any historical**
24 **significance?**
- 25 A. I'm not sure.

- 1 Q. Okay. What about the other buildings?
- 2 A. I didn't -- I don't recall.
- 3 Q. When you say grass and trees, is it a -- is there a
- 4 park? Is there just open space? What is it?
- 5 A. I don't remember.
- 6 Q. Where are the mangroves?
- 7 A. Under the bridge, and near the bridge, and along the
- 8 water.
- 9 Q. Okay. What about the existence of the buildings,
- 10 the grass, trees, the bridge, and the mangroves, qualifies
- 11 this area as a revitalizing area?
- 12 A. Not sure.
- 13 Q. Have you ever met with any of the county
- 14 commissioners to go over the 771/775 area, so that it should
- 15 be designated as a revitalizing area?
- 16 A. Don't recall.
- 17 Q. How about the county administrator?
- 18 A. Don't recall.
- 19 Q. Where -- strike that.
- 20 Would you characterize the 771/775 area as being in
- 21 the west county area?
- 22 A. The west county planning area. It is in the west
- 23 county planning area.
- 24 Q. Is there any significance to it being in the west
- 25 county planning area?

1 A. Be more specific, please.

2 Q. What is -- you used the term "west county planning
3 area." Is that -- is that a term that's defined by anything
4 in the Charlotte County code, ordinances, land use
5 regulations?

6 A. It's identified on a map.

7 Q. Okay. All right. And is there any significance
8 given to the definition of west county planning area?

9 A. Yes.

10 Q. All right. What is that?

11 A. The only thing I can think of off the top of my head
12 is the way density is moved around, around the county. The
13 west county density has to stay in the west county. That's
14 all I can remember off the top of my head.

15 Q. When you said the west county -- west county density
16 must stay in the west county --

17 A. Umh-hum.

18 Q. -- is that for purposes of transferring out, or
19 transferring in, or both?

20 A. That's under the transfer development units
21 ordinance.

22 Q. So west county density can only receive TDUs from
23 west county, and west county density can only be sent to west
24 county; is that correct?

25 A. Using the -- yeah. Using the TDU, correct.

1 Q. Do you know how many units are available in that
2 area to be transferred?

3 A. I don't.

4 Q. Were you responsible at all for creating the Future
5 Land Use maps in the 2050 Plan?

6 A. Yes.

7 Q. What maps were you responsible for preparing?

8 A. I wasn't responsible specifically for preparing any
9 maps.

10 Q. What maps did you contribute -- strike that.
11 What maps were you involved in the creation of?

12 A. I don't remember specifically.

13 Q. Were you involved in the creation of the Future Land
14 Use maps?

15 A. Yes.

16 Q. Were you involved in the creation of any Future Land
17 Use maps that dealt with revitalizing area?

18 A. I don't remember specifically.

19 Q. Is the 771/775 area in any hurricane evacuation
20 area?

21 A. I'm not sure.

22 Q. Is that area in the Coastal High Hazard Area?

23 A. Not sure.

24 Q. Who would know that information?

25 A. The RPC.

- 1 Q. The regional planning council?
- 2 A. Correct.
- 3 Q. Who specifically from the county would have that
4 area -- have that knowledge?
- 5 A. Specifically, probably Wayne Sallade.
- 6 Q. Was Mr. Sallade involved in the determination of
7 whether the 771/775 area is a revitalizing area?
- 8 A. Don't recall.
- 9 Q. What commercial or industrial uses are available in
10 the 771/775 area under the new plan?
- 11 A. Not sure. Same as the old plan.
- 12 Q. Are hotels allowed in that area?
- 13 A. I believe so.
- 14 Q. Is there any limitation on intensity of the use of
15 property in the 771/775 area?
- 16 A. Yes.
- 17 Q. What is the limitation?
- 18 A. Be more specific, please.
- 19 MR. KELSKY: All right. Would you read back my
20 question before this?
- 21 (Requested portion was read.)
- 22 Q. (BY MR. KELSKY) And you answered yes to my
23 question. What limitations are you aware of?
- 24 A. Well, intensity -- what do you mean by intensity?
25 Can you clarify what you mean by intensity?

- 1 Q. Well, you answered the question.
- 2 A. Sure.
- 3 Q. Okay.
- 4 A. There's many answers to the question.
- 5 Q. Give me all --
- 6 A. All right.
- 7 Q. -- the answers that you can think of.
- 8 A. Floor area ratio is a limitation.
- 9 Q. I'm sorry, what?
- 10 THE REPORTER: I'm sorry?
- 11 THE WITNESS: Floor area ratio.
- 12 THE REPORTER: Thank you.
- 13 Q. (BY MR. KELSKY) Any others?
- 14 A. I can't think of any off the top of my head.
- 15 Q. What is meant by floor area ratio?
- 16 A. The size of a building that can be on -- the mount
- 17 of a building that can be on a site.
- 18 Q. Can you reduce that to a number?
- 19 A. One.
- 20 Q. How big can the building be?
- 21 A. The size of a site.
- 22 Q. Literally, 100 percent of the parcel?
- 23 A. A bulk. Lot coverage is a different thing, in terms
- 24 of how much can you cover.
- 25 Q. Is there a height limitation?

- 1 A. Where?
- 2 **Q. We were talking about the floor area ratio and the**
3 **bulk.**
- 4 A. Okay.
- 5 **Q. Okay. Is there any height limitation --**
- 6 A. There is no --
- 7 **Q. -- in that area?**
- 8 A. -- height limitation in floor area ratio in bulk.
- 9 **Q. Now, we've talked about the intensity. Is there a**
10 **density limitation in that 771/775 area now?**
- 11 A. Yes.
- 12 **Q. What is the limitation?**
- 13 A. You're asking me what the specific number is?
- 14 **Q. Yes.**
- 15 A. I don't know what that is.
- 16 **Q. What is your understanding of the density**
17 **limitation?**
- 18 A. The Future Land Use allowable density.
- 19 **Q. Are you talking under the 2050 Plan, or the**
20 **presently existing plan?**
- 21 A. It would be both.
- 22 **Q. As you sit here today, are you aware of any**
23 **development plans that exist for the 771/775 area?**
- 24 A. Not aware.
- 25 **Q. Who would have that information, if it existed?**

1 A. Not sure.

2 Q. To your knowledge, are there any permit applications
3 pending for that area?

4 A. No. To my knowledge.

5 Q. Meaning to your knowledge, there are no permit --

6 A. Correct.

7 Q. -- applications?

8 Are there any outstanding development orders for the
9 771/775 area?

10 A. Clarify, please.

11 Q. Well, you know what a development order is, don't
12 you?

13 A. I know what I think one is, yes.

14 Q. Tell me what you think it is.

15 A. It's a development agreement.

16 Q. Okay. And what does that mean?

17 A. It can mean a lot of -- it means whatever the
18 agreement says.

19 Q. Okay. There's a difference between a development
20 agreement and a development order, isn't there? Are you aware
21 of that, of whether there's a difference --

22 A. I don't --

23 Q. -- between a development agreement and development
24 order?

25 A. I'm not aware.

1 Q. Okay. Well, let's do development agreements. Are
2 there any development agreements that currently exist for the
3 771/775 area?

4 A. Not that I'm aware of.

5 Q. Are there any rezoning requests presently pending
6 for the 771/775 area?

7 A. Not that I'm aware of.

8 Q. Have there been any vested rights determinations,
9 that you're aware of, in the 771/775 area?

10 A. Not that I'm aware of.

11 Q. Have you been involved in any preliminary meetings
12 for the development of the 771/775 area?

13 A. Yes.

14 Q. Okay. With whom have you met?

15 A. A representative from -- Randy Keeling.

16 Q. How do you spell Keeling?

17 A. I have no idea. I forget his engineering firm. It
18 was a long time ago.

19 Q. And how -- is it 2010?

20 A. No.

21 Q. 2009?

22 A. 2007, '6.

23 Q. Okay. What site sought to be developed?

24 A. I don't recall. It was in that general vicinity.

25 Q. Okay. Is it -- is it your understanding of whether

1 **there's active -- whether that's an active --**

2 A. It was never submitted formally.

3 **Q. Okay. Any other preliminary meetings for the**
4 **771/775 site -- preliminary meetings purpose of development?**

5 A. Not that I can recall.

6 **Q. I'm sorry?**

7 A. Johnson Engineering.

8 **Q. Have you met with anybody from the Mercado site**
9 **regarding development?**

10 A. Not that I'm aware of.

11 **Q. How about with respect to the fishery?**

12 A. Not that I'm aware of.

13 **Q. Did either of the people, who own the Mercado site**
14 **or the fishery, submit any comments to the county in the**
15 **comprehensive planning process?**

16 A. Not that I'm aware of, but we did receive a lot of
17 comments. I don't know what you mean, Mercado and fishery. I
18 don't know if those are smaller pieces of the larger
19 revitalization area or not. So I'm doing my best.

20 **Q. Okay.**

21 A. Geographically, having some problems.

22 **Q. Do you recall meeting with anybody that owned a**
23 **parcel in the revitalizing area, submitting comments about the**
24 **new plan?**

25 A. Yes.

- 1 Q. Who do you specifically recall?
- 2 A. Mr. Berntsson.
- 3 Q. When did you meet with him?
- 4 A. I don't recall the date.
- 5 Q. What -- on whose behalf was he there?
- 6 A. I don't remember.
- 7 Q. What information did he relate to you?
- 8 A. Don't recall.
- 9 Q. Was this a meeting in your office?
- 10 A. In -- at the -- in the county. Maybe not in my
- 11 office. In my meeting room, possibly.
- 12 Q. Was it a scheduled meeting?
- 13 A. I don't recall.
- 14 Q. Do you keep your own calendar?
- 15 A. Yes.
- 16 Q. Is that in Outlook?
- 17 A. Yes.
- 18 Q. Do you recall meeting anybody else specific to this
- 19 area?
- 20 A. Don't recall.
- 21 Q. Did the county change any of its comprehensive plan
- 22 drafts, as a result of meetings with the public, or with
- 23 counsel, or anybody else?
- 24 A. Yes.
- 25 Q. What parts of the plan were changed, as a result of

1 **these meetings or comments?**

2 A. Don't remember the specifics. They were Future Land
3 Use changes and natural resource changes.

4 **Q. What Future Land Use changes were made?**

5 A. Don't recall.

6 **Q. Would the Future Land Use changes have been, for**
7 **example, characterizing or not characterizing an area as a**
8 **revitalizing area?**

9 A. Don't recall.

10 **Q. When was the first time you heard the term**
11 **"neighborhood framework"?**

12 A. Don't recall.

13 **Q. Was it your idea to create a neighborhood framework?**

14 A. Don't recall.

15 **Q. Had you been to any seminars, since you became**
16 **certified, that dealt with the issue of neighborhood**
17 **framework?**

18 A. As a topic?

19 **Q. Yeah.**

20 A. No.

21 **Q. Okay. Did you ever hear of the -- the term**
22 **"neighborhood framework" before the initial drafting of this**
23 **comprehensive plan, the 2050 Plan?**

24 A. Don't recall.

25 **Q. Are you familiar with any settlement agreement that**

1 was reached between the county and DCA?

2 A. No.

3 Q. Have you ever heard of the existence of a settlement
4 agreement between the county and DCA, to address issues such
5 as density and urban sprawl?

6 A. Restate the question, please.

7 MR. KELSKY: Can you read it back, please?

8 (Requested portion was read.)

9 A. I guess, yes.

10 Q. (BY MR. KELSKY) Okay. Have you ever seen the
11 actual signed settlement agreement?

12 A. Not that I can recall.

13 Q. Was the settlement agreement considered for purposes
14 of the 2050 -- for preparation of the 2050 Plan?

15 A. Restate the question.

16 Q. To your knowledge, was the settlement agreement a
17 factor in the preparation of the 2050 Plan?

18 A. Can't recall.

19 Q. Have you ever seen a draft of that settlement
20 agreement?

21 A. Not that I can recall.

22 Q. Do you know what is meant by the term "density
23 cap"?

24 A. No.

25 Q. Has the county ever adopted a policy limiting the

1 total amount of density in a particular area?

2 A. Restate the question, please.

3 Q. Are you -- do you know the answer to the following:
4 What is the total possible density currently allowed in the
5 771/775 area?

6 A. Do I know the answer today, the number?

7 Q. Yeah.

8 A. Or do I know how to get the answer?

9 Q. Well, let's do the first one. Do you know the
10 number today?

11 A. I don't know it.

12 Q. How would you get that number?

13 A. I would look at the map, Future Land Use map, and do
14 some simple multiplication.

15 Q. Which map would you look at?

16 A. The Future Land Use map.

17 Q. Which one?

18 A. The Future Land Use map.

19 THE WITNESS: The?

20 MR. KELSKY: The.

21 THE WITNESS: T-H-E, not V.

22 MR. KELSKY: Let's take a break.

23 (Discussion off the record.)

24 Q. (BY MR. KELSKY) Mr. Ruggieri, how much RAPID
25 density is available in the Coastal High Hazard Area?

1 A. I'm not aware of any.

2 Q. If I wanted to find a number, if it existed, where
3 would I look?

4 A. It would be an internal analysis, essentially.
5 You -- that number wouldn't be available to the general public
6 at this time.

7 Q. When you say "internal analysis," who would be
8 involved in that --

9 A. The GIS department.

10 Q. Anyone in particular?

11 A. I'm not sure. Whoever would be assigned the
12 project.

13 MR. KELSKY: Okay. Mr. Rooney and I have talked off
14 the record, and what we're going to do at this point in
15 time is we're going to adjourn Mr. Ruggieri's deposition,
16 and we're going to take Ms. --

17 MR. ROONEY: Inga Williams --

18 MR. KELSKY: -- Inga Williams' deposition, and
19 complete Mr. Ruggieri's deposition on the same day.
20 Derek is going to provide me with availability dates as
21 soon as possible. And since I'll be back in Broward
22 earlier than I planned, I'll be able to coordinate
23 through e-mail with him those dates.

24 So are we agreed?

25 MR. ROONEY: Agreed.

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MR. KELSKY: Okay.

MS. BRODEEN: Agreed.

MR. KELSKY: All right. Bob, do you have objection?

MR. BERNISSON: I have no objection to that.

MR. KELSKY: Okay.

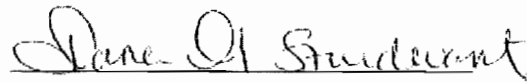
(The deposition was concluded at 1:00 p.m.)

CERTIFICATE OF OATH

STATE OF FLORIDA
COUNTY OF LEE

I, Dana G. Sturdevant, Registered Professional
Reporter, Notary Public, State of Florida, certify that
Jeffrey C. Ruggieri personally appeared before me on the 26th
day of January, 2011, and was duly sworn by me.

Signed this 14th day of February, 2011.



DANA G. STURDEVANT, RPR

Notary Public, State of Florida

Commission No.: DD 664399

Expires: May 18, 2011

CERTIFICATE OF REPORTER

STATE OF FLORIDA
COUNTY OF LEE

I, DANA G. STURDEVANT, Registered Professional Reporter, do hereby certify that I was authorized to and did stenographically report the deposition of Jeffrey C. Ruggieri; that a review of the transcript was requested; and that the foregoing transcript, pages 4 through 89 is a true record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 14th day of February, 2011 at Fort Myers, Lee County, Florida.



Dana G. Sturdevant

DANA G. STURDEVANT

Registered Professional Reporter

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

CASE NO.: 10-9457GM

FRIENDS OF CAPE HAZE, INC.,
PETITIONER,

vs.

DEPARTMENT OF COMMUNITY AFFAIRS
AND CHARLOTTE COUNTY,
RESPONDENTS.

_____/

IN RE: DEPOSITION OF JEFFREY C. RUGGIERI
TAKEN JANUARY 26, 2011

DATE SENT TO WITNESS: _____

TO: JEFFREY C. RUGGIERI
C/O DEREK ROONEY, ESQUIRE
COUNTY ATTORNEY'S OFFICE
18500 MURDOCK CIRCLE, SUITE 573
PORT CHARLOTTE, FLORIDA 33948

The referenced transcript has been completed and awaits reading and signing.

Please call 239.561.3526 to schedule an appointment between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, at a U.S. Legal Support office located nearest you.

The transcript is 89 pages long, and you should allow yourself sufficient time.

The original of this deposition has been forwarded to the ordering party, and your errata, once received, will be forwarded to all ordering parties as listed below.

Thank you.

Dana G. Sturdevant, RPR

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