

LEE COUNTY HEARING EXAMINER MEETING

RE: DCI2014-00010

IN RE: Bermuda Lakes RV Resort RVPD

TRANSCRIPT OF PROCEEDINGS

Transcript of proceedings held before Laura Belflower, Deputy Chief Hearing Examiner, held at the Hearing Examiner's Hearing Room, 1500 Monroe Street, Fort Myers, Florida, on November 12, 2014.

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1 APPEARANCES:

2 On behalf of the County:

3 Mikki Rozdolski, Senior Planner
 4 Susie Derheimer, Planner, Environmental Sciences
 5 Robert Price, P.E., Senior Engineer, Development Services

6 On behalf of the Applicant:

7 Greg Stuart, Planner, Stuart and Associates
 8 Sam Marshall, P.E. Banks Engineering
 9 Jim Banks, P.E., JMB Transportation
 10 Kim Schlachta, P.E. Boylan Environmental
 11 Alan Erp, Property Owner
 12 Al Erp, Property Owner

13 PRESENTATIONS:

14 On Behalf of the Applicant:

15 Greg Stuart - 6
 16 Sam Marshall - 70
 17 Jim Banks - 80
 18 Kim Schlachta - 91
 19 Greg Stuart - 95
 20 Alan Erp - 134
 21 Al Erp - 135
 22 Greg Stuart - 136

23 On Behalf of the County:

24 Mikki Rozdolski - 97
 25 Susie Derheimer - 108
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26 EXHIBITS:

ADMITTED

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1 (The hearing commenced at 9:00 a.m.)

2 THE HEARING EXAMINER: Good morning. For the record
3 my name is Laura Belflower. I'm the hearing examiner for
4 today's hearing. This is November 12, 2014. The case is
5 DCI2014-00010, Bermuda Lakes RV Resort RVPD. I would think
6 everybody pretty much knows the drill but I will go through
7 it briefly. If you have a cell phone, please put it in the
8 silent position. Any kind of recording device or
9 technology, make it so it doesn't make noise, please. If
10 you are sitting at the table and want to remain sitting at
11 the table to make your presentation, that's fine. The
12 microphones don't pick up very well from the side, so just
13 make sure it is pointed at your face. At the podium when
14 you come up you may need to adjust the microphone. Members
15 of the public here or are they all with you?

16 MR. STUART: No members other than the client.

17 THE HEARING EXAMINER: Okay. So everybody is with the
18 applicant, I don't need to go through the hearing
19 procedure. I think you guys know the hearing procedure.
20 All right. Then everyone who is going to testify, think
21 they may testify, if you would please raise your right
22 hand. Do you swear or affirm the testimony you are about
23 to give will be the complete truth.

24 (Audience members acknowledged.)

25 THE HEARING EXAMINER: Okay. When you come to the

1 podium or being speaking if you would state your name and
2 indicate whether or not you have taken the oath. I got a
3 48-hour letter from the applicant which we will make
4 Applicant's Exhibit No. 1 which basically said there were
5 no issues and gave an applicant's exhibit list. And then
6 the staff report is going to be Staff Exhibit No. 1. You
7 have to kind of turn it and curl the bottom of it towards
8 you. Try putting it up with the screen up there.

9 MR. STUART: It will just fall. Do we have the easel
10 or is that broken?

11 THE HEARING EXAMINER: Actually, I think the easel is
12 in there.

13 MR. STUART: Okay. Sorry for interrupting.

14 THE HEARING EXAMINER: That's all right. Are these
15 exhibits that are listed, are you going to present all of
16 them or you may not present all of them? It is not in
17 there?

18 MR. STUART: No. For clarification there is one new
19 exhibit which is -- that is what I'm struggling.

20 THE HEARING EXAMINER: Okay.

21 MR. STUART: The other exhibits are embedded in the
22 staff report. What we wanted to do is break them out to
23 allow for more of a lucid approach, something we both can
24 talk to and then when we get into L.C.D. and Lee plan
25 compliance, they are just stand alone but, in fact, they

1 are I think Exhibit F or whatever.

2 THE HEARING EXAMINER: Okay. If they are all in the
3 staff report, then we can just reference them and if you
4 want to actually submit something into the record that is a
5 full sized one, we can just take it as a full sized
6 version. So I'm not going to give them exhibit numbers.
7 That's what I was looking at right now.

8 MR. STUART: Okay.

9 THE HEARING EXAMINER: Exhibit numbers. Okay. If you
10 would like to get started, Mr. Stuart.

11 MR. STUART: Might as well stand up. Before I do that
12 can I try again with that because I will be talking --

13 THE HEARING EXAMINER: If you curl -- if you curl the
14 bottom of it towards you. There you go.

15 MR. STUART: If we could cut the projector for right
16 now.

17 MS. ROZDOLSKI: I think Laura has the power.

18 THE HEARING EXAMINER: It takes just a minute.

19 MR. STUART: That's visually clear, Madam Hearing
20 Examiner?

21 THE HEARING EXAMINER: It would be clearer if we click
22 it off.

23 MR. STUART: I always like to give you guys a hard
24 time, so I might as well start off with it.

25 THE HEARING EXAMINER: Well, maybe -- okay. All

1 right. There we go. There.

2 MR. STUART: Technology. Technology. And I guarantee
3 you that is going to fall half way through. Guarantee you.
4 All right. Are we ready?

5 THE HEARING EXAMINER: Yes.

6 MR. STUART: Good morning, Madam Hearing Examiner,
7 staff, the audience. My name is Greg Stuart. I'm a
8 planner with Stuart and Associates. I'm qualified as an
9 expert in both comprehensive land use planning, urban
10 planning and land development. My testimony has been
11 accepted both in this body, Lee County Circuit, Collier
12 County Circuit, state and appellate. So I would like to
13 present myself as a qualified planner.

14 THE HEARING EXAMINER: Any objection?

15 MS. ROZDOLSKI: No.

16 THE HEARING EXAMINER: So recognized as an expert.

17 MR. STUART: Okay. Well, how about this. With the
18 staff report, staff agrees with the applicant and the
19 applicant agrees with the staff and I say that with a
20 smile. We've worked diligently with the staff. I believe
21 as we present the project, you will see it is a very sound
22 and well designed, well planned project.

23 Referring to the staff report pages 11 through 16 and
24 also Exhibit F of the request statement by Stuart and
25 Associates we meet or exceed the land development code in

1 regard to proving entitlement for the project and I will
2 cite 34-145(d)(3). We have demonstrated compliance with
3 the Lee Plan and also the proposed 2035 New Horizon plan
4 that hasn't been adopted yet. We are in compliance with
5 (d)(3) subparagraph C in terms of compatibility. We are
6 compatible as will be demonstrated with the school sites to
7 the -- school site to the north, the residential
8 communities to the south and north and west and state and
9 Lee County conservation lands.

10 With regard to 34-145(d)(3)(d) we have demonstrated
11 that the approval doesn't create an undue burden on
12 infrastructure, that there is plenty of capacity both in
13 roads and water and sanitary sewer services.

14 With regard to (d)(3)(e) we have also demonstrated we
15 are not going to negatively impact environmentally
16 sensitive lands and natural resources.

17 In regards to subparagraph (d)(3)(i), again, we have
18 shown that there is more than adequate traffic carrying
19 capacity to support the development. Also in terms of land
20 development code 34-411(c) we have presented a -- we are
21 presenting a design that minimizes negative impacts on
22 surrounding properties. We are separating uses by either
23 code required buffers and/or walls. We are internalizing
24 the activities that may present nuisances and we are using
25 both conserved and preserved wetlands and upland areas for

1 additional perimeter buffering. So in that regard we are
2 meeting 34-411(c).

3 34-411(f) in terms of not creating on site or off site
4 nuisances or hazards, as Banks Engineering will testify in
5 regards to surface water management which has been a
6 considerable issue in this project, we are resolving some
7 unresolved problems. So, in fact, we are improving surface
8 water management conditions and in so doing complying with
9 411(f).

10 And then in regards to 411(i)(k) again with the site
11 planning it has to be designed to minimize impacts. As I
12 stated we are internalizing group gathering recreational
13 areas so we are meeting that standard generally speaking if
14 you refer to the staff's report pages 11 to 16 and Stuart
15 and Associates -- well, Exhibit 15 Stuart and Associates
16 which is Staff's Exhibit F we have proven Lee Plan
17 consistency throughout.

18 So, again, we are in agreement with staff. Staff is
19 in agreement with us. We have proven entitlement. As a
20 bit of house cleaning, staff has recommended in their staff
21 report to withdrawal deviation 11 which is a utility
22 easement deviation. Their reasoning is that it can be done
23 at development order stage if we need that. We concur.
24 Deviation 11 is withdrawn.

25 THE HEARING EXAMINER: Okay.

1 MR. STUART: As I said, there are no outstanding
2 issues, so let me go right in to describing the project.
3 It's a 48.73 acre recreational vehicle planned development.
4 The core of the project as I point out the center portion
5 of the project, the land use is suburban. There is also
6 intensive development in the southeast corner. You will
7 have -- in terms of land use you will have a wetland future
8 land use district or conservation category in the
9 southwest. Excuse me, I believe I stated southwest on the
10 intensive. I meant to say southeast.

11 If you look at the project staff report you will note
12 that the existing zoning is a residential planned
13 development. Specifically, the resolutions in the staff
14 report, it's Z-07-077. It was approved for 330 multi
15 family units at a density of 7.14 acres. That's staff
16 report Exhibit J. So what we are doing is rezoning R.P.D.
17 to recreational planned development. The area is increased
18 by approximately 2.5 acres. The old R.P.D. did not include
19 the southeast rectal linear portion. That is being added.
20 So when you look at the old R.P.D. to the new R.P.D.,
21 again, the new R.P.D. is approximately two and half acres
22 larger than the original R.P.D. that was approved.

23 Well, the location, it's in the Tice Planning
24 Community. It's bounded by a number of different land use
25 categories and uses. The frontage -- the roadway frontage

1 is on Lexington Avenue which goes right there basically
2 from Tice Street curving up to Palm Beach Boulevard, State
3 Road 80. You will have a variety of commercial and
4 industrial, educational, the elementary school, single
5 family and two family -- single family uses surrounding the
6 property. In addition, to the south, you have large lot
7 agriculturally zoned single family homes and as I mentioned
8 you have some conservation lands to the west southwest.

9 The property again is primarily suburban but it does
10 have an intensive development category, also the
11 conservation category. If you look at the -- if you look
12 at the south you have as I pointed out single family homes
13 from two and half to five units per acre. Again, they are
14 ag zoned properties. To the north specifically they are
15 quarter acre single family homes. That is the -- that is
16 the Underwood subdivision and that more or less coincides
17 with Horace and Underwood Drive. To the west which is
18 accessed by Garcia you have Jones Court subdivision. The
19 zoning there is TFC-2 and then again you have TIFF lands to
20 the southwest.

21 The request is for 200 recreational vehicle pads. The
22 density is at 4.1 units per acre which three units, if you
23 will, three units per acre less than the original R.P.D.
24 The request also asks for accessory and ancillary uses to
25 support an R.V. project. Recreational uses, the provision

1 to have food and beverage ancillary sales, that type of
2 thing and the conditions and the uses are described in the
3 staff report. We agree with the conditions and the uses.

4 It's important to note that the project has common
5 ownership with the North Trail R.V. Center. If you look at
6 the exhibit -- in fact, Sam, let me hand this out. For the
7 record.

8 THE HEARING EXAMINER: This is not in the staff
9 report?

10 MR. STUART: Correct.

11 THE HEARING EXAMINER: This would be a new exhibit.

12 MR. STUART: It is identical to the board.

13 THE HEARING EXAMINER: Okay. It's Applicant's Exhibit
14 No. 2.

15 MR. STUART: If you look at the exhibit, Applicant
16 Exhibit 2, you will notice the North Trail R.V., very large
17 project. Currently, they are undergoing a major facility
18 expansion. The concept of the project is to tie into the
19 North Trail R.V. Center in a manner that provides -- how do
20 I say this? To provide -- to compliment the North Trail
21 R.V. Center in its goals and leisure activities. It will
22 provide customers, for example, if they are dropping off
23 their R.V. for service they can have -- they can have a
24 lending R.V. They can park in the R.V. resort, stay a few
25 days while their R.V. is being serviced, also facilitating

1 sales goals in terms of opening -- opening lifestyle
2 type -- lifestyle experiences to potential customers. So
3 the R.V. resort ties in in a functional and -- in a
4 functional manner with the North Trail Center and, again,
5 there is common ownership.

6 In terms of the project's impacts, as I pointed out,
7 the existing approval is for 330 units at 7.1 units per
8 acre. We are at 4.1 units per acre. So there is a
9 reduction there but another broader way of looking at this
10 project in regards to it's reduced impacts is that with an
11 R.V. type use versus a multi family use, you will not have
12 the demand for social, educational facilities, school
13 facilities, for example. You won't have a high demand for
14 parks and Lee County and Fort Myers leisure activities.
15 Usually, with R.V. owners they are self contained units, so
16 to speak. They are experiencing their own recreational
17 needs by the fact they are in the resort. In terms of
18 reduced impacts, certainly, an R.V. resort has a far -- has
19 a far less impact on roads as compared to multi family.
20 Jim Banks with J.M.B. Transportation Engineering will be
21 testifying to that. An R.V. resort certainly demands less
22 sanitary sewer service and potable water supply than a 330
23 multi family unit project. Banks Engineering, Sam Marshall
24 will be testifying to that. In terms of environmental
25 impacts, R.V. pads will not demand the type of fill when

1 compared to a large scale multi family project.

2 Consequently, when you have a reduced fill demand, you have
3 greater flexibility in your construction stake out in
4 regards to tree preservation, if you will, or an area of
5 interest. So the environmental impacts are slightly
6 reduced when compared to the 330 unit approval. Certainly,
7 long term environmental impacts are reduced because under
8 an R.V. resort you have -- it's a business. It is under
9 one unified ownership that is responsible for maintenance,
10 monitoring and the like. That's a little bit different
11 than when you have a 330 multi family whether it be condo
12 or rental where you still have a lot of diverse owners that
13 is -- as far as demand.

14 So all in all the project is one that reduces the
15 impacts across the board when compared to the existing
16 approval. The site -- and Boylan Environmental, Teresa and
17 Kim, will be testifying to this. The site consists of
18 approximately 28.8 acres of altered lands, pine, palm,
19 mixed hardwood forest some with varying degrees of exotic
20 vegetation. There is approximately out of that 9.2 acres
21 of native uplands. There is approximately 11.2 acres of
22 lakes and other surface water bodies, the largest being
23 this drainage lake that I believe was built by Florida
24 Department of Transportation, you know, for fill. That's a
25 predominant site feature, obviously, and there are

1 approximately 8.45 acres of indigenous wetlands.

2 The open space plan calls for and if you refer to in
3 the staff report the master concept plan, you will see
4 three large preserve tracts. They coincide with wetland
5 areas, both native and non-native wetland areas along with
6 upland and non-upland buffers. The open space plan calls
7 for approximately 8.06 acres of native preserved areas.
8 The project is required to have 7.3 acres. Consequently,
9 we are slightly above code requirement in regards to the
10 native open space requirement.

11 When you look at common open space the required amount
12 30 percent of the site area is 14.6 acres and the project
13 is coming in at 15.5 acres of common open space and I will
14 point out that the common open space calculations does
15 exclude the approximate two acre group activity and
16 recreational center. What we did we want to say, hey,
17 look, here is our common open space which will be in
18 general terms non-urbanized. So we are above code in both
19 native and overall open space.

20 With regard to urban services, again, if you look at
21 staff record page five and seven, also staff report Exhibit
22 F and specifically the Stuart and Associates provided
23 Bermuda Lakes urban services map, you will see that there
24 is more than adequate urban services to support this
25 project. Central water and sanitary sewer there is

1 notations about capacity on staff report page 14 and also
2 condition 15 which we agree to. Exhibit P, the Lee County
3 utility services availability letter, Exhibit P also
4 demonstrates the fact that we have plenty of urban
5 services. We are in so doing consistent with Lee Plan 11.1
6 and 11.2, policies 11.1 and 11.2. The map that I referred
7 to identifies the location of various Fort Myers and Lee
8 County schools and recreational facilities. As I pointed
9 out Orange River Elementary adjoins the north. To the west
10 you have Tice Elementary. You have Tice Fire Department
11 along Lexington just immediately south of the main entrance
12 of the project. The project is bounded by Lee Tran route
13 15 along with bus stop 3 which is slightly to the south and
14 west. So you have access to, you know, public
15 transportation. All in all the project because of the more
16 than adequate urban services is consistent with Lee Plan
17 objective two, development location, and objective 2.2,
18 development timing as it coincides with urban services, and
19 also policy 6-14 pertaining to existing urban services.

20 Getting into the Lee Plan, if you refer again to the
21 staff report page five through seven and 12 through 15 and
22 also the Stuart and Associates request statement dated June
23 14th which is also Staff Exhibit 4 and for your convenience
24 I have broken -- for your convenience I have broken out the
25 original request statement into just stand alone one

1 identifying L.E.C. stuff and the other Lee Plan stuff.
2 There is no changes. There is no edits. It's just for
3 your convenience so instead of just wading through a very
4 immense 120-page staff report you have this.

5 THE HEARING EXAMINER: Okay. It has colored pictures.
6 So this is consistent with what's in the staff report, so
7 we don't need it as a separate exhibit. Okay.

8 MR. STUART: Absolutely. Yes, just for clarification
9 on the record, it is absolutely consistent. I just wanted
10 to break it apart because, you know, to be compliant with
11 the Land Development Code and Lee Plan is fundamental to
12 entitlement. So I just wanted to make sure it stands out
13 and then as you browse through that you will see the urban
14 services map and the Lee Plan, how this project fits into
15 the various land use categories, also a graphic relating to
16 the 2035 New Horizon Plan. So, again, I just wanted to
17 break it out for you.

18 Well, life is too short to go through each and every
19 policy. I would like to summarize how we are consistent to
20 establish the record but staff has really done an
21 outstanding job in terms of identifying how this thing fits
22 into Lee County goals, objectives and policies. When you
23 look at the staff report page one which will be
24 subparagraph A they have identified 30 Lee Plan goals,
25 objectives and policies that underpins finding of the Lee

1 Plan compliance. Staff and the applicant has noted we are
2 consistent with 1.1.3. We are consistent with 2.1,
3 contiguous -- contiguous growth patterns. Contiguous
4 growth patterns. Objective 23.2 relating to the Palm Beach
5 Tice Planning Community And their commercial goals and
6 objectives. And I would like to state right out we have --
7 of course, we had the mandatory meeting with the Tice
8 Planning Community. We have had a few subsequent meetings
9 and phone conversations. They had requested that we modify
10 the site plan and we will get into that in terms of
11 buffering and also access but just to summarize before I
12 get into it they wanted us to do something a little bit
13 different on the Tice Street window. The community in
14 general didn't want a uniform monolithic wall. They wanted
15 to have something more open. So when we get into testimony
16 we are proposing and staff agrees with the deviation to
17 have a combination wall fence to meet their goals. Also
18 with regard to sidewalks they requested to have different
19 paving treatment to denote the entrance here and then also
20 the secondary entrance, the concept being it would
21 encourage pedestrian use. Also it would encourage a little
22 bit more safety if you had a bicyclist and pedestrians
23 walking through. So whether it be brick pavers, stamped
24 concrete, you know, we have noted that on the master
25 concept plan. Those two features are part of the

1 consultation and again in so doing we are consistent with
2 objective 23.2.

3 The staff report subparagraph B on page one in terms
4 of Lee Plan objectives and goals, they have identified --
5 the staff and applicant have identified 15 goals,
6 objectives and policies that underpins a finding of
7 appropriate density and intensity and again referencing
8 23.5.2 as I stated in consultations with Palm Beach
9 Planning Community, also policy 1.7.6 acreage allocations.
10 So we are consistent with the necessary findings pertaining
11 to appropriate density and intensity.

12 On page one, subparagraph C the finding of surrounding
13 land use compatibility. Again, there is a good narrative
14 in the staff report and also in my request, Exhibit 15, but
15 we are consistent with 5.1.5, neighborhood compatibility
16 which states you have to protect surrounding neighborhoods.
17 You need to make sure there is no potential destruction,
18 negative impacts, so forth and so on. As I get into the
19 buffering plan and what we are doing around the perimeter
20 and how we approach the site plan, we are consistent with
21 that. Staff agrees with us.

22 On staff report page two subparagraph D the finding
23 about undue burden on infrastructure. We are consistent
24 with 2.2 development timing and again, as J.M.B.
25 Transportation Engineering will testify to, there is more

1 than adequate surplus capacity after this project is built
2 on both Tice and Lexington.

3 Page two, subparagraph D -- excuse me, I just stated
4 that. Page two subparagraph E in terms of proving that we
5 are not adversely affecting environmental resources, we
6 have demonstrated that specifically goal 77 requiring more
7 than adequate buffering, open space for views, vistas,
8 environmental quality, environmental protection. We have
9 demonstrated that through the process and the site plans.
10 Staff conditions will also ensure that. I will go through
11 that in just a little bit.

12 Page two subparagraph F, again, we have to have a
13 finding that urban services are available. I have
14 discussed that. We are in compliance with 2.1.1. This
15 project obviously is in the urban service area. It is in a
16 very intense urban service area. I happen to use the term
17 in fill. It is used a lot, over used I may add. But this
18 clearly is an in fill project. It's a good project.

19 And then, finally, on the staff report page two
20 subparagraph G we have to show that it is appropriate and
21 as I walk through the policies and goals and objectives it
22 is appropriate with future land use maps, categories,
23 intensive development, urban and suburban wetlands. Those
24 would be policies 1.1.2, 1.1.3, 1.1.5 and 1.5.1.

25 The master concept plan, again, you have it in your

1 staff report. You will see that there are two connections.
2 The primary connection as you will see it's more or less a
3 finger that ties directly onto Lexington Avenue and then a
4 second access provided with an easement that ties into
5 Lexington -- actually, there are three access. Those are
6 the two main access points. There is a third access which
7 is a secondary emergency access that was requested by
8 staff. So we are providing a second emergency access point
9 onto Tice. As I pointed out, the project is designed
10 around the three large wetland areas. We are treating them
11 as preservation tracts. Needless to say, it is planned
12 around the lake. I think that lake, you can't really avoid
13 that lake. The project will feature walks and pedestrian
14 paths both through the project and, again, it is inherent
15 in an R.V. resort you want to have active and passive
16 recreational uses. Clearly, walking and biking is one of
17 them. We plan on having a pedestrian path system around
18 the lake. So you will have a lot of things that people can
19 do that will get them out of their R.V.'s and have a good
20 time doing it.

21 The central recreational area adjoins and abuts the
22 lake. As I pointed out, we have tried to internalize it as
23 much as possible the concept both from an acoustical site
24 planning and just common sense. You have active
25 recreational activities on the perimeter, you will have

1 spill over effects. If you internalize them, you won't.
2 So we have internalized our major facilities. It is
3 approximately a two-acre area that we are looking at. The
4 use schedule will allow for, you know, the typical stuff,
5 swimming pools, cabanas, ball courts, that type of thing,
6 clubhouse, food and beverage. In terms of the land
7 development code if you look at 34.939(b)(5) which requires
8 250 square feet per acre the project requires 12,183 square
9 feet of recreational stuff. We are providing approximately
10 two acres. So we greatly exceed the Lee Plan requirement.
11 You will notice in the site plan we also will have an
12 operational -- a maintenance and operation area that is
13 more or less in the eastern portion of the site. It abuts
14 non-residential areas. So the concept being again
15 internalizing the potential impacts or locating facilities
16 congruent with no impact. So that's why we located the
17 operation and maintenance area there. It cannot exceed one
18 acre. That is a staff -- that is a staff condition.

19 Another factor, environmental services suggested and
20 we agreed, as you look at the master concept plan you have
21 a central spine road looping around the south portion of
22 the lake. It transects or bisects, excuse me, the two
23 preserve areas number two and three. Staff wanted to have
24 a traffic calming measure whether it be signage or pavement
25 treatment or something along the like to reduce R.V. and

1 car speeds. The concept being, you know, if there are any
2 critters or whatever crossing the road, you know, it's
3 not -- I don't want to say a wildlife corridor because,
4 again, that is over used but it does function as a means to
5 provide interconnect. That's a staff condition. In so
6 doing we are consistent with policy 107.3.1.

7 And then, finally, the project's master concept plan
8 as you will -- as you note we did not plat out the master
9 concept plan because right now, you know, there is still an
10 ongoing debate in terms of how many 40-foot wide lots
11 versus 35-foot wide lots, how many pull throughs versus
12 regular but we do envision large lots. These parcels,
13 these pads are for Class A rigs. Class A rigs are the big
14 boys that you hate to be stuck behind on the interstate.
15 They are not conversion rigs or stuff like that.

16 So, again, we see this as a really first class, first
17 rate facility. We will have a variety of R.V. pads,
18 amenities and the like and we are very excited about this
19 because, again, it directly ties into the multi-million
20 dollar expansion of the North Trail R.V. Center. This
21 actually has potential of being a nationally known facility
22 because as it is now, the North Trail R.V. Center it
23 advertises nationally up and down the east coast. So this
24 is going to create something that is pretty unique in this
25 industry to have a resort that directly ties into a center

1 that both sales and services and the like. So the clients
2 are very excited and I know the project team is very
3 excited, too.

4 Okay. Going into the buffering. This project is
5 unique. The geometry is unique. You have a bunch of
6 tangents. The boundary is all over the place. As you see
7 you are dealing with four different land use categories
8 within and adjoining the project. You are dealing with
9 five different zoning districts around the project. So you
10 have different buffering requirements in response to -- in
11 response to the surrounding conditions and also in response
12 to the needs and demands of the R.V. resort itself. That
13 is why we have generated the composite buffering deviation
14 exhibit because if you look at the master concept plan you
15 can walk through the relationship of the deviations,
16 conditions and exceptions but what I wanted to do, again,
17 just to facilitate your understanding is to have a separate
18 exhibit that really is focusing in on that. It totally
19 coincides with the master concept plan. The difference is
20 it just reads better and also I'm using an air photo. That
21 way you can see the relationship of the existing site to
22 the surrounding uses. So, again, in your analysis of the
23 project I hope that comes in handy. I do hope it comes in
24 handy.

25 So if you look at condition nine -- and by the way we

1 agree with the conditions of the staff. There are no
2 issues that we disagree with. We have worked vigorously
3 with staff very cooperatively and, actually, it was a
4 pleasure. I hate to say that on the record but it was a
5 pleasure working with staff on this one.

6 Condition ten when you are looking at preserve one and
7 two we are having a 40-foot wide perimeter buffer that
8 preserves native vegetation and that's pursuant to
9 34-939(b)(3). So we are doing that. That's the standard
10 buffering. That standard was recently revised over the
11 summer. Basically, it is calling for instead of having
12 your traditional walls and landscaping, it is calling for a
13 bunch of landscaping. So we are consistent with that by
14 having -- in the spots that are identified on that exhibit
15 in the master concept plan because we are using existing
16 forested areas or preserve areas.

17 Condition 11 ties into --

18 THE HEARING EXAMINER: So condition ten is requiring a
19 40-foot buffer in the preserve areas.

20 MR. STUART: The 40-foot -- no, actually --

21 THE HEARING EXAMINER: All the way around?

22 MR. STUART: Yeah, the preserve areas are in -- are de
23 facto the 40-foot buffer.

24 THE HEARING EXAMINER: Right. So the preserve counts
25 as the 40-foot buffer?

1 MR. STUART: Correct.

2 THE HEARING EXAMINER: And condition ten is saying
3 everywhere else there has to be a 40-foot buffer.

4 MR. STUART: Well, or as identified in the deviations
5 and the sections that I will walk you through because in
6 general you have 40-foot buffers that are forested along
7 the south, generally speaking. You also have 40-foot
8 buffers along the northeast and also the west but they are
9 not fully vegetated so we are going to be augmenting that
10 but in terms of, hey, here is a buffer that doesn't need
11 anything else other than maybe exotic vegetation, that more
12 or less is around the south portion of the project.

13 THE HEARING EXAMINER: Okay. So when the condition
14 says at locations depicted on the approved M.C.P. it
15 basically is 40 feet is the default, the requirement is the
16 default unless it is granted a deviation through one of the
17 requested deviations.

18 MR. STUART: That's correct.

19 THE HEARING EXAMINER: Okay.

20 MR. STUART: That's correct. And, of course, the
21 client always has the option to go with the default code
22 standard throughout if he wants to but I doubt that he
23 would want to but, yes, Madam Hearing Examiner, that is how
24 it works.

25 THE HEARING EXAMINER: Okay.

1 MR. STUART: So if you look at condition 11 and then
2 cross reference that to Section A-A, the A-A buffer, that
3 coincides with the unique buffering and screening
4 separation requirements created by the Orange River
5 Elementary School. Succinctly, we are calling for a wall,
6 plantings on the outside of the wall, five trees per
7 hundred linear feet and single continuous hedge. On the
8 interior side of the wall we have designated on the section
9 a 20-foot maintenance access way. That's to maintain the
10 lake and vegetation and the like. So that's -- condition
11 11 ties into Section A-A and that ties into deviation 1-A.

12 Condition 12 really ties into Section B-B and
13 deviation 1.B. Section B-B is again along the north side
14 of the lake but it's the north towards the western side and
15 there is a detail on the master concept plan that shows
16 what is going on. Basically, you have an F.D.O.T.
17 easement. With the drainage pipe, we have to plan around
18 that. We have to make sure that we are providing access to
19 F.D.O.T. to maintain their discharge structures and
20 conveyance facilities. So what condition 12 and Section
21 B-B calls for is a 50-foot wide buffer. Again, we are
22 having a 20-foot landscape buffer consistent with the
23 F.D.O.T. agreement. The staff has put -- I believe that
24 agreement easement, agreement is in the staff report. I
25 didn't check. If not, we can provide a copy of that to

1 you. It just occurred to me I'm not sure if it is or
2 isn't, Susie.

3 MS. DERHEIMER: Let me check on that.

4 MR. STUART: Okay. But if it is not in the staff
5 report, we can provide a copy of the easement agreement.
6 Generally speaking, we can landscape no large trees. We
7 can't have landscaping that obstructs the ability of
8 F.D.O.T. to drive through and maintain their drainage
9 facilities. So that's where condition 12 language comes in
10 and also that's where the 30-foot F.D.O.T. maintenance
11 access drive comes in and, again, that's on the southern
12 side of the buffer. So you have the buffer on the northern
13 side and the access way on the south side. That is
14 deviation 1-B.

15 And also, if you notice, staff does have language
16 based upon our request that we have the option of putting
17 in a screening wall but we need written approval from
18 F.D.O.T. and then if we do a screening wall, then the
19 standards will be identical to deviation 1-A and Section
20 A-A. So we do have the option of putting in the wall but
21 we have to go through the F.D.O.T. loop.

22 Condition 13, that relates to Section D-D and really
23 that ties into the Tice Street wall special treatment plan.
24 The graphic plan is embedded in the staff report. Let's
25 see here, I'm not sure what exhibit that is. I didn't

1 write that down. Oh, it's Exhibit K, I'm sorry. As I
2 pointed out the Palm Beach -- or Tice Planning Community
3 did not want on their major view corridor on the public
4 roads, you know, just this wall. They wanted something
5 open. Of course, my client wants privacy and security. So
6 what we have come up with is a deviation that will allow --
7 the graphic points out the standards in the design concept,
8 basically a combination wall and fence, landscaping as
9 pointed out. We are going with -- in terms of the
10 landscaping standards, the standards for trees and shrubs
11 are pursuant to the land development code 34-939(b)(3). We
12 are calling for five trees per hundred linear feet and a
13 single contiguous hedge but, again, the actual plantings
14 and the calibers, if you will, are going to be consistent
15 with the existing code and then also we have the option of
16 doing an entire rod iron fence. There is specific
17 landscape standards embedded in condition 13. Again, that
18 ties into deviation D-1(d).

19 Deviation 1-E basically that's the no buffer
20 deviation. On the east side of the property you will note
21 that the North Trail R.V. Center owns the property
22 adjoining the R.V. resort. It's part of the North Trail
23 R.V. Center's open space plan. So, consequently, there is
24 no need to buffer open space, so we have a deviation for
25 that. Also, south of the entrance road is the same thing.

1 You have the Lexington Commerce Center project and they,
2 too, have a buffer -- excuse me. They, too, have a
3 preserve open space tract that adjoins our property. So
4 there is no need to have a buffer to open space. So that's
5 where deviation 1-E comes in and if you look on the exhibit
6 I have put little green stars to show where the no buffer
7 deviations are.

8 Deviation 4 relates to 10-418(1), the sinuous
9 shoreline. We are not making -- we are not making any
10 alternations to the lake. It is what it is with the
11 exception of the eastern portion. We are going to be
12 filling in a small portion of that and putting in a
13 bulkhead. By putting in a bulkhead we do not need to do
14 any sinuous design for future concept. That is where that
15 deviation comes in. Staff agrees with that approach, so we
16 have a deviation to put in a linear bulkhead structure on
17 the eastern side. It is going to be around 290 linear
18 feet, plus or minus, so that's where that deviation comes
19 from.

20 Deviation five which relates to the land development
21 code roadway standards, 291(i), you know, Category A right
22 of way is 24-feet paved sections. The deviation is to
23 allow 22-foot sections for two-way but more importantly, a
24 12-foot section for one-way. Again, this is an R.V.
25 resort. The standards relate to subdivisions and the like.

1 R.V. resorts typically have a one-way loop streets, if you
2 will. We have loop access streets. So that is where that
3 deviation fits into a traditional R.V. resort design
4 approach where you have loop streets that are one way and
5 staff has agreed to that. In the staff report they point
6 out that one of the reasons why they agree to that is that
7 typically internal traffic is very light. It is not
8 heavily traveled. You typically have, you know, R.V.
9 users coming in, parking. If they have cars that are
10 attached to the R.V.'s they will drive out in that but
11 typically you don't have the type of internal and external
12 movements that you would have in a single family
13 subdivision or multi family subdivision or commercial
14 project, so that is one of the reasons why they granted the
15 approval of our request.

16 Deviation 6 relates to 10-258, the emergency shelter
17 provision. This is a transient park. This is not an
18 ownership. This is not permanent housing or whatnot.
19 People are coming and going. There is no need to provide
20 for hurricane shelter or emergency shelter space because if
21 there is a storm event coming up the coast we would
22 envision people just hoping in their rigs and leave. Staff
23 agrees with that logic and recommends approval of Deviation
24 6.

25 Deviation 7 which is 34 standard -- design standards,

1 34-1748(5). That relates to the requirement to have a
2 paved turn-around in your entrance ways. We do have a
3 paved turn-around design feature and you can see it in the
4 master concept plan in the main entrance. The entrance to
5 the north is where the deviation relates to. Because we
6 have the turn-around in the main entrance, we felt and
7 staff agrees that we don't need to have another turn-around
8 to the second entrance to the north. Consequently, staff
9 is recommending approval and we appreciate that.

10 Deviation 9, that ties into the buffers and
11 deviations -- that's the 10-416(d)(6) where if you are --
12 if you have a commercial project, and this is deemed a
13 commercial project, with parking or road that is within 125
14 feet of a residential area the standard calls for increased
15 separation, 25 foot buffer, wall, landscaping and the like.
16 Staff -- staff and the applicant have requested and staff
17 and the applicant agrees that the deviation is needed
18 because we have very specific buffering and wall standards
19 for very specific segments. When you look at the code, the
20 code does require that if you are required to have a
21 40-foot buffer, half of that has to be planted. So if you
22 have a 40-foot buffer, 20 feet needs to be planted or if
23 you have a 15-foot buffer, seven and a half feet need to be
24 planted. So if you look at that requirement in the code
25 that half of the buffer needs to be the planting strip, the

standards, conditions and deviations that I have mentioned relating to perimeter buffering does feature that. So, consequently, deviation nine is being recommended for approval and, again, we appreciate that.

I mentioned we are withdrawing Deviation 11. Deviation 12 relates to 10-421(a)(8) where you have -- where the code basically says you have to have the plantings on the exterior side of walls and fences. In this particular case where it is noted on the master concept plan for D-12 where the concept is to have a privacy fence on the perimeter, you know, like a wire mesh fence, that type of thing so people can't enter into the project. So if you have that, it's going to be impossible to have landscaping on the outside, plus on the western side you have a drainage easement. You have a number of constraints that will really restrict the opportunities to having plantings on the exterior. This deviation allows for the plantings to be on the interior wall -- excuse me wall. I meant fence. This is strictly for the privacy fence and also the deviation relates to the south where you have the preserve tracts and you have native open space of both upland and wetland areas. There is language in there that relates to you can't have mechanical clearing. It has to be hand cleared and hand staked out and the concept there is to -- if we are calling for the existing forest to

1 be the buffer, we don't want to have a bobcat coming in and
2 plowing through 15 or 20 feet. So that is where that
3 language comes in. Staff agrees with Deviation 12. It is
4 consistent and congruent with these cross sections depicted
5 on the master concept plan and the deviation is relating to
6 buffers. Almost finished.

7 Master concept plan Exhibit C, the conditions. We
8 agree to the conditions, both the Land Development Code
9 standards, the language relating to uses. I don't think I
10 need to go through each and every use because, again, the
11 concept is to have an R.V. resort with ancillary uses and
12 accessory uses that will facilitate that recreational
13 lifestyle that people will enjoy in that type of community.
14 You will note, I want to point this out in the site
15 development regulations we are requesting and staff has
16 agreed to have a standard 3.5 parking spaces per one
17 thousand square feet of clubhouse recreational facility
18 building. The standards in the Land Development Code are
19 not designed for this type of facility. They are designed
20 for bowling alleys and stuff like that, not for the
21 private. So the 3.5 standards per one thousand feet will
22 allow the project to have adequate parking for the
23 clubhouse area without having an over -- over amount of
24 paved area for parking that will never be needed. Again, I
25 just wanted to point that out.

1 And condition four, that gets back to the Orange River
2 Elementary School and the C.O.P. if and when we go in for
3 C.I.P. -- C.O.P. for the clubhouse, we have to meet the
4 five hundred foot setback or we come back in for an
5 amendment but that is where condition four comes in and we
6 agree to condition four.

7 Condition five basically states what we are doing is a
8 park for transient, not ownership. It defines transient
9 six months or less. Again, we agree with that.

10 So, to conclude, I have covered a lot of bases. At
11 the same time I hope I didn't get bogged down with too much
12 detail. On the record I would like to just discuss the
13 process and where we would like to go with this. We have
14 worked diligently with staff on this. In fact, this was --
15 there were a number of issues, very technical issues,
16 drainage being one that, you know, took some time to work
17 through, the buffering because the site is so unique and
18 land uses and adjoining zoning, so we took our time in
19 working through these issues and we are here today. I
20 point this out because this project is a real project. It
21 ties into the -- actually, it is an 18 million dollar
22 expansion project across the street. The client absolutely
23 wants to meet the March deadline regarding impact fees.
24 There is approximately a three quarter million dollar swing
25 in impact fees in terms of if he pulls the development

1 order and gets everybody before that March deadline versus
2 after that. So it is very important for us to keep pushing
3 this thing through and I state that, Madam Hearing
4 Examiner, because we certainly would love to see this
5 project get on top of the deck in terms of your staff
6 analysis because we know how gummy it gets after the
7 holidays. We are on track. We believe we are on track to
8 make sure we meet the March deadline but I really do want
9 to state on the record because it is very important to us.
10 In fact, it is not the reason why the client decided on
11 going forward and spending multiple millions of dollars on
12 this project but it was a meaningful incentive. And so,
13 again, I know it is a little out of the ordinary to make
14 that request but if there is anything you can do to
15 expedite your review, I know my client would certainly
16 appreciate it. And that's the end.

17 THE HEARING EXAMINER: Well, on that point we don't
18 bump cases ahead of each other but to make it as available
19 to me as quickly as possible if your client wants to pay
20 for the transcript and make the arrangements with Martina
21 Reporting Services and actually have the case transcribed,
22 they can expedite the transcript or just get it transcribed
23 so that I get it in my hands as soon as possible. I have
24 two cases ahead, one that also asked to be expedited.

25 MR. STUART: You hear this a lot.

1 THE HEARING EXAMINER: That's the problem with
2 expediting. You bump somebody ahead, somebody gets pushed
3 back, so we don't bump ahead the projects. We take them in
4 the order that they are available to us but it can make it
5 a little bit faster by having the transcript available to
6 me sooner so that's up to your choice. You can make the
7 arrangements with Martina if you wish to have that and then
8 I will get it done as quickly as I can in the order that we
9 can.

10 MR. STUART: Okay. Thank you. So you don't want me
11 to write the recommended order, do you?

12 THE HEARING EXAMINER: You are more than welcome to
13 submit anything that you would like to submit. I'm not
14 going to say that that is going to make a bit of
15 difference.

16 MR. STUART: All right. I'm available to address any
17 questions.

18 THE HEARING EXAMINER: Okay. Do you have any
19 questions?

20 MS. ROZDOLSKI: I don't.

21 THE HEARING EXAMINER: Okay. I have several about the
22 deviations but some of them are from a planning standpoint,
23 some of them are more from the landscaping specific issues.
24 So I don't know if you have -- I think you mentioned
25 something about an expert relative to the landscaping or

1 not.

2 MR. STUART: No, strictly drainage, environmental
3 conditions and traffic.

4 THE HEARING EXAMINER: Okay. Then let me run them by
5 you. On deviation 1-A which corresponds to Section A-A
6 next to the school.

7 MR. STUART: Yes.

8 THE HEARING EXAMINER: You have indicated that all of
9 the landscaping is going to be within the 20 feet which I
10 understand that the code allows that. Why is there such a
11 significant reduction in the amount of landscaping that is
12 going to be provided?

13 MR. STUART: The landscaping for Section A-A -- well,
14 backing off, A-A is the -- let's call it the Tice Street,
15 Tice Elementary, the Orange Elementary School wall buffer,
16 the concept being the buffer being on the outside and the
17 wall provides for adequate screening, the landscaping is
18 really not an additional nuisance preventer. It really is
19 more aesthetic to soften the views of the wall. So we feel
20 that we do not need the current code required landscaping.
21 The five tree -- the five tree 100 linear foot continuous
22 hedge is adequate to deal with the aesthetic issues and the
23 wall deals with the spill over nuisance issues.

24 THE HEARING EXAMINER: Was the wall requested by the
25 school or was that your client's choice?

1 MR. STUART: Our choice.

2 THE HEARING EXAMINER: Okay.

3 MR. STUART: Because, again, the clientele is going to
4 be affluent. We believe that they are going to want to
5 have nice and quiet, not going to want to hear a lot of
6 kids playing, school bells ringing, and whatever. So we
7 think the wall would fit into the good fences make good
8 neighbors philosophy.

9 THE HEARING EXAMINER: Is it your belief that the
10 40-foot buffer requirement around R.V. parks in the code is
11 aesthetic, is that the reason for the 40-foot buffer and
12 the amount of trees that the code requires?

13 MR. STUART: No. The code has been augmented to
14 basically get rid of walls. The concept being that
15 vegetation, depending on the type, you know, once it grows
16 and if it is maintained properly and trimmed properly it
17 can really provide a more than adequate buffer. It's
18 inherently more -- usually, more aesthetically pleasing.
19 So the 40-foot buffer -- the new 40-foot standard ties into
20 again let's say nuisance buffering and aesthetics.
21 Personally, I think walls work well and in this particular
22 case again because of the elementary school and the -- if
23 you look into the west side we have a drainage easement, we
24 have conservation lands, so there is other reasons, you
25 know, the proper utilization of land, the unwarranted

1 nature of having 40 feet of vegetation when if you look at
2 the west side and north side, it is generally sparse so you
3 have to really do a lot of plantings. So there are a
4 number of reasons. So to answer your question, the staff
5 and the board agreed to do a 40-foot massive vegetative
6 buffer for R.V.'s -- that's what we are talking about, for
7 R.V. parks. I guess they are right.

8 THE HEARING EXAMINER: Basically, I'm trying to
9 understand what your belief is of what that requirement is
10 in the code for so that we can say that what you are
11 proposing whether or not it provides the same protection of
12 the public health, safety and welfare and so you're
13 basically saying the wall is the equivalent of the trees
14 and the hedges that are required?

15 MR. STUART: I believe -- I believe it does for a
16 number of reasons. One, the time -- notwithstanding the
17 augmented standards of -- augmented planting standards in
18 term of height, caliper and the like, vegetation takes
19 time. So you have a temporal issue. You have immediate
20 impact but a temporal issue in terms of adequacy of buffer,
21 so that's point one. Point two, not to resurrect the grand
22 days of the Miramar Lakes case, but it has been proved that
23 a solid structural barriers -- again, you look at this
24 across the board, State D.O.T. uses solid structural
25 buffers for acoustic nuisance prevention. They are far

1 superior than vegetation. So, again, board and staff
2 wanted that standard. Again, I guess they are right. I
3 believe, though, that they -- that that wall is just as
4 good based on my research and I would suggest to you that's
5 one of the -- some of the reasons why we do want the wall
6 both on Tice Street and then within the other areas where
7 specified.

8 THE HEARING EXAMINER: Okay. The single hedge 24
9 inches at the time of planting versus a minimum of 36
10 maintenance versus the requirement that they have to be 36
11 at planting and I think they had to be maintained at 48, is
12 it your position that the wall does not need to be softened
13 to that side or in the places where the wall is being
14 used -- not only are there fewer trees, there are smaller,
15 smaller trees, smaller hedge, less amount so I think I
16 understand your point about the wall and the barrier that
17 it provides, both to noise and to security but in terms of
18 the requirement of 40 feet of full landscaping with a
19 certain amount of trees and certain amount of vegetation,
20 is it a matter of it not being able to grow within the 20
21 feet, there is not enough room for that many plants or --

22 MR. STUART: No, no, that's not -- put it this way.
23 The five trees single continuous hedge is -- has been a
24 code standard for a long time, 15, 20 years. I have never
25 seen any documentation showing that it has been inadequate.

1 Given the use and the location and specificity of what we
2 are proposing and, again, within the context of the wall is
3 the primary buffer, the plantings are aesthetic, the
4 plantings will grow pretty quickly. You know, this is
5 Florida. It's -- it's more than adequate to meet, you
6 know, legitimate health, safety and welfare consideration.

7 THE HEARING EXAMINER: Is this a type C buffer?

8 MR. STUART: I believe it is, yes.

9 THE HEARING EXAMINER: So what you are asking for is a
10 type C buffer in place of the 40-foot that the code is
11 requiring?

12 MR. STUART: Yes, the R.V. -- the R.V. 40 feet
13 standard.

14 THE HEARING EXAMINER: Okay. On Deviation 1-B there
15 is a cul-de-sac at the northern end. I understand about
16 the D.O.T. and -- easement and, et cetera, but there is a
17 cul-de-sac that is intruding into the 40-foot area. Why --
18 what is the justification for that intrusion especially
19 when the code specifically prohibits roads in the required
20 buffer area?

21 MR. STUART: Well, first, the deviation is for a
22 50-foot buffer area with a 30-foot access easement for
23 F.D.O.T. So inherently there is going to be a road. The
24 reason why we have that design is to allow for better
25 geometry for the northern -- for the northern R.V. lots so

1 that it allows for a more uniform depth and better
2 geometry. We haven't talked to F.D.O.T. but our thinking
3 was, gee, whiz, you know, we are providing a paved surface
4 for them to immediately access their discharge facilities.
5 It will have a valley curb, that type of thing, a valley
6 curb will facilitate ease of movement, so we would think
7 F.D.O.T. would like that. So, really, it's to -- it's to
8 enhance the usability of the project and to also benefit
9 F.D.O.T. for when they want to access their drainage
10 facilities.

11 THE HEARING EXAMINER: Okay. That section, the B-B
12 segment does not have a wall; is that correct?

13 MR. STUART: That's correct.

14 THE HEARING EXAMINER: So --

15 MR. STUART: That's correct.

16 THE HEARING EXAMINER: -- there is going to be 20 feet
17 of landscaping, 30 feet of F.D.O.T. access all the way
18 across where the lake is and then all the way across to the
19 northwest corner; is that correct?

20 MR. STUART: That's correct.

21 THE HEARING EXAMINER: Okay. So the cul-de-sac
22 intrusion it appears from the master concept plan goes all
23 the way up to the edge of the 20 feet of landscaping.

24 MR. STUART: Yes, or stating it encompasses the
25 30-foot access.

1 THE HEARING EXAMINER: Okay. Then I need to
2 understand on a deviation other than it works better for us
3 why there should be a deviation to the county's
4 requirements to a standard that says that's supposed to be
5 open. Is it because that area is not going to be planted
6 any way and no one would not be able to see the turn
7 around? I need to understand what that gives up according
8 to the Land Development Code and if it is of no
9 consequence, if it does not affect the public health,
10 safety and welfare, I need something a little more than it
11 works good for us.

12 MR. STUART: On the cul-de-sac if you look at the west
13 edge, that ties into Section C-C. That is congruent with
14 the 34-939 code standard, congruent in terms of width and
15 then plantings, the large caliper, a bunch of them. So we
16 have that standard to the west so no harm, no foul there.
17 On the north what we are looking at and I just want to be
18 clear, on the north you are I believe -- the planting
19 standards -- just one moment, Madam Hearing Examiner. The
20 planting standards are also consistent with 34-939. Let me
21 just pull it up.

22 THE HEARING EXAMINER: Except the trees have to be
23 smaller I think.

24 MR. STUART: Yes. That's correct. We have to have
25 small trees. That is a D.O.T. requirement in the

1 stipulated easement. So, no, I was incorrect about meeting
2 the 939 standards. In terms of shrubberies, yes. The
3 trees, quite frankly, we envision when -- we envision
4 working with D.O.T. to make sure that what we were planting
5 they are going to agree to, so we are constrained about
6 what we do on the northwest corner but with regard to the
7 cul-de-sac itself, again, the benefit to the public would
8 be ease of access for F.D.O.T. because that more or less
9 does coincide with their control structure and we are
10 not -- the applicant and the client are not planning on
11 paving and grading this access easement. If D.O.T. wants
12 to do that they have the right to do that. So we are
13 assuming at some point in time they will do that. If we
14 bump -- if we bump the cul-de-sac southward to coincide
15 with the south boundary of the 50-foot strip, quite
16 frankly, we see that as de minimis anyway because most
17 people aren't -- I mean, we are not going to have a lot of
18 traffic. We are going to have a horizontal structure. It
19 is not a residential subdivision. It is going to benefit
20 F.D.O.T. and it just helps -- there is a benefit to the
21 project. I hope that answers your question.

22 THE HEARING EXAMINER: Okay. My concern is on, I
23 think that is Underwood Drive, there is a house just on the
24 other side of that line.

25 MR. STUART: Uh-huh.

1 THE HEARING EXAMINER: There is no wall. There is
2 less landscaping or smaller trees. There may be the same
3 amount of landscaping as is otherwise required but they are
4 smaller trees and you have R.V. potentials of coming and
5 turning around in that cul-de-sac area 20 feet away from
6 the house. So there are a culmination of a lot of things
7 that -- the requirement is a 40-foot densely landscaped
8 area. Now we have a 20-foot less densely landscaped area
9 with a cul-de-sac coming right up against it. It may not
10 be a big issue. It may not be a big concern. I'm trying
11 to understand, though, given that you are not across from a
12 school, you are across from somebody's house and the
13 protection that the criteria are set up to address as a
14 commercial project, commercial R.V. project next to a
15 single family residence I just have a little bit of a
16 concern about that cul-de-sac intrusion.

17 MR. STUART: Well, I'm just estimating but just
18 looking at the hearing room, this is around 30 feet wide.
19 That's what we are talking about. Thirty feet is de
20 minimus with regard to horizontal structure. I don't see
21 that as an impact but at the same time we are constrained
22 with D.O.T. I believe the easement agreement, also, we --
23 I believe, Sam, it prohibits walls, too, doesn't it? I
24 think the easement does. Yeah, the easement, D.O.T.,
25 prohibits walls. We can't do a wall. We can't do large

1 trees. The intrusion, again, we just look at it as de
2 minimus. It is not like you are going to have a bunch of
3 R.V.'s driving up and down and circling around because,
4 again, the behavior is, it is a non-peak hour use. You
5 come into the R.V. park. They pull into their site and
6 then when they are ready to leave after two, four, ten
7 days, whatever, they pull out and they can either pull out
8 and just back out and go the other way or they can go
9 northward and use the cul-de-sac. So we never really
10 envisioned this as a heavily used street to begin with.

11 THE HEARING EXAMINER: Okay. Deviation 1-D.

12 MR. STUART: 1-D.

13 THE HEARING EXAMINER: Yes. It talks about Section
14 D-D.

15 MR. STUART: Yes.

16 THE HEARING EXAMINER: Which in the master concept
17 plan is shown on the eastern side towards Lexington Avenue.
18 In your drawing that you provided you referenced D-D is in
19 the northern part of that western little segment. Can you
20 point out to me the places that the D-D section and
21 deviation 1-D apply on the plan?

22 MR. STUART: Yes. Using my exhibit, the D-D section
23 coincides with the far west boundary segment as it
24 transitions 90 degrees to the east. Adjoining that would
25 be the Jones Court subdivision's drainage area, drainage

1 lake and also a drainage lake that adjoins conservation
2 land, state and county conservation land. So you have
3 approximately, I would just estimate -- what do you think?
4 Five hundred feet total? You have approximately 200 --
5 excuse me. You have approximately 200 feet on the far west
6 segment and approximately 300 feet on the segment going 90
7 degrees eastward. So that is one -- that's -- that's the
8 principle deviation.

9 The second area would be if you look at south boundary
10 line where you have your little narrow rectal linear sliver
11 that goes northward and that more or less conforms to a
12 county drainage easement, if you compare that to the master
13 concept plan you will see that approximately half of the
14 area to the west, on the west tangent is conservation. So
15 the D-D cross section ties into approximately 100 feet by,
16 I don't know, 80 feet going east to west -- going west to
17 east and then going 90 degrees south approximately -- yeah,
18 approximately 100 feet and then it ties back into the
19 conservation -- the preserve tracts. That is a very tight,
20 narrow area that coincides with the drainage easement, so
21 that's where -- that's a secondary area for that cross
22 section.

23 THE HEARING EXAMINER: Before you leave that, does the
24 conservation area that is on the western most portion, does
25 that cross into that narrow strip that is an out parcel?

1 MR. STUART: No, it doesn't. The drainage ditch chops
2 it off.

3 THE HEARING EXAMINER: Okay. So the line stops?

4 MR. STUART: Yes.

5 THE HEARING EXAMINER: Okay. That whole thing is a
6 drainage ditch running north south?

7 MR. STUART: Yes. Ultimately, it ties into the river
8 and it ties south to Billy's Creek. I think Sam Marshall
9 can provide testimony but it is a strange facility because
10 it drains both north and south.

11 THE HEARING EXAMINER: So that little segment of out
12 parcel, the little piece that the park would wrap around is
13 not developable is my question.

14 MR. STUART: Correct. It is not.

15 THE HEARING EXAMINER: Okay.

16 MR. STUART: It's not owned by the applicant nor is it
17 developable.

18 THE HEARING EXAMINER: Right.

19 MR. STUART: Another area for the D-D section relates
20 to the eastern -- the southeastern segment that abuts a
21 vacant semi-improved C-2 tract and also an A.G. tract that
22 is probably going to be commercial. So there is that
23 segment that is called the 20-foot buffer section segment,
24 D-D, and I believe that's it. So you have the far east,
25 the south around -- let's call it the rectal linear key

1 hole, the far west and the tangent adjoining the far west
2 going from west to east -- oh, yes, and then the Tice
3 Street special treatment area but that has its own unique
4 standards in terms of the design and the like.

5 THE HEARING EXAMINER: Okay. So the request for those
6 segments that you just outlined is for a 20-foot wide
7 buffer with 15 feet of landscaped area and a wall and then
8 behind the wall or internal to the project and behind the
9 wall is five feet of what?

10 MR. STUART: Of open space grassed area usually for
11 maintenance, maybe for easement for utilities.

12 THE HEARING EXAMINER: Okay. That will not be
13 considered part of the lots.

14 MR. STUART: Correct. Correct.

15 THE HEARING EXAMINER: But there is nothing to keep it
16 from being used as part of the lots?

17 MR. STUART: Other than Lee County development order
18 review because they will compare the D.O. plans to the
19 zoning plans and, you know, hey, you need 20 feet, here is
20 a 20-foot offset.

21 THE HEARING EXAMINER: But if somebody has a
22 particularly long R.V. that they want to stretch the back
23 of it or put a picnic table or chairs or whatever back
24 against the wall there is nothing to prevent that or I'm
25 not saying that there should be.

1 MR. STUART: Not true. Actually, if you look at -- in
2 the staff report the development standard conditions which
3 I can pull up -- we have the standards, if you look at
4 that, the site development regulations do have minimum
5 setbacks from the street, side yards and then also from
6 rear yards and also from R.V. sites. So we are calling for
7 setbacks. Let's see, a ten-foot offset. So let's say if
8 you have a 12 or 14-foot paved pad going into the R.V. you
9 have to have a ten-foot offset to the rear line so that
10 would prevent --

11 THE HEARING EXAMINER: Then there would be five more
12 feet for those areas that have that type of buffer.

13 MR. STUART: Yes, so in fact you would have -- yes,
14 exactly. You would have five and ten -- you would have a
15 15-feet offset before you get to the wall for when you have
16 R.V. lots that tie into that.

17 THE HEARING EXAMINER: Okay. In 1-E you talked about
18 those areas that -- I think it was just along the
19 maintenance area, those portions that are along the
20 preserve, you asked that there be a different buffering
21 along the preserve. Are those preserves in conservation
22 easements or are they protected -- limited because of the
23 development orders?

24 MR. STUART: For example, the North Trail preserve
25 area which is the bulk of it, it is not a conservation

1 easement. The restrictions are in the development order
2 and the restrictions tie into the North Trail R.V.'s native
3 open space and open space calculations.

4 THE HEARING EXAMINER: Okay.

5 MR. STUART: So it is not like a water management
6 district conservation.

7 THE HEARING EXAMINER: It's controlled.

8 MR. STUART: It's controlled.

9 THE HEARING EXAMINER: It's just open space. It is
10 meeting their open space requirement and it is controlled
11 through the development order.

12 MR. STUART: That is correct.

13 THE HEARING EXAMINER: Okay. Deviation 4 which is I
14 think the curvy linear -- whatever word that was used.

15 MR. STUART: Sinuous.

16 THE HEARING EXAMINER: Sinuous area is -- why is the
17 deviation required if the land development code allows that
18 amount in plus more to be hardened? Is this not something
19 that can be done administratively, the sinuous, given that
20 they allow a certain percentage to be hardened which I
21 assume you don't generally have a curvy linear hardened
22 surface?

23 MR. STUART: Madam Hearing Examiner, I'm not sure if
24 this could be granted administratively through the D.O.
25 process. I'm looking at staff. I'm familiar with what

1 can -- I have never seen the sinuous standard being granted
2 administratively.

3 THE HEARING EXAMINER: Have you -- is it common for it
4 to be something that a deviation is requested? I have
5 never seen one.

6 MR. STUART: It is really not common because in most
7 cases projects that are coming before you are new projects
8 and the code requires curved -- to be curved shorelines,
9 you know, functionally equivalent to natural systems. I
10 have never seen staff bend on that deviation, never. In
11 this particular case it is basically a dredged borrow area
12 that we are not doing any alterations with the exception of
13 that. So we wanted to make sure that we had the ability of
14 doing a straight bulkhead.

15 THE HEARING EXAMINER: Okay. Deviation 5 about the
16 road widths. You indicated that because this is an R.V.
17 park as opposed to a subdivision, the 10-296(i)(1) that you
18 are asking for the deviation from, is that the same
19 requirement that applies in a multi family project?

20 MR. STUART: Yes, it does in relationship to -- the
21 multi family project cannot use a parking lot access drive.
22 It has to have a separate access drive for a specific
23 number of units. I think it is 55 or whatever. So to
24 answer your question, yes. So for the interior access
25 drive or loop drive if you have a multi family project that

1 would be a Class A.

2 THE HEARING EXAMINER: Okay. You talk about these
3 being loop drives but they actually are not -- the whole
4 thing is not a loop. It is a series of cul-de-sacs or
5 small loops. I'm trying to understand and my biggest
6 concern about this is the fact that you are proposing to
7 put this sidewalk area, the walking area in the roadway, it
8 appears from the master concept plan, that there won't be
9 separate sidewalks with -- you will have a paved area that
10 it is just wider and so you have gotten narrower lanes and
11 an area that you are inviting the people in the park to
12 walk along the side of the road with large -- the largest
13 class of R.V.'s coming through them and I'm a little
14 concerned living in a subdivision that there are no
15 separate sidewalks that have sidewalks in the roadway, I
16 can't imagine with R.V.'s going through there that that
17 would be the safest situation.

18 MR. STUART: Okay. I guess two points and -- by the
19 way, for the record, I'm misspoke when I said loop roads
20 and pointing to the western portion. I really just meant
21 the southeast portion. So my mistake. Two points on your
22 question, one, the deviation -- the deviation schedule was
23 developed, the plan was developed last February, March
24 submitted in April. Since then Sam -- a month and a half,
25 two months ago, we have gone into develop order drawings.

1 At the time of the submittal with the zoning plan, we
2 really didn't know exactly what we wanted, so we wanted to
3 have a deviation that gives us maximum amount of
4 flexibility.

5 I think we can -- with consultation with the client
6 and Sam Marshall, the engineer, we may be able to
7 reconsider that deviation on one part of it which is the
8 two-way. Certainly, we need a deviation for the one-way
9 standard because there are no one-way standards. So
10 perhaps at some point in the hearing we can talk about that
11 but -- so I guess my point is the D.O. is overtaking the
12 zoning in terms of the standards but we still need
13 something for the one-way.

14 THE HEARING EXAMINER: Okay. And that's really only
15 the portion in the south, the southeastern corner.

16 MR. STUART: That is correct.

17 THE HEARING EXAMINER: Okay. All right. I will -- we
18 will be taking a break before too terribly long. You all
19 can talk about what you want to do on that one because that
20 is a concern for me in the 2-A areas.

21 MR. STUART: Okay.

22 THE HEARING EXAMINER: Deviation 6, the doing away
23 with the emergency shelter. The justification that I heard
24 was that this is a transient park and, therefore, the
25 people could leave and so there is not really a need for an

1 emergency shelter but the code requires it for all types of
2 R.V. parks, both transient and non-transient, correct?

3 MR. STUART: Well, the code requires it. I believe it
4 doesn't specify transient versus -- it calls it permanent.
5 It just requires it. It doesn't differentiate.

6 THE HEARING EXAMINER: Okay.

7 MR. STUART: And with Mikki here, if I stand corrected
8 she can correct me. I'm pretty sure it just says shelters,
9 R.V. parks, not transient versus permanent.

10 THE HEARING EXAMINER: Right. I think it requires it
11 for all of them but the code also breaks transient parks
12 into two types -- I mean, breaks R.V. parks into two types,
13 transient and non-transient and has specific regulations.
14 I know those R.V. regulations were rewritten recently and
15 I'm not sure whether this is something, carry over. Staff
16 may add more to it and you can be thinking about it for
17 rebuttal. I have concerns about saying, well, this is one
18 type of park and people can leave, so we don't need it when
19 that's something that should be amended in the code if it
20 is not necessary just because it is a transient park.
21 There were other points made in the staff report about this
22 not being in a flood zone or in a coastal high hazard area
23 and it is very near the interstate. Those sorts of issues,
24 I think go to the point but I need something additional
25 from you on the -- just because it is a transient park

1 shouldn't be the justification, otherwise, the code needs
2 to be amended if that is enough of a justification.

3 MR. STUART: Madam Hearing Examiner, the project has
4 been submitted, analyzed, evaluated and designed for
5 transient park. Staff has embedded that in the specific
6 condition, so it has to be what it is. In terms of the
7 standards for deviation, the benefit -- is it beneficial to
8 the applicant? Yes, it's beneficial in an economic manner.
9 Is it -- is the deviation -- does the deviation create any
10 problems on the public, on the public health, safety and
11 welfare basis? I'm just generalizing the standards but,
12 no, it doesn't because this is a private R.V. resort. Even
13 if this was an emergency shelter, no one is using it but
14 the people that are using the park. So if there are no --
15 if there are no negative impacts to public interests and
16 there is a positive impact to the applicant, then the
17 deviation is certainly warranted and in terms of the code,
18 yeah, there is a lot of things that need to be rewritten in
19 the code but that's what deviations sometimes are for based
20 upon a specific plan which this is.

21 THE HEARING EXAMINER: I have to correct you or
22 elaborate on what you said in terms of the standards. The
23 first standard on a deviation is not whether it is
24 beneficial to the applicant. It's whether it enhances and
25 benefits the functioning of the plan development in terms

1 of the way the plan development regulations are intended
2 for plan developments to work. So if there is a functional
3 benefit, if there was absolutely no place that it could be
4 done, it could be done safely, if it's -- whatever reason.
5 And then in terms of the public health, safety and welfare,
6 we must presume that the land development code provisions
7 are there for the protection of the public health, safety
8 and welfare. If there is not an emergency shelter in a
9 park and you have people that didn't leave and there is
10 nowhere for them to go in the park, then they are going to
11 have to try to find a place that is a public emergency
12 shelter and if they can't find protection and they are in
13 an R.V., then you have got all of the emergency people that
14 are going to have to respond to try to save the people that
15 are in there that are in a situation, so we have to presume
16 that there is a requirement for an emergency shelter in the
17 code for a reason. Whether it is necessary in this
18 particular one, the fire department is right next door,
19 whatever, whatever, it is concerning to say, well, it works
20 better for us to not -- to ignore the regulation, so give
21 us a deviation and I'm looking for something more than
22 that. The staff may have some additional thoughts and I
23 want to give you -- I know I'm hitting you cold with this.
24 So I'm not going to ask you to respond right at this moment
25 but if you could think about it, maybe elaborate on some of

1 the things that staff says or if you agree with what staff
2 says in their discussion about it but to give a deviation
3 from my perspective, I think we need a little bit more on
4 that one.

5 MR. STUART: Madam Hearing Examiner, just for the
6 record in terms of one other criteria is the benefit to the
7 applicant. Just for the record, I didn't say it is the
8 primary or the first one but economics is a very important
9 reality and a very important benefit and if something is
10 not warranted and, again, we are talking about behavioral
11 patterns that are unpredictable. If I'm in an R.V. that
12 costs a quarter million dollars and there is a hurricane
13 coming up the coast, my behavior is probably going to be
14 dictated by economic logic which is, hey, I'm going to get
15 the heck out of here and preserve -- so there is a logic.
16 There is nothing that I can pinpoint exactly because,
17 again, we are dealing with human nature and human nature is
18 a crazy thing to predict but I believe that given the fact
19 that staff -- again, it is based on the applicant's plan.
20 You know, this is a transient park. We just feel that the
21 extra costs aren't warranted and that's a benefit and there
22 is no real detriment to the public interest. If you would
23 like, I will definitely --

24 THE HEARING EXAMINER: If you want to elaborate on
25 anything after staff has presented on it, that's fine. If

1 you are happy with the information you have put in the
2 record, that's fine as well.

3 Deviation nine I think -- I'm trying to understand the
4 two points that I think you said in your presentation that
5 this applies in two cases. One is that northern cul-de-sac
6 that we were talking about previous in the northwest
7 corner, I think, and I'm not sure where the second one is
8 that deviation nine applies to.

9 MR. STUART: Well, actually, deviation nine, it's
10 funny when I'm looking at that. You know, deviation nine,
11 I'm glad you pointed that out because, really, I just
12 caught an error. The deviation nine triangle on the
13 northwest portion of the property that more or less
14 coincides with the cul-de-sac should be located on the
15 western side of the cul-de-sac that coincides with the
16 drainage ditch. The drainage ditch was the primary basis
17 for that deviation. You know, you have a 20-foot drainage
18 ditch. It is tighter than a clam shell. Really, that
19 key -- Sam, am I correct, that key should be moved? What?
20 Mikki is shaking her head.

21 MS. DERHEIMER: That's not correct.

22 MR. STUART: Staff.

23 MS. DERHEIMER: You actually -- you meet the 125 foot
24 rule because the buffer meets the requirements for the 125
25 rule on the western side of the cul-de-sac. It is the

1 north side of the cul-de-sac that the buffer doesn't meet
2 that 125 rule, so that key is correct.

3 MR. STUART: Oh, okay. Well, then with regard to the
4 key, the other thing we are doing the 30 foot. If we have
5 a 50 foot easement, we have a 30-foot access way for D.O.T.
6 pursuant to the easement agreement the intent is the 20
7 foot versus the 25 foot is the basis for that. Again, that
8 reflects the relative constraints of the D.O.T. easement.
9 Thank you, Susie.

10 THE HEARING EXAMINER: And that's the only place that
11 that applies? Is there a second place?

12 MR. STUART: Yes. Also -- also in the south, the
13 south key hole rectal linear area that is sandwiched
14 between preserve one and two.

15 THE HEARING EXAMINER: Okay. The end of the
16 cul-de-sac next to that parcel that you said is
17 undevelopable.

18 MR. STUART: Yes. And one of the reasons is if you go
19 out to the site, the residence -- the residence is pushed
20 way to the south, right here. This area it looks like
21 it's -- I mean, it's cleared. When we went out there, it
22 is agriculture. They have potted plants and stuff. So
23 when you are looking at the -- the functional use patterns
24 adjoining that property in the context of pretty tight site
25 area and the need to preserve the wetlands, we felt that

1 doing a 20 foot would be a little bit better. You can
2 conserve a little bit more land. I keep saying it is not
3 warranted but with the residence pushed closer to Tice
4 Street than the project, that was one of the reasons why
5 that deviation is applicable to that area.

6 THE HEARING EXAMINER: Okay.

7 MR. STUART: That's it.

8 THE HEARING EXAMINER: Okay. On deviation 12 I'm
9 having trouble figuring out where all of those areas are as
10 well. I have lost my place.

11 MS. ROZDOLSKI: That's the buffer plan.

12 THE HEARING EXAMINER: Deviation 12 is the one that is
13 putting in a fence with the landscaping on the inside of
14 the fence.

15 MR. STUART: Yes. A privacy security fence, yes.

16 THE HEARING EXAMINER: Okay. Can you point and
17 describe the places where that is going to go? I know it
18 is going to happen along Tice Street, correct?

19 MR. STUART: Correct. So -- well, actually, if we
20 start on Tice Street, if we start on Tice Street this
21 deviation, let me -- this deviation on Tice Street also
22 really relates to -- if you look at the language that ties
23 into the Tice Street wall betterment plan, if we do a
24 complete rod iron fence we are going to have plantings
25 basically on both sides, the concept being we still want

1 privacy and security. So that ties into that need.

2 Your question on the privacy fence on the north side,
3 again, within the context of ease of maintenance and if we
4 -- for example, for the northwest portion, the privacy
5 fence grants that the vegetation on the inside allows
6 easier maintenance rather than having it on the outside.

7 THE HEARING EXAMINER: I'm confused. So there is a
8 possibility in the Section A-A and B-B along that whole
9 northern boundary that instead of having a wall there may
10 be a fence?

11 MR. STUART: Well, on Section B-B we do have the -- we
12 have requested and staff has put in language to have a
13 wall. Okay. So if we do have a wall, there is no fence
14 required. If we go with the Section B-B as shown, the
15 privacy fence would be a part of it and, again, just it is
16 much easier to maintain. You have a wire mesh fence that
17 is inherently -- well, not totally transparent but, you
18 know, fairly transparent so you still have that effect of
19 green and, typically, you know, we will use a green wire
20 mesh anyway, so you don't have any aesthetic issues. You
21 are still looking at green because it is a wire mesh fence.

22 On the east segment we are calling for a wall but one
23 of the things that the clients asked and I assured him
24 this, you know, deviations granted from the Land
25 Development Code are just that. They are deviations. You

1 can deviate from it. If you don't want to deviate from it,
2 you just go with the code. So if we do go with the code,
3 we certainly would like the option of having that fence and
4 if we have the fence, you know, all of the landscaping is
5 inside. So there -- really, it is just a matter of
6 maintenance more than anything else within the context of
7 if it is a wire mesh fence. It is going to look good no
8 matter what.

9 THE HEARING EXAMINER: So the request is to be able to
10 put a wire fence along the property boundary anywhere that
11 there is not a wall required, is that basically --

12 MR. STUART: Yeah. Wall requested, yes.

13 THE HEARING EXAMINER: Yes.

14 MR. STUART: And the same thing with the larger
15 preserve tract on the south boundary. You know, the R.V.
16 park wants security and so we do want to have a privacy
17 fence. We are not going to be -- staff is making sure we
18 are not going to come in, bobcat a big whole line and
19 mechanically putting in a fence but we would like to have
20 that fence rather than saying it is forested, no one is
21 going to be walking through there.

22 THE HEARING EXAMINER: Okay. So it's the ability to
23 fence in the entire property and instead of the code
24 requirement that you have to put your landscape -- whatever
25 landscape buffer, which in this case is the 20 to 40 feet

1 depending on which deviation area we are talking about,
2 instead of having that landscaping and then the fence, you
3 are wanting to put the fence along the property line and
4 then have the landscaping.

5 MR. STUART: That's correct.

6 THE HEARING EXAMINER: Okay. And the condition that
7 corresponds to that is number 14.

8 MR. STUART: Yes, I believe it is.

9 THE HEARING EXAMINER: And the requirement is that it
10 has to be a wire fence? Could it be a solid fence?

11 MR. STUART: No, it cannot be a solid. Correct,
12 staff?

13 MS. DERHEIMER: Correct. The condition reads must not
14 be opaque.

15 THE HEARING EXAMINER: Okay. I see.

16 MS. DERHEIMER: And we put this condition -- we have
17 used this language before because the intent is to be able
18 to see the buffer through the fence. It is more for
19 security than it is for screening.

20 THE HEARING EXAMINER: Okay. Okay. I got you. All
21 right, the -- you have mentioned about the recreation area
22 parking amount. Is that an administrative deviation or
23 administrative -- something that is looked at at the
24 development order stage in terms of how many spaces? That
25 is not something that you need a deviation at this point

1 for; is that correct?

2 MR. STUART: No, I believe we do. The Land
3 Development Code is very specific in parking standards with
4 the exception of this type of use. This type of use would
5 actually, if I can recall, Mikki, you can jump in, I think
6 we were discussing the actual standard would be an
7 indoor -- outdoor commercial recreational use standard
8 and/or a private indoor commercial standard which, gosh, I
9 think it was five spaces to eight spaces per thousand
10 square feet. An example of that would be a bowling alley.

11 So to directly answer your question, I hold the belief
12 that it cannot be done administratively because the code is
13 very specific about that.

14 THE HEARING EXAMINER: So you are requesting deviation
15 13?

16 MR. STUART: Yes.

17 THE HEARING EXAMINER: Okay. Okay. Do you happen to
18 have anything written up with specific language for that or
19 -- I mean, I can take it from the record what you said
20 but --

21 MR. STUART: No. Well, other than my exhibit.

22 THE HEARING EXAMINER: You cited the code provision
23 and said -- because, normally, I have them written out in
24 the staff report, et cetera, et cetera, but that's fine.
25 If you don't have it, you stated it on the record. We can

1 get out of the record.

2 MR. STUART: Yes, because we were looking at that as a
3 development standard. The P.D. language gives us
4 flexibility to customize our development standards rather
5 than requesting it through deviation.

6 THE HEARING EXAMINER: Okay. I'm confused. Are you
7 asking for a deviation or not?

8 MR. STUART: No. I wanted to point that out because
9 of the silence in the Land Development Code we believe that
10 the P.D. development standards can allow that without
11 asking for a deviation.

12 MS. ROZDOLSKI: Do you want me to add on? The Land
13 Development Code, our parking section does not specify a
14 parking requirement for this type of use specifically. So
15 in order to address that and to avoid confusion at the time
16 of development order, staff and applicant agreed upon a
17 parking standard for the specific use. We developed the
18 standard based on standards used at other R.V. parks.

19 THE HEARING EXAMINER: Okay. And that is addressed in
20 condition two --

21 MS. ROZDOLSKI: 2-B it should be.

22 THE HEARING EXAMINER: 2-B.

23 MS. ROZDOLSKI: And that would be the standard that
24 would be required to be met when they come in at their D.O.
25 time and they need to show their parking spaces to support

1 the recreational facility area.

2 THE HEARING EXAMINER: Okay. So it is not addressed
3 in the parking standards, so you are addressing it here.
4 So it is not that it is inconsistent with the parking
5 standards in the code, it's just not addressed.

6 MS. ROZDOLSKI: Correct.

7 MR. STUART: The code is vacant.

8 THE HEARING EXAMINER: I got you. I got you. Okay.
9 I think that that's it. Thank you.

10 MR. STUART: Thank you.

11 THE HEARING EXAMINER: You want to call your next
12 witness or do we want to take a break? Why don't we take a
13 break real quick.

14 MR. STUART: Ten minutes?

15 THE HEARING EXAMINER: Yeah, ten minutes. Come back
16 at five minutes till eleven, if we could please.

17 (There was a recess in the hearing that occurred at
18 10:45 a.m., after which the hearing resumed at 11:00 a.m.)

19 THE HEARING EXAMINER: Okay. We will go back on the
20 record. Anybody that came in that's from the public that
21 wants to speak, there are forms back there in the back. If
22 you would fill them out and you can bring them and put them
23 up in this tray and I will call you when it is time for the
24 members of the public to speak.

25 MR. STUART: Madam Hearing Examiner, we are on the

1 record?

2 THE HEARING EXAMINER: Yes, we are.

3 MR. STUART: Yeah, just for clarification on the Class
4 A two-way, one-way street cross section, there is a little
5 confusion. You know, when I was talking about the 22 feet,
6 you know, I was just relating to the paved section. If you
7 look at the master concept plan the typical one-way and
8 two-way cross section detail, it's not only the paved
9 section but, you know, we are also showing the curbing and
10 the walkway. So I wasn't articulate in terms of describing
11 what this road is going to be like. We can certainly with
12 the deviation language have a very strong statement that
13 the deviation relates to the two cross sections. That way
14 it will address your concern about pedestrian conflicts,
15 narrowness of the road, R.V. size and the like. We do have
16 Jim Banks from JMB Transportation who will speak more at
17 length on that. I did want to clarify that.

18 THE HEARING EXAMINER: Okay. So at this point you
19 want to leave the deviation the way it is requested without
20 change?

21 MR. STUART: Well, or add language to really tie it
22 into that cross section detail because the cross section
23 detail is what we are going to do and after speaking with
24 Sam Marshall with the development order drawings, that is
25 what we are doing.

1 THE HEARING EXAMINER: Okay. All right. Then perhaps
2 when the transportation testimony is provided we can go
3 into it a little bit more about how it differs from the
4 code and how it relates to the sidewalk being involved in
5 there, et cetera.

6 MR. STUART: Yes.

7 THE HEARING EXAMINER: Okay.

8 MR. STUART: And then the other thing I appreciate
9 your effort and -- I appreciate your effort and your
10 kindness saying I can really think it through in terms of
11 the emergency shelter provision but, certainly, again,
12 within the context you have got a school, the fire
13 department, I mean, there are -- you know, they are usually
14 built -- I cannot state on the record that they are but the
15 schools nowadays and the fire departments usually are built
16 to the emergency standards, so -- emergency wind load
17 standards, so, you know, if someone wants to stay, there
18 are still facilities that are adjacent to the property. I
19 just wanted to put that on the record.

20 THE HEARING EXAMINER: Okay. All right. Thank you.

21 MR. STUART: Okay. And we will have Sam Marshall
22 speak with regard to the facilities drainage and the like.

23 THE HEARING EXAMINER: Okay.

24 MS. ROZDOLSKI: Greg, why don't you pull down the
25 screen. That way we will project it. I have those in the

1 staff report.

2 MR. STUART: Perfect.

3 MS. ROZDOLSKI: That way it is easier to see.

4 THE HEARING EXAMINER: Let's see if can get it back on
5 here. I hear sound.

6 MS. ROZDOLSKI: I do, too. Do you know what page it
7 is?

8 MR. MARSHALL: I think it is Exhibit G and H. I don't
9 know what page it is.

10 THE HEARING EXAMINER: It is coming up. Let's see if
11 it is going to find your computer here again.

12 MS. ROZDOLSKI: I do not have that one. I don't have
13 the colorful one. I have this.

14 MR. MARSHALL: Okay. That's fine. I can use -- that
15 covers most of my presentation anyway, so I'm fine with
16 that. I will make it work.

17 MS. ROZDOLSKI: Okay.

18 MR. MARSHALL: Good morning. My name is Sam Marshall.
19 I am a professional engineer with Banks Engineering. I am
20 an expert in the field of land development, drainage,
21 utilities, roadways. I have presented and testified in
22 this venue before and I would like to be found as an expert
23 in that field.

24 THE HEARING EXAMINER: Any objection?

25 MS. ROZDOLSKI: No.

1 THE HEARING EXAMINER: So accepted.

2 MR. MARSHALL: Thank you. When you write your notes
3 down, you start from scratch, you assume nothing else is
4 going to be said but we have covered a lot of it. I am
5 going to skip by the location and everything else. I'm
6 going to start just talking about drainage. We have
7 analyzed the property and it's drainage characteristics.
8 We have done a lot of coordination with staff. The
9 coordination has been very positive. We would like to
10 thank staff for their time and efforts getting to this
11 point. That is both with written documents back and forth,
12 with site visits that we have had as well.

13 Let me start with the major drainage features of the
14 property. There is an aerial. Maybe this isn't quite the
15 best -- hopefully you can see this. I think you are fairly
16 familiar now with the property but the major features, I
17 would like to point so I'm not right in here. The major
18 features are the existing lake that's here. We have got
19 three existing wetlands that are going to function or have
20 a drainage function as well. We have got a wetland here
21 and a wetland here and a wetland out to the west and you
22 heard Greg talk about the existing drainage ditch. There
23 is a ditch that basically spans the whole length of the
24 property and beyond and he was correct the south part of
25 the ditch does go to Billy's Creek. The ditch flows two

1 ways. It flows to the south. The south half flows south
2 and the north half flows north. At flood conditions, it is
3 possible for it to maybe reverse flow or go a different
4 way. That certainly could happen, so we are allowing for
5 that in our design, too. We are going to pipe a portion of
6 the ditch so if it does need to reverse direction it can do
7 so.

8 Other existing features on the site are probably a
9 little bit more apparent when you look at a topographic
10 exhibit. And can you see this fine down here?

11 THE HEARING EXAMINER: I can.

12 MR. MARSHALL: This thing is so bright, it probably --

13 MS. ROZDOLSKI: They can see it.

14 MR. MARSHALL: Okay. If there is anybody that can't
15 see it, let me know, I can work it out. That exhibit is a
16 lidar exhibit, so it is a topographic exhibit and you can
17 see the existing lake. You can see the existing wetlands
18 and they're represented as red or low areas. As the
19 elevation comes up, you get your yellow and orange colors
20 and then as you get towards the blue, the blues are the
21 higher elevations. You also have some ditches that are
22 along the eastern edge of the property. These ditches sort
23 of terminate but there are drainage connections to them at
24 some higher flows. So you have got a drainage ditch on the
25 eastern end of the property. This also shows some of the

1 off-site characteristics. You have got the preserve area
2 to the east and northeast which has got a wetland or a low
3 area in it as well. The key thing that we gained from this
4 topographic exhibit is really off-site flow information,
5 where is the water coming from, what do we need to protect.

6 THE HEARING EXAMINER: There is a microphone right
7 under there. I just want to make sure since she can't see
8 your mouth.

9 MR. MARSHALL: That's fine. I will move back to the
10 microphone. I have pointed enough. The main thing we can
11 get from that topographic exhibit really is the drainage
12 patterns of the area, from the entire area. Where is water
13 coming from onto the property, where is it flowing off of
14 the property, interconnectivity between wetlands and lakes
15 and ditches and things like that. And that was the main
16 focus of the coordination with staff.

17 THE HEARING EXAMINER: Hang on. I was afraid of this.
18 We are not -- I think it is recording over. Just one
19 moment.

20 (There was a brief pause in the hearing.)

21 THE HEARING EXAMINER: Did you happen to make a
22 decision as to whether or not you are going to expedite the
23 record anyway and pay for a transcript.

24 MR. STUART: Yes.

25 THE HEARING EXAMINER: Okay.

1 MR. STUART: We will get your card.

2 THE HEARING EXAMINER: Okay. Then this isn't the end
3 of the world if this is messed up. We thought that the
4 technology problems was just with the projector. Let's go
5 forward.

6 MR. MARSHALL: The coordination with staff focused on
7 a few items, a few keep points and I will go ahead and list
8 those three points and sort of elaborate a little bit on
9 each one of them. They are very straightforward. One of
10 the key points was the existing on-site flows and draining
11 patterns shown on the hydrology exhibit shall be preserved
12 or improved and let me read all three of them. It will be
13 easier if I do it like that.

14 The second was the 40-foot Lee County D.O.T. drainage
15 easement at the southeast corner needs to be tide into the
16 proposed off-site drainage system. The design shall cause
17 no adverse impact to the existing drainage capacity and
18 hydrologic gradient.

19 The third important point we want to make sure gets
20 taken care of, the existing hydrologic connections or
21 conditions at the two interior wetlands one at the center
22 and the other at the south shall be preserved or improved.
23 The hydrologic conditions to be considered to include hydro
24 theory, range of water levels, elevation,
25 interconnectivity, things like that.

1 So what we produced was this hydrologic exhibit that
2 shows where we believe flow is coming into the property,
3 how we can preserve the drainage patterns. Generally flow
4 for this property is from the east to the west and there
5 are two places generally where flow comes into the
6 property. I will try to speak loudly so I can get picked
7 up.

8 THE HEARING EXAMINER: There is a mike under there.
9 There is a switch on the side. You just flick it up.

10 MR. MARSHALL: I will try not to yell in the
11 microphone, too. There are really a couple places where
12 the flow comes into the property. This is from a historic
13 perspective flow comes into the property. You have
14 Lexington Avenue here. Lee County Lexington Avenue
15 generates run off and that historically has gone through
16 this site. There has never been any provisions for
17 easements that haven't been really documented or
18 arrangements or anything like that. What we are proposing
19 is that we continue to take this -- I want to be clear,
20 too, this property is not a part of the application but we
21 know it flows into the property and from the ditch, the
22 ditches that are shown on the lidar exhibit, we know it
23 does come into the property as well. So we are going to
24 really pipe that flow and make sure that it can eventually
25 get to the ditch which is where it goes to.

1 We spoke with Lee County staff and we have allowed
2 some of the flow to come into the property and we have
3 allowed for some of the flow to go around the property and
4 by around the property, let me also say this wetland here
5 will not be part of the water management system for the
6 property. Actually, neither one of these wetlands. They
7 are going to just function independently. They are not
8 going to be part of the drainage system of the property.
9 They are going to be allowed to drain. They are going to
10 continue to receive flow and discharge flow in the patterns
11 that they have today but they are not going to be storing
12 water and run off from the site itself. This interior
13 wetland will be a part of the drainage system within the
14 project. Okay.

15 So the places that we are taking flow in are really
16 going to be along the eastern edge which is drainage from
17 Lexington Avenue as well as drainage from some of the
18 surrounding properties. So there is a benefit to those
19 properties by us taking this flow in and through the
20 property.

21 There is an existing Lee County easement. The
22 L.D.O.T. easement that I spoke of I believe is in this area
23 right here and there is an additional flow that's going to
24 be coming into this inlet that we are showing on the south.
25 It is not really a shaped parcel but we will call it the

1 southeastern corner for now and we are basically making
2 sure that that drainage which through a circuitous route
3 before passed through this existing wetland still can pass
4 through the existing wetland. We are also making sure that
5 the drainage from this existing wetland can get to the
6 ditch. Today it does flow over land to the ditch. There
7 is a drainage easement over here, so some of it is
8 interconnected between the lake and the wetland. Some of
9 it is interconnected between the wetland and the wetland
10 and the lake is also interconnected between the lake and
11 the ditch. There is an small easement in the pipe over
12 here. We are proposing additionally we grade this area and
13 we are going to end up putting a pipe in here to make sure
14 that the water can flow and maintain the same drainage
15 pattern there today. It's very key that we don't block any
16 flow, that we allow any flow through the property to keep
17 going through the property.

18 The drainage system within the site itself is going to
19 be mainly treatments provided and storages provided mainly
20 by the very large lake that is on the property. That will
21 provide water quality. There are some dried detention
22 areas around as well that will provide water quality and
23 the lake will provide water quantity storage. The lake
24 previously flowed and interacted, flowed between this other
25 wetland here and the lake, so we are going to continue to

1 take water -- a percentage of the water from the lake to
2 the wetland. The lake previously flowed to the ditch, so
3 our outfall is to the ditch as well. So we are preserving
4 the existing drainage patterns in our design.

5 Again, a lot of time was spent coordinating this with
6 the county staff. We agreed at the time that there were a
7 lot more specifics to be worked out. We are working on
8 plans that detail that out in greater detail. We have an
9 application with the water management district for permit
10 and we are going to obviously be coming in for a Lee County
11 development order. So we will be coordinating with Lee
12 County staff again as well on all of the very specific
13 details of the flow on the property.

14 THE HEARING EXAMINER: Okay.

15 MR. MARSHALL: That generally covers the flow. Again,
16 there is more detail that will be provided at a later date
17 but we will have to achieve a South Florida permitting and
18 Lee County development order. Most of the detailed work is
19 ordinarily done at that time and that is what we are
20 proposing now, too. But the general patterns have been
21 identified and I think we are in agreement with staff.
22 They have done a great job. Again, I appreciate their
23 coordination efforts at this stage of the game.

24 The only other thing I really want to talk about is
25 utilities. Water and sewer, public utilities are existing

1 adjacent to the site. They are available to tie into.
2 Just for general information on Tice Street there is a
3 six-inch and 12-inch water main that are existing that we
4 are proposing to tie into. We are going to tie into the
5 12-inch line. There is an 8-inch water main on Lexington
6 Avenue that we are going to propose to tie into. There is
7 also a 6-inch water main west of the property and an
8 easement over here that we will have an opportunity to tie
9 into if we need to. We will coordinate the specifics of
10 all of those connections with Lee County utilities who own
11 the line.

12 Sewer is immediately adjacent to the site and
13 available. I know Greg referred to the letters from the
14 utilities that said that the plant had capacity. The good
15 thing is it is also available immediately to the site.
16 There is a gravity sanitary system on Lexington Avenue that
17 we can tie into and there is an existing lift station at
18 the northeast corner intersection of Tice Street and
19 Lexington that we will utilize as well. Again, all of that
20 will be coordinated in detail with Lee County utilities
21 during the design phase. I think that covers everything I
22 have got. Do you have any questions?

23 THE HEARING EXAMINER: Did you want to submit that
24 drawing as an exhibit?

25 MR. MARSHALL: It has been submitted. I don't know if

1 it made it in. It is not --

2 MS. ROZDOLSKI: It is not in the staff report. It was
3 part of the application.

4 THE HEARING EXAMINER: I think it's helpful. So if
5 that can be detached from the board, then that would be
6 great.

7 MR. MARSHALL: Sure. Absolutely.

8 THE HEARING EXAMINER: We will accept that as -- what
9 did you call that, lidar.

10 MR. MARSHALL: It is lidar, l-i-d-a-r. It is a form
11 of topographic mapping.

12 THE HEARING EXAMINER: All right. That will be
13 Applicant Exhibit 3. Now that we have destroyed your
14 exhibit, staff.

15 MR. STUART: I'm used to it. Engineers. Thank you.

16 THE HEARING EXAMINER: Thank you. Okay. Do you have
17 any questions of this witness?

18 MS. ROZDOLSKI: I don't. Does staff? We don't have
19 any questions.

20 THE HEARING EXAMINER: Okay. Thank you very much.

21 MR. STUART: Jim.

22 MR. BANKS: Good morning, Madam Hearing Examiner. For
23 the record my name is Jim Banks. I am a registered
24 professional engineer here in the state of Florida,
25 president of JMB Transportation Engineering. My firm was

1 responsible for preparing the project traffic impact
2 statement. The traffic impact statement is dated June 16,
3 2014. It was reviewed by county staff and we are in
4 agreement with the findings and conclusions of the report.
5 I will read into the record the conclusions that was agreed
6 to.

7 Based upon the conclusions of this report it was
8 determined that Bermuda Lakes R.V. Resort will not have a
9 significant impact upon the surrounding roadway network.
10 Let me put my glasses on. It was verified that all
11 roadways within the project's area of influence currently
12 have a substantial surplus of capacity and can accommodate
13 the additional traffic associated with the proposed
14 recreational vehicle resort. And the network will continue
15 to operate at central levels of service for 2016-2017
16 project build out traffic conditions. The report concludes
17 that the project will not create any transportation
18 deficiencies that need to be mitigated. As staff has
19 agreed with the findings and conclusions of the report I
20 really don't have anything else to offer, Madam Hearing
21 Examiner. You want me to speak about the -- do we have the
22 exhibit?

23 MS. ROZDOLSKI: Yes.

24 MR. MARSHALL: The master concept plan.

25 MR. STUART: The master concept plan right here in the

1 cross section.

2 MR. BANKS: Okay. If the Madam Hearing Examiner will
3 look at the master concept plan. What we are showing is a
4 typical one-way pavement section that is actually 12 feet
5 of travel lane plus four foot of paved shoulder. Now, the
6 paved shoulder can be used by pedestrians, bicyclists or in
7 the case of an emergency, okay, let's say an R.V. or
8 passenger car becomes disabled, that gives space for them
9 to pull off to the side of the road where vehicles can
10 continue to pass. So what I want to submit to the Hearing
11 Examiner is that the 12-foot travel lane with the four-foot
12 paved shoulder is adequate to provide for one-way travel
13 for the R.V.'s, passenger cars and can be shared by
14 pedestrians and bicyclists.

15 Now, for a point of reference, U.S. 41 south of the
16 bridge when you come over the Caloosahatchee, those travel
17 lanes are striped nine feet wide. Now, there are three in
18 each direction, three northbound lanes and three southbound
19 lanes but those travel lanes are nine feet wide. Now,
20 that's not ideal but that's what the state had to do due to
21 the limited amount of right of way it had. So when they
22 six laned the road, that is all they had. Adjacent to
23 those narrow travel lanes is a type F curb and gutter and a
24 four-foot sidewalk. So I submit to the Hearing Examiner
25 that although that is not ideal, that was an extreme

1 situation the provision of providing less pavement width
2 than what is desired or what is the typical standard does
3 occur.

4 Now, what we are proposing to do is to provide 12 feet
5 wide lanes on a low speed low volume road that will be used
6 by occasionally R.V.'s. Now, the maximum width of an R.V.
7 unit is eight and a half feet wide. So you have the
8 12-foot lane, an R.V. that is sometimes as wide as eight
9 and a half. That's the max. Sometimes they are narrower.
10 That depends on the model. So I submit to the Hearing
11 Examiner that the 12-foot lane with the four-foot shoulder
12 is adequate. It would not present any concerns regarding
13 safety or emergency access.

14 THE HEARING EXAMINER: Okay. The code requirement
15 that the deviation -- which I think it is deviation five is
16 requesting a deviation from requires 24 feet for two-way
17 streets and 16 feet for one-way streets. Is that correct?

18 MR. BANKS: Yeah. Now, the 16 feet we are providing
19 and the reason you have the 16 feet is for emergency access
20 and, again, because it has to do with if a vehicle becomes
21 disabled they have areas or space to where they can pull
22 off to the side of the road when their vehicle is disabled.
23 Now, in this case I submit to the Hearing Examiner that
24 this is not a through road or anything like that where the
25 likelihood that a vehicle would be disabled at the same

1 time that the fire department or an ambulance needs to come
2 in there would be incredibly rare but if it did occur, we
3 do have the 16 feet which is what is desired to have and
4 what the fire department requires and the fact that it is
5 on a -- not a through street, it is basically a small loop
6 road that is only going to service a certain amount of R.V.
7 lots. Again, I submit to you that it is safe. It does not
8 present any concern. I reviewed this with Rob Price and he
9 concurred with that conclusion.

10 THE HEARING EXAMINER: Okay. Do R.V. parks have
11 different requirements under the code in terms of
12 sidewalks, the provision of sidewalks and/or roadway widths
13 or does it default to the standards in Chapter 10?

14 MR. BANKS: Unless I'm going to be corrected by staff
15 I do not believe there is a special category for R.V.
16 internal roadways. Again, this is a private road. It is
17 not open to the public, so...

18 THE HEARING EXAMINER: And it is the same standards
19 that would apply to a condominium project or multi family
20 project in terms of width and sidewalk requirements,
21 correct?

22 MR. BANKS: I believe that's correct.

23 THE HEARING EXAMINER: Okay. All right. We will ask
24 staff. I believe I have heard discussions in other
25 hearings about the staff's ability to grant certain amount

1 of deviations to them and I want to understand what the
2 relationship is of having sidewalks on the road, they are
3 not truly sidewalks, having a walking area in the roadway
4 whether it -- is the intent to stripe it differently, is
5 that how it is going to be delineated?

6 MR. BANKS: No, ma'am. Okay. What we are proposing
7 is very common place in the state and the counties and the
8 cities do this all the time. They will provide what they
9 call is a paved shoulder. They don't designate it for
10 pedestrian use or bicycle use. In many cases it is just a
11 paved shoulder and it is up to the persons to decide
12 whether or not they want to walk on it or ride their
13 bicycles on it but we do not stripe them as bike lanes. In
14 some cases -- now, when you are out driving around
15 sometimes you specifically see where we stripe out the bike
16 lanes on roads but on most cases, especially on local roads
17 you do not specifically stripe it as for pedestrian and
18 bicycle use. It is just it is added pavement width and
19 bicyclists and pedestrians have the right to the road just
20 as much as motorists, so that does provide them an area to
21 walk.

22 In addition, I would also -- which I should have
23 pointed out earlier, in addition to the fact that we have
24 16 foot of asphalt, we also have valley gutters. We do not
25 have the type F curbs which are more restrictive. So in

1 the event a larger vehicle does become disabled, they can
2 actually pull physically all the way off the road if they
3 wanted to.

4 THE HEARING EXAMINER: Okay. Okay. Thank you for
5 that information. Does staff have any questions they
6 wanted to ask about this?

7 MS. ROZDOLSKI: I'm just wondering if it would help
8 you if we rewrote the deviation language to tie it to what
9 is being shown on the cross section and showing that you
10 are actually having -- you are having a two-way street with
11 a 22-foot width but you are also adding in another eight
12 feet width of pavement to accommodate for pedestrians or
13 bicyclists or, you know, a pull off in case of an emergency
14 area and it is not really clear in the deviation that this
15 cross section is what is going to be utilized in the
16 development because I think that the cross section actually
17 speaks a lot as to the actual widths.

18 THE HEARING EXAMINER: Okay. All right. Then to make
19 that reference, the cross section shown on --

20 MS. ROZDOLSKI: The typical one-way and right of way
21 pavement sections on that M.C.P.

22 THE HEARING EXAMINER: Okay.

23 MR. BANKS: I was going to speak to the two-way
24 section as well and to elaborate upon what was just said is
25 that in the case of two-way roads you actually don't have

1 to have the wider lane for pull off recovery area because
2 in the event of an emergency if you are stalled in the
3 road, the truck can pass on the other lane. So the --
4 actually, in the two-way situation the extra four feet on
5 each side is not required. It is not needed. It is not
6 necessary but we are going to provide it as for -- again,
7 for the pedestrian and the bicycle use. So in this case
8 we -- in my mind, we far exceed what is necessary. We
9 are -- because when we are talking about a 11-foot lane we
10 are literally talking about just a stripe that marks it as
11 11 feet but the actual usable surface area for each
12 direction is going to be 15 feet and, again, we are also
13 still -- we are using the valley gutters in that situation
14 as well. So in the rare event that somebody is disabled,
15 if they choose to do so can literally exit the road surface
16 if they wanted to.

17 THE HEARING EXAMINER: Was there any thought to
18 having -- on the two-way road segments having the 12-foot
19 travel lanes that the code requires and the walkway area
20 only on one side of the street?

21 MR. BANKS: We have it on both sides.

22 THE HEARING EXAMINER: And there would even be the
23 potential to separate it out if you wanted to separate it
24 out but I understand that -- but to meet the width you
25 wouldn't need have a deviation is what I'm asking to the

1 lane width, it would be a deviation to allow sidewalks on
2 one side and I want staff to talk about this. I get the
3 feeling that this happens a lot and that it is common and
4 what I'm struggling with is, as I was with some of the
5 other things, why is it in the code, why is the requirement
6 in the code and how is this project different from what is
7 typical and standard? Is this significantly lower traffic
8 rates, is it significantly different that justifies --
9 because it seems like you have a much larger vehicle than
10 you would typically have. Even if it is maximum eight and
11 a half, that's wider than most cars you would have in a
12 subdivision. So when you have the larger vehicles going
13 with smaller lanes seems counter intuitive.

14 MR. BANKS: To answer your question specifically, it
15 was approved for -- I'm just going to use this as an
16 example, a multi family development would generate four
17 times the amount of external trips as what the R.V., what
18 is being proposed now. Actually, it is even less than that
19 because we are only at 159 units versus 200.

20 MR. STUART: Yeah, we are requesting it.

21 MR. BANKS: So, again, yes, they are very low traffic
22 generated and in a lot of cases when you get into those
23 R.V. park what they commonly have sometimes they pull golf
24 carts with them or they use compact cars when they pull
25 behind these. It is smaller vehicles and there is just not

1 that much traffic. I spent seven years driving across this
2 country and staying in R.V. parks. What they are doing --
3 what is being proposed today is very common place in this
4 type of situations. Again, they are very low volume, low
5 speed communities. Most people walk to and from the
6 amenities. In this case there are no through streets. So
7 you don't have, you know, the vehicles from other
8 designations passing through. This is a designation
9 location here.

10 THE HEARING EXAMINER: Okay. And do you know whether
11 the sidewalk was integrated with the roadway in the plan
12 development that exists on this property or whether it was
13 separate or did they get that far?

14 MR. STUART: No deviation was requested on that code
15 standard. There was never a development order submitted on
16 the project, on Bermuda Lakes P.D. -- R.P.D.

17 MR. MARSHALL: There was nothing approved.

18 MR. STUART: Was the sidewalk -- okay, address the
19 sidewalk issue.

20 MR. MARSHALL: I can -- the real practical point what
21 we had proposed exceeded the code because we knew there was
22 going to be larger vehicles, we knew practically speaking
23 walking in the road, larger vehicles, walking in the road,
24 we wanted to consolidate our hard surface instead of having
25 a road, sidewalk, sidewalk, a small landscape strip. We

1 thought it would be nice just to have a larger asphalt area
2 for the vehicles to maneuver. At the same type we are
3 demonstrating it here that we do have the room for
4 pedestrians and for vehicles and in the process this does
5 meet and actually exceeds the minimum for the vehicle
6 widths. Really, the only reason this is presented here is
7 because we do have the level of detail at this time. We
8 have been working towards putting the construction plans
9 together. I think you will hear from staff also that is
10 going to say this is typically something that is worked out
11 or talked about more in the development order process. The
12 only reason this is really shown on here now is we do have
13 this information. It is typically probably a greater level
14 of detail than ordinarily would have been shown at this
15 point.

16 THE HEARING EXAMINER: Could you get an administrative
17 deviation for what you are requesting?

18 MR. MARSHALL: I don't know that this part -- I am
19 getting a nod yes. I will answer that yes.

20 THE HEARING EXAMINER: Okay.

21 MR. MARSHALL: So...

22 THE HEARING EXAMINER: All right. Then if it can be
23 done with an administrative deviation, we can hear from
24 staff but it gives me a greater comfort level but it also
25 raises the question whether it needs to be addressed at the

1 zoning stage. I understand about your desire to have a
2 zoning package tied up so when you go to staff you don't
3 have to negotiate these details out further but --

4 MR. MARSHALL: I think it also answered the question
5 we had a lot of information being shown for the one-way
6 street or the one-way roads and what was going to happen on
7 the other streets, so I think the conversation really just
8 grew to here is what we are doing on both, on both areas.

9 THE HEARING EXAMINER: Okay. Rob, I want you to make
10 a full presentation.

11 MR. PRICE: I was going to help on that one point if
12 you want. I will wait.

13 THE HEARING EXAMINER: Yeah, let's do that okay.
14 Okay. You didn't have any questions?

15 MR. PRICE: No questions.

16 THE HEARING EXAMINER: On the transportation?

17 MS. ROZDOLSKI: No.

18 THE HEARING EXAMINER: All right. We have other
19 witnesses?

20 MS. SCHLACHTA: Good morning. My name is Kim
21 Schlachta. I am with Boylan Environmental. I have also
22 been previously accepted as an expert witness in ecology in
23 Lee County in regards to planning and Land Development
24 Code. I ask to be qualified again today.

25 THE HEARING EXAMINER: Any objection? So accepted.

1 MS. SCHLACHTA: Thank you. Since we have covered most
2 of everything on this site, I'm going to be as brief as
3 possible. This site, as you know and can see, the biggest
4 things we are looking at here, we have three wetlands on
5 site. It has got a very large borrow lake in the center
6 and as far as environmental components, the site does
7 contain jurisdictional wetlands. Those three wetlands
8 consists of both primary forested area including cypress,
9 mixed wetlands, exotics wetlands, and flume and palm,
10 slough, cabbage palm, hydro cabbage palm, hammock. Aside
11 from the borrow lake we also have several ditches and
12 linear ditches along the sides of the boundaries of the
13 site. These wetlands and other surface waters were
14 previously reviewed during original application with South
15 Florida Water Management District back in 2005 and we
16 anticipate they will be re-verified again during our next
17 application. So the line work that we did use was line
18 work that was previously reviewed by the water management
19 district.

20 The site also contains indigenous uplands including
21 pine, flat woods, cabbage palm and other areas. There is
22 other areas of -- native vegetation is very sporadic. The
23 site is very disturbed. There is areas of cleared
24 vegetation, a lot of exotics in some areas, Brazilian
25 pepper, for example.

1 As Greg had noted on site we had 17.67 acres of
2 indigenous habitat that we could use to work to address the
3 indigenous requirement and part of the code requirements,
4 the site does provide the required amount in the master
5 concept plan and agrees to provide that in the condition as
6 stated by the staff -- by staff. This includes requiring a
7 preserve minimum of 7.232 acres of indigenous habitat.
8 With that the Bermuda Lake project exceeds the minimum
9 L.E.C. requirements. The majority of those preserve areas
10 are wetlands again and buffers will be required as water
11 management district when we get to that permitting stage.
12 We do have upland buffers and structural buffers provided
13 around the majority of these wetlands as well.

14 As well as part of the indigenous preservation, staff
15 has also required a management plan be provided. We have
16 provided a draft management plan for long-term maintenance
17 of the preserve that makes the requirements of the L.E.C.
18 as well.

19 Boylan Environmental conducted a protected species
20 survey on site and results of that survey indicated that we
21 did find utilization of listed wading birds in the lake
22 area and although no alligators were observed we agree that
23 it is suitable habitat for that species in that large
24 borrow lake. Because that habitat does exist, as well a
25 management plan for those species will be provided at the

1 time of the development order in accordance with the L.E.C.

2 In addition we did have suitable habitat for the big
3 cypress fox squirrel. That was a previous condition from
4 the original zoning which would carry over although no nets
5 were found on site during this last survey and those listed
6 species conditions can be found -- I'm sorry, the condition
7 for that from staff is found in condition number seven.

8 Additionally, to address listed species the
9 connectivity between the two wetlands, I believe one and
10 two on the site, we have agreed to provide traffic calming
11 measures along the internal roadway which dissects the two
12 preserves in the center of the site. That is also part of
13 condition nine in the staff report.

14 With regards to the environmental, there is nothing
15 really unique or outstanding on this site. The preserves
16 have been sufficiently provided for to meet the indigenous
17 requirement and the preserve requirement. There are no --
18 like I said, no outstanding issues and I think we are in
19 agreement with the conditions proposed by staff and I think
20 if there is any other questions, I can answer. I will be
21 here to answer them.

22 THE HEARING EXAMINER: Any questions of this witness?

23 MS. DERHEIMER: No.

24 THE HEARING EXAMINER: I don't think I have any.

25 Thank you.

1 MS. SCHLACHTA: Okay.

2 MR. STUART: Madam Hearing Examiner, before we
3 conclude our presentation, may I offer one point of
4 clarification and two comments about the deviation?

5 THE HEARING EXAMINER: Okay.

6 MR. STUART: The point of clarification pertaining to
7 the rectal linear key hole, the south portion of the
8 property, your question was -- I think your question was
9 can anybody live there or is there houses --

10 THE HEARING EXAMINER: Is it developable?

11 MR. STUART: Is it developable, yes. My point of
12 reference was that, no, it is not developable. I was
13 looking at it within the context of developable for a
14 residence. Currently, the residence is on the south
15 portion of the property. Given the zoning, they have the
16 right of doing that residence. They can't have multiple
17 residences. That said could you build a pole barn or a
18 shack or an accessory use, yes, you can. So it is
19 developable. I was looking at it from can it be done, can
20 you build another home. So I just wanted to clarify that.

21 THE HEARING EXAMINER: Okay.

22 MR. STUART: Then on deviation one, deviation 1-B, the
23 cul-de-sac deviation, Section B-B, you know, I want to
24 clarify this. The current land development code standard
25 is -- again, it is a 40-foot standard. You are allowed to

1 have half of that standard, half of that width planted
2 which we are doing. In this particular case, though, we
3 are doing -- we are adding another ten feet for the
4 F.D.O.T. easement. When you look at the code for 40 feet
5 if we are planting at 20 feet and then just reviewing
6 staff's comments in the staff report they pointed out that
7 we will still be meeting the new -- the new code 34-939
8 because the code does allow mid-story trees to be planted
9 and the standard I believe is 14 feet tall at installation
10 and mid-story trees will be taken into consideration as
11 canopy trees.

12 So, in fact, the only difference between the deviation
13 that is being requested and the code is an additional ten
14 feet and the fact that we have to provide access for D.O.T.
15 As I stated, we felt that it -- that it would be
16 appropriate if we have to provide access and if we wanted
17 better geometry on our site plan, hey, let's give them a
18 paved section to deal with. My point being it does meet
19 code, so, again, I just wanted to add that to the
20 discussion.

21 And then, finally, on the deviation, deviation five,
22 the roadway width deviation, we have agreed with staff,
23 with Mikki. There can be better language that directly
24 ties the deviation into the cross section. It makes sense
25 because, again, we developed -- we submitted that stuff in

1 April. Things have changed since then. So we can tie that
2 in better. That concludes our presentation. Thank you.

3 THE HEARING EXAMINER: Okay. Staff ready?

4 MS. ROZDOLSKI: I'm ready. Is it okay if I make a
5 presentation from here?

6 MR. STUART: Yes.

7 THE HEARING EXAMINER: As long as you pull the mike
8 towards you so everybody can hear since they can't see your
9 face.

10 MS. ROZDOLSKI: For the record my name is Mikki
11 Rozdolski. I am a senior planner in the zoning division.
12 I have previously been accepted as an expert witness in
13 land use planning and zoning and I request that I am
14 accepted as such again today, please.

15 THE HEARING EXAMINER: Any objection?

16 MR. MARSHALL: None.

17 MR. STUART: None.

18 THE HEARING EXAMINER: So accepted. I was wondering
19 whether you were going to object.

20 MS. ROZDOLSKI: Luckily, luckily for me Greg put on a
21 very thorough presentation and so did Sam and the rest of
22 the consultants. So my presentation is going to be pretty
23 short. I will talk about the compatibility with the
24 surrounding area though and a little bit about the master
25 concept plan.

1 The property is about 49 acres. It is currently zoned
2 R.P.D. and I.P.D. Most of the property is R.P.D. There is
3 just this one little rectangular -- whatever Greg is
4 calling it -- parcel on the side that was I.P.D. that has
5 been added to the site since it's subsequent approval for
6 R.P.D. and that is about 2.4 acres.

7 Obviously, the site is irregular in shape. It is a
8 very unique parcel. It is also a very unique project. I
9 think it is very unique for this area. It is going to have
10 a nice compatibility with the North Trail R.V. Center that
11 is located to the east adjacent to I-75.

12 The property only has about 120 feet of frontage on
13 Lexington Avenue and that is where the two access points,
14 primary access points to the project are going to be
15 located. The main access point is on the southern part
16 where the parcel actually juts out. That will be their
17 entrance feature about right here and then there is going
18 to be a northern access that is running through an existing
19 easement. They are also going to be creating a little
20 easement through this parcel that is under the same
21 ownership as the subject site. Emergency access has also
22 been provided onto Tice Street. There is about 500 feet of
23 frontage on Tice.

24 As conditioned and as proposed and requested by the
25 applicant the project will consist of about 200 or a

1 maximum of 200 transient lots. A transient R.V. is one
2 that will be taken off the site. They cannot stay on site
3 for more than six months. Based on the land development
4 code calculation for the intensity, you can have eight
5 living units per non-wetland area or acre of the project
6 and so that comes out to be 318 living units based on an
7 upland area of about 39 acres. So the 200 lots that are
8 proposed, are being requested at this time is less than
9 what they could potentially request.

10 The buffers are addressed primarily through the
11 deviation requests. I'm going to save that discussion for
12 the end. When we go through the deviations, I will answer
13 some questions regarding compatibility and then if you have
14 specific questions on more of the technical level issues
15 Susie is here to answer those.

16 Staff does find that the deviations that are being
17 requested do benefit -- I guess benefit is not the right
18 word but they do enhance the site. It does enhance the
19 plan development. It does allow for the two preserves that
20 border the project's southern boundary to be preserved. It
21 accommodates the location, the width of the F.D.O.T.
22 easement that runs along the north which is a unique
23 circumstance to this project and then also the drainage
24 easement that runs parallel to the property boundaries both
25 north and east and Sam had put on the record and shown on

1 his very colorful exhibit in his flow ways map where those
2 easements are located. And it also allows the applicant to
3 install a type street buffer plan, a special treatment
4 buffer plan that the applicant worked with the community on
5 developing along Tice Street and these buffers are
6 compatible with the surrounding neighborhood, are
7 consistent with the intent of the code and, therefore,
8 staff does find it consistent with policy 1.1.2 of the Lee
9 plan.

10 In addition to the transient lots, there is going to
11 be an indoor and outdoor recreation area. The land
12 development code in Section 34-939 has specific
13 requirements for the minimum area in access to these
14 recreation areas. First, that it can't be less than 3000
15 square feet in size, no single area can be less than 3000
16 square feet in size, that you have to have at least 250
17 square feet for each acre contained within the park and
18 that it is easily accessible from all of the sites. The
19 recreation area as you can see on the master concept plan
20 is very centrally located into the site. It will be easily
21 accessible from pretty much anywhere you are through
22 walking paths and the existing lake will also be used for
23 recreational opportunities. In addition there will be an
24 indoor recreation area for some limited commercial uses and
25 those are as conditioned limited to use by people that are

1 staying within the park.

2 There is also the maintenance and operation open
3 storage area that is located also near the main entrance,
4 just south of the main entrance. Staff has limited this to
5 be no more than an acre and it is also conditioned to only
6 be available for use by people that are using the park. As
7 you heard some of these R.V.'s will be pulling golf carts
8 or mopeds or something. They will have a trailer behind
9 them and that will be a place for them to be able to store
10 the trailer while they were enjoying their stay at the
11 park.

12 Going back to the bigger picture, the property is
13 located in four different future land use categories. It
14 is primarily suburban. I think that is quite apparent from
15 looking at the map but it also encompasses wetlands and
16 central urban and intensive development future land use
17 categories. When you look around it, it is actually
18 primarily surrounded by central urban and intensive
19 development and also industrial future land use categories
20 which are more intense than what the suburban future land
21 use category is and a point that was made in the staff
22 report is that this is a nice interface between the
23 existing residential that is located to the north, west and
24 south of the site to the more commercial industrial type
25 uses that are located to the east of the property and I-75

1 which is a six-lane major highway.

2 The wetlands are all designated in preserve areas in
3 the master concept plan. There is about nine acres worth
4 of them. That is a substantial amount and the lake itself
5 is about nine acres and that is a big portion of the site,
6 too.

7 The properties to the north you have the Orange River
8 Elementary School indicated just north of here. There is
9 the buffer being proposed between the elementary school and
10 the wall and then you have over 250 feet between the school
11 property to the bottom of the lake where you are actually
12 going to start seeing some of the development and the
13 commercial -- not the commercial but recreational area.

14 The school district did comment on the application,
15 did provide a letter. You know, they did not find that
16 there was going to be any impact on school capacity because
17 they are not anticipating any children from there that has
18 to go to school but they were concerned a little bit about
19 the consumption on premises and we did come up with a
20 condition that applicant has agreed with and that the
21 school district was happy with requiring that if they are
22 not with -- if they are not outside of the 500-foot minimum
23 distance requirement that they would have to come through
24 and get a special exception approval to be able to have
25 consumption on premises any closer than 500 feet to the

1 school district's property. Otherwise, it can be done
2 administratively and so at the time of the administrative
3 approval that is when they have would have to demonstrate
4 the separation and that is in condition four.

5 The properties to the north, these are older
6 subdivisions. They are much more dense. They are probably
7 around five units per acre. I did get one phone call from
8 a gentleman that lives in the Underwood subdivision which
9 is the subdivision up here that is actually Underwood Drive
10 and that's right here. His only concern was that he wanted
11 to be sure that no access was going to be provided through
12 that north property line. He did not want any of the
13 traffic coming through his neighborhood and, of course, the
14 applicant is not proposing any access and if they ever were
15 to even think about it, they would have to come through
16 this process again since that would be a public hearing
17 type of request that would have to occur. So that was the
18 concern by them. We can talk about the deviations from the
19 buffer requirements when we get to that list.

20 South of the property you have several single family
21 residences that are on larger agriculturally zoned tracts.
22 The parcel, the little key hole parcel that does run up
23 into the property, it is part of a larger parcel that
24 actually comes down like this. It is a little hard to see
25 the parcel lines here but if you look at the zoning map it

1 shows it pretty well but it has a slim access here and then
2 you have the long slim A.G. 2 parcel, so this is not a
3 stand alone parcel up here. The house, you know, could
4 potentially go anywhere from here to up here and as Greg
5 had said on the site visit there is an existing house and
6 it is located down here and they do have some agricultural
7 type uses in the back where they were growing something in
8 a unique way. There are tires as planters. It was unique.

9 MR. STUART: All legal.

10 THE HEARING EXAMINER: Thank you for clarifying that.

11 MS. ROZDOLSKI: I didn't look.

12 MR. STUART: In advance of amendment two.

13 MS. ROZDOLSKI: Well, it is a unique property next to
14 this unique project. Anyway south of these properties you
15 have Tice Street and south of this you have the Goodwill
16 Life Academy which just opened on this I.L. parcel. It is
17 a big campus that they are utilizing for an outreach
18 center, a retail outlet -- this is the Goodwill site, a
19 retail outlet and the Life Academy. You also have Lee
20 County's Detar Lane facility and this is where Lee County
21 does keep a lot of its heavy equipment for storage.

22 Along with the southern property boundary you are
23 actually going to see that most of it along here and along
24 the side is preserve. So you are getting a lot of the
25 natural vegetation is being kept. It is going to be a nice

1 thick buffer and that is being preserved. And as Greg
2 mentioned and it is talked about in the staff report, I
3 already also previously mentioned it. You have the Tice
4 special buffer plan. This is Exhibit K. We actually are
5 going to ask you to try to incorporate this into your
6 recommendation to the board as if this -- if this buffer
7 plan is utilized, I think it is important that it is
8 attached to the resolution so we know what it is supposed
9 to look like. It is two pages. I only have one page up
10 right now.

11 But the intent of this buffer from the community's
12 perspective was to create a pleasant walk by experience or
13 drive by experience. The community has been working really
14 hard out there trying to do some I guess redevelopment and
15 enhancement to the buffer regulations and whatnot. Nothing
16 has come through our office yet to be adopted into the
17 code. The applicant was graceful enough to work with them
18 to come up with the alternative to the standard wall and
19 buffer plantings or the 40-foot wide buffer. The gate will
20 be there for emergency access and the fence along Tice
21 Street I think was important to the applicant partially for
22 security measures but this plan would allow plantings on
23 both sides of the fence so that the landscaping could be
24 enjoyed by parties that are within the park and outside of
25 the park.

1 Finally, the properties to the west there is the
2 property that is zoned A.G. 2 and a property that is zoned
3 T.F.C. 2 and these have single family homes, mobile homes,
4 vacant properties. Then you also have a large parcel of
5 land and a lake that are owned by Lee County or by the
6 State of Florida, I apologize.

7 Staff finds that the project is compatible with the
8 neighborhood. It does provide a nice interface between the
9 industrial, commercial uses to the east, to the residential
10 uses that are surrounding the property. It is consistent
11 with several objectives and policies of the Lee plan that
12 are outlined in the staff report and some of which Greg put
13 on in the report. They did meet with the Palm Beach
14 Boulevard Committee not just once but a couple times to
15 come up with the alternative plan and they did support the
16 project. There is allocation for the commercial
17 development in the Fort Myers Shores Planning Community
18 based on map 16 of the Lee plan and policy 1.7.6 and table
19 1-B. Urban services are available that applicant did
20 provide a really nice map. It is attached to the staff
21 report as Exhibit O. That shows where a lot of the urban
22 services are located. They are going to be connecting to
23 sewer and water and in conclusion, staff did find that the
24 property does comply with the standards for approval of a
25 plan development, that the project is consistent with the

1 multiple future land use designations that lie on the
2 property and also the applicable goals, objectives and
3 policies.

4 We do have several conditions and we do recommend
5 approval of the deviations which we will go through in a
6 minute. We appreciate the applicant withdrawing deviation
7 number 11. That is something that we had asked of them
8 before the hearing but after the public -- after the staff
9 report went out but before the hearing and we appreciate
10 them withdrawing that.

11 I have staff environmental services and development
12 services here, and also natural resources if you have any
13 questions but if you want, we can go through the
14 deviations. I don't know if you want to kind of go through
15 your questions again. I remember some of them, probably
16 not all of them or the detail that you are requesting. So
17 we can go through those now unless you want to talk about
18 anything else first.

19 THE HEARING EXAMINER: I'm fine with going through
20 them now.

21 MS. ROZDOLSKI: Okay.

22 THE HEARING EXAMINER: The first one was deviation 1-A
23 and the request is to reduce -- basically to reduce the
24 type C buffer and one question is -- I guess, Susie, this
25 is more for you. Is it possible to have all of the trees

1 that are required by the code in a 40-foot buffer within a
2 20-foot area and have them grow properly and be healthy?

3 MS. DERHEIMER: The answer to that is yes. The code
4 requires a minimum of half of the buffer width. So that
5 would be 15. So 20 would actually exceed the code.

6 THE HEARING EXAMINER: The buffer is 40.

7 MS. DERHEIMER: Well, but the plantings that are
8 proposed are Type F -- are required are type F. Type F is
9 30, so I'm saying in general --

10 THE HEARING EXAMINER: I got you.

11 MS. DERHEIMER: So it would really be -- we recommend
12 a minimum width of 15 for a type F, so 20 is more than the
13 minimum that we recommend.

14 THE HEARING EXAMINER: Okay.

15 MS. DERHEIMER: I just want to point out the fact that
16 I did kind of reference this in my staff report that the
17 Section A-A which is -- runs north of the lake, there is
18 existing vegetation along the lake shoreline and where it
19 is normally Brazilian pepper, this time it is not, although
20 there is some Brazilian pepper in there, but there are some
21 oak trees, mature oak trees and -- quite a few of them, I
22 would say -- I didn't count but I would say roughly at
23 least one per 20 feet, linear feet along that shoreline,
24 north shoreline. So you do have existing native vegetation
25 along that shoreline which is proposed to be preserved.

1 They can't really take it out because it is stabilizing the
2 shoreline. They would have a lot of problems if they did.
3 So there is existing vegetation along that northern
4 shoreline that does provide some canopy, existing canopy
5 buffering and that's one of the reasons why I put that in
6 there because they are asking just to do the ten-foot high
7 trees at installation because there are existing trees,
8 mature trees there to provide that upfront buffer.

9 And then the other thing I wanted to point out is they
10 are proposing -- just for clarification they are proposing
11 above and beyond a Type C. Actually type C is 18 shrubs
12 per linear feet and they are proposing is single hedge row
13 which would be 33 shrubs per linear feet along the outside
14 of the wall and just -- I see where you are going with your
15 questioning, and I just want to point out that the R.V.P.D.
16 buffer, the proposed plantings were -- the code was changed
17 in order to propose plantings that provided that visual
18 screen. The applicant is proposing a wall to meet that
19 visual screening requirement. So in looking at their
20 proposal for the wall, the reduction number of plantings is
21 more now just to provide the softening of the wall. So I
22 think the number of plantings are no longer needed in order
23 to provide the visual screening because the wall is being
24 proposed but now we need plantings to soften the wall.

25 THE HEARING EXAMINER: So the visual screening that

1 you are saying is 40 foot. The wall was eight feet, right?

2 MS. DERHEIMER: Correct.

3 THE HEARING EXAMINER: So above the eight feet will be
4 sufficiently provided by the trees that are on -- that they
5 are going to be adding and the trees that are existing
6 along the lake.

7 MS. DERHEIMER: Existing.

8 THE HEARING EXAMINER: Okay. So you are saying that
9 it is equivalent of the screening, it is just a different
10 way of going to address some issues.

11 MS. DERHEIMER: Correct. Correct.

12 THE HEARING EXAMINER: Okay. And the fact that you
13 pointed out that what is required in the 40-foot buffer is
14 basically a type F buffer.

15 MS. DERHEIMER: Correct.

16 THE HEARING EXAMINER: So in a situation where a type
17 F buffer is required it usually allows a type C or type F.

18 MS. DERHEIMER: Correct.

19 THE HEARING EXAMINER: And then you pointed out this
20 is somewhat more by having a continuous hedge, it is
21 somewhat more of a type C both in width and in shrubbery.

22 MS. DERHEIMER: Correct.

23 THE HEARING EXAMINER: Okay. I'm comfortable with the
24 A-A segment. That was very helpful. I appreciate that.
25 What I was trying to understand is what we were changing

1 from and why it was appropriate to change from it and
2 having the access to the lake, clearly you have got to have
3 some way of maintaining the lake. That all makes sense
4 squeezing it into the 12 feet. Okay. Did you want to add
5 anything more on the deviation A-1 or 1-A?

6 MS. ROZDOLSKI: I will just add that the school
7 district did look at it. They didn't have any objection to
8 the wall or to alternative a buffer that is being requested
9 through the deviation and just to reiterate that we do have
10 almost three -- it is 290 linear feet, the lake width at
11 that point. You do have a big buffer width from any of the
12 actual uses to that northern property.

13 THE HEARING EXAMINER: Okay. On 1-B did you find out
14 whether or not the easement is in the record and did you
15 want to put that in?

16 MS. DERHEIMER: It is not.

17 MS. ROZDOLSKI: The number is referenced in the
18 exhibits and in the staff report but I did print out a copy
19 for you and you can have that.

20 THE HEARING EXAMINER: I will make this an applicant's
21 exhibit since it is an issue relative to your site and not
22 a county easement. We will make this Applicant's Exhibit
23 No. 4. It is the F.D.O.T. easement that runs along the
24 northern boundary or at least a portion of the northern
25 boundary.

1 MS. ROZDOLSKI: That instrument number is shown on the
2 master concept plan in that easement area so you can tie it
3 to that.

4 THE HEARING EXAMINER: Okay. My question about this,
5 there was a reference to limits on the trees. I know that
6 is common to have limits on the trees when you have power
7 lines and when you have overhead structures. But what are
8 the limits on the trees for this type?

9 MS. DERHEIMER: This has to do with the root structure
10 system of the tree. The larger the canopy, the larger the
11 root system and given there is an existing drainage pipe
12 and they actually had it located and found it. It is shown
13 specifically on cross section B-B it is -- the drainage
14 pipe is located 25 feet, I believe, from the property line
15 and so their concern is placing large canopy trees with
16 intrusive roots next to that drainage pipe. Greg was
17 correct in saying that this really isn't a deviation from
18 the tree requirement. It is more of a clarification. We
19 do allow mid-story canopy to meet the canopy tree
20 requirement as long as they are installed at the height
21 required by the code and in this case they are to be
22 installed at the height required by the code. I just
23 wanted to put that language in there so it shows that it is
24 not going to conflict with the F.D.O.T. condition.

25 THE HEARING EXAMINER: Okay.

1 MS. DERHEIMER: We usually require written -- we are
2 using this as the written authorization from the entity
3 that has ownership in the easement to allow the buffer
4 within the easement because we have a written document
5 saying they do allow trees, just not large trees. So I put
6 in use smaller trees, mid-story in order to make sure it is
7 consistent with that easement agreement.

8 THE HEARING EXAMINER: Okay. So as far as the
9 deviation is concerned, they are allowed under the code to
10 plant it in the 20 feet. They are allowed under the code
11 to plant the smaller trees. They are not asking for a
12 reduced number of trees or shrubs, correct?

13 MS. DERHEIMER: No, they are asking for the row.

14 THE HEARING EXAMINER: So this deviation is for the
15 cul-de-sac coming in.

16 MS. DERHEIMER: Yeah, it is for the cul-de-sac and for
17 the F.D.O.T. access road or drive because when you read 939
18 it says no roads or streets may be placed in the buffer, so
19 I felt that was important that --

20 THE HEARING EXAMINER: The easement is a drainage
21 easement and ingress and egress to the storm water
22 management facility. Does F.D.O.T. have an easement across
23 the lake? Is that F.D.O.T. storm water management
24 facility?

25 MS. DERHEIMER: No.

1 MS. ROZDOLSKI: No.

2 THE HEARING EXAMINER: So what is the ingress egress
3 to?

4 MS. DERHEIMER: It is for maintenance of the drainage
5 pipe.

6 MS. ROZDOLSKI: There is a drainage pipe.

7 THE HEARING EXAMINER: To the pipe only.

8 MS. DERHEIMER: Correct.

9 THE HEARING EXAMINER: Okay. And the pipe runs --

10 MS. DERHEIMER: If you look on cross section B-B it
11 shows the pipe. It runs --

12 THE HEARING EXAMINER: Right, but how far --

13 MS. DERHEIMER: -- parallel.

14 THE HEARING EXAMINER: -- east does it go?

15 MS. DERHEIMER: Sorry?

16 THE HEARING EXAMINER: It turns -- I think it is a
17 dotted line, so it turns and goes into the southwest corner
18 of the school property; is that correct.

19 MS. DERHEIMER: I will let the applicant --

20 MR. STUART: Southwest corner of the school property
21 on the master concept plan, then it jogs up and it is
22 not -- it does not encumber the northeast portion of the
23 applicant's property line, only the northwest portion, so
24 the easement -- more or less half and half.

25 THE HEARING EXAMINER: Okay. So it goes across the

1 residential area and then turns up into the school property
2 and doesn't go east.

3 MR. STUART: Uh-huh.

4 THE HEARING EXAMINER: Okay. And that easement is 50
5 feet wide and they have the right to have -- to drive on it
6 for maintenance. They don't have the right to pave it per
7 se but they are not prohibited from doing that either.
8 Okay. All right. So, basically, if under the terms of the
9 easement F.D.O.T. needed to somehow make that a road, then
10 the deviation is to prevent that from putting this
11 development in non-compliance with the requirement that
12 says there can be no road.

13 MS. DERHEIMER: Correct.

14 THE HEARING EXAMINER: But it is really only an access
15 easement to get to the pipe; it is not --

16 MS. DERHEIMER: Yes.

17 THE HEARING EXAMINER: It is not a road to someplace.

18 MS. DERHEIMER: Correct.

19 THE HEARING EXAMINER: And then the other provision,
20 perhaps the major aspect of the deviation is to allow the
21 cul-de-sac to come into it.

22 MS. DERHEIMER: Correct.

23 THE HEARING EXAMINER: Now, the cul-de-sac is not
24 necessary for F.D.O.T. to be able to use their easement
25 because there is no road there now and they have no way of

1 knowing that there would be a road there.

2 MS. DERHEIMER: No. If you see -- what is a good way
3 to it point out. The access easement runs within their
4 property along the west portion but then actually jogs up
5 and runs --

6 MS. ROZDOLSKI: You can't see the coloration.

7 MS. DERHEIMER: A portion of it runs on the
8 applicant's property and then if you go east it jogs up and
9 then it continues on the school board's property out to
10 Lexington Avenue. So that's how they gain access to date.

11 THE HEARING EXAMINER: Okay. All right. What is
12 staff's thought on the cul-de-sac intrusion into -- I don't
13 think it is necessary for F.D.O.T. to access and use their
14 easement. You actually have to have two deviations for --
15 one from the 125 requirement that it has to be 25 feet wide
16 and one from the 40 foot R.V. park requirement. What is
17 staff's thought on how it advances the plan development and
18 how -- what its justification is given what the code does
19 require?

20 MS. ROZDOLSKI: Well, the code requires a 40-foot wide
21 buffer and Susie told you how there are still going to be
22 putting the same number of plantings in it. The trees will
23 still have the same intent and so you are not losing any of
24 the actual buffering or landscaping material and that will
25 be there and if you read the deviation, there is an option

1 that they could put a wall in with authorization from
2 F.D.O.T., so that is something that they are still -- they
3 can still pursue. There will be a fence there and it is
4 within the easement area that was not going to be planted
5 and it is not precluded from being paved by F.D.O.T. and
6 adding the impervious area isn't going to have an effect on
7 that buffering width or the buffering plantings. The
8 proximity to the northern boundary line, even if you were
9 to move it back however many feet you are still going to
10 have the same landscape material, same landscaping buffer
11 width. That is not going to change. And it enhances the
12 project because it allows the applicant to actually access
13 that northern part of the site that otherwise they can't
14 access it unless they are going to be shipping R.V.'s over
15 the lake because they can't ran across F.D.O.T.'s easement.

16 THE HEARING EXAMINER: Clearly, you have to have an
17 access there but it is a question whether it needs to be
18 ten feet further down.

19 MS. ROZDOLSKI: And that is something that would be
20 more of a site design question regarding R.V. turning
21 radius and how the R.V. lots will be configured for pull in
22 and pull out. I know that the cul-de-sac was put in there
23 for the purpose of the ease of allowing R.V.'s to maneuver.
24 They are larger vehicles and making a three-point turn
25 isn't as easy as it is if you are in your small car. So

1 the cul-de-sac was put there for that purpose but in
2 reality you are going to most likely back in your R.V. into
3 your site and then you are going to be pulling out in
4 forward motion and heading out. There is not going to be
5 very much of a reason for access of that northern point in
6 practicality terms.

7 THE HEARING EXAMINER: Okay. 1-B.

8 MS. DERHEIMER: Can I make one point?

9 THE HEARING EXAMINER: Sure.

10 MS. DERHEIMER: I apologize. I did notice something
11 because this actually came up, the request to add the wall,
12 the option to do the wall if F.D.O.T. allows it in their
13 easement, so I wrote a condition that states if they do the
14 wall, then just use the conditions from A -- from Section
15 A-A or Deviation 1-A which allows the ten-foot tall trees.
16 In this circumstance you don't have the existing vegetation
17 along the shoreline at this location, so I would recommend
18 if they install -- if they do the wall to install 14-foot
19 tall trees. Do you see where I'm going with that?

20 THE HEARING EXAMINER: Yes. So it is the third part
21 of condition 12 where you indicate the wall.

22 MS. DERHEIMER: Yes, the wall option.

23 THE HEARING EXAMINER: You are saying as depicted for
24 section A-A.

25 MS. DERHEIMER: Except with 14-foot tall trees at

1 installation.

2 MR. STUART: Greg Stuart for the record. We agree
3 with that. That's not a problem. Just to emphasis, we
4 originally started the project with a wall all along the
5 north boundary, so the option to have a wall on that
6 segment is a fundamental part of our deviation request. It
7 is important. We are not sure if we are going to do it
8 yet. Originally, we were planning to and then backed off.
9 Who knows.

10 THE HEARING EXAMINER: Okay. Is there a reason to
11 think -- I don't know whether the neighbors would prefer
12 this but would you able to put a wall along the northern
13 boundary which would be the northern edge of the easement
14 or does the easement prohibit walls without specific D.O.T.
15 approval period?

16 MR. STUART: I think the language prohibits it. If we
17 go in to D.O.T. and if that is what we want to do,
18 certainly, we can revise the easement if they agree with it
19 but right now I believe it says no walls are allowed.

20 THE HEARING EXAMINER: Okay.

21 MS. DERHEIMER: That could be done at D.O. time, too.
22 If they provided us revised language with the easement
23 saying a wall would be allowed, then we can deal with that
24 at a D.O.

25 THE HEARING EXAMINER: I was thinking about the other

1 deviation about fences on the boundary. We are only
2 talking about a fence and whether or not it might be
3 appropriate to say for this segment that if it is necessary
4 to be able to have a wall there, that it be on the
5 boundary.

6 MS. DERHEIMER: Then you run into the fact that there
7 will be no landscaping on the outside of the wall.

8 THE HEARING EXAMINER: I understand. I'm not sure
9 from a neighbor's standpoint which would be preferable.

10 MS. DERHEIMER: Which one --

11 THE HEARING EXAMINER: All right. Okay. We can play
12 around on the language on that and think about that some
13 more. I think 1-D that was explained and 1-E I did not
14 have any additional questions.

15 MS. DERHEIMER: I can talk about deviation four. I
16 kind of batted that around, too, about if this is even
17 needed or not, the deviation from the sinuosity given the
18 proposed bulkhead and I don't -- I don't -- interpretation
19 of the code given the code allows bulkheads and bulkheads
20 are linear, then the deviation would be required, I left it
21 in just more of assurance to the applicant, so I will let
22 you --

23 THE HEARING EXAMINER: It is only for the segment
24 where the boundary is being changed.

25 MS. DERHEIMER: Correct.

1 THE HEARING EXAMINER: It is not -- it doesn't have
2 anything to do with the entire length of the lake.

3 MS. DERHEIMER: No, because it is existing and are not
4 altering it, then no deviation would be required.

5 THE HEARING EXAMINER: So we are talking about that
6 eastern boundary there.

7 MS. DERHEIMER: Correct.

8 MS. ROZDOLSKI: The director of development services
9 does not have the authority to do a deviation from that
10 administratively so --

11 MS. DERHEIMER: Maybe.

12 MS. ROZDOLSKI: -- it is probably a good idea to have
13 it in here based on a review and their interpretation of
14 that.

15 MS. DERHEIMER: We consistently allow the bulkhead as
16 long as it is under the percentage requirement. So
17 allowing the deviation does not go against what we would
18 normally allow.

19 THE HEARING EXAMINER: Okay. We didn't talk about
20 that area there. I see that there is a boat ramp and
21 dockage. Is the dockage going to be along the bulkhead?
22 Is that what the intent is or how is that seen, that
23 bulkhead seen there? Is it a drop off to the lake?

24 MR. STUART: The bulkhead will interface within the --
25 it will be offset from the R.V. pads, so we envision it to

1 be part of the comprehensive around the lake pedestrian
2 bike path and then the boating area we just see that as
3 kayaks. Quite frankly, we may just do some slight grading
4 and just drop it in. It is not that --

5 THE HEARING EXAMINER: It is not a tie up area or
6 anything like that?

7 MR. STUART: No, it is not that.

8 THE HEARING EXAMINER: Okay. I got you. Okay. I'm
9 going to ask Rob about five. Talk to me about the
10 emergency shelter deviation circumstance.

11 MS. ROZDOLSKI: All right. The section that this is a
12 deviation from is actually a Chapter 10 requirement. So it
13 doesn't specify the type of R.V. unit, whether it is
14 transient or non-transient. It also applies to mobile home
15 units and so it's not tied into the R.V.P.D. section of the
16 code.

17 The staff feels comfortable with recommending approval
18 of this deviation and there is a couple reasons. It is not
19 in a flood way. It is not in the coastal high hazard zone.
20 It is within evacuation zone C which has very easy access
21 to I-75 which is one of the main routes out of here. The
22 main use of the R.V. park is going to be during
23 non-hurricane season. This is more of a winter type use.
24 You know when the show birds are coming because they are
25 all coming down I-75 and you know when they are leaving,

1 they are all going up I-75. During the summer months when
2 an emergency event is more likely to occur there is
3 probably not going to be as much of a use. Staff did put
4 in a condition that before even -- I think it is worded
5 that a land development or a development order, local
6 development order be -- it is condition number six. So
7 before they even can get their development order for any
8 vertical development they are going to have to come up with
9 a plan and have it okayed by Lee County emergency
10 management to account for those people that are here during
11 the season and do not want to get in their vehicles and
12 drive off. Probably the applicant can talk better about
13 this. I have the feeling most of the vehicles that these
14 people are driving are not the kind they are going to want
15 to see blown away in a hurricane.

16 So because I know you were not comfortable with just
17 using the transient nature and it is not specified in the
18 code, transient versus non-transient, but these are
19 vehicles. They are not mobile homes or the units that you
20 are seeing tied down. I mean, these are vehicles. They
21 are gased, ready to go. They are going to be leaving the
22 site. There is not going to be a high occupancy during the
23 emergency months when a hurricane is more likely to happen.
24 There is the school to the north and the fire district --
25 fire department immediately across the street and, of

1 course, they are going to have to meet with emergency
2 management services before anything is approved to go
3 vertical on this site to come up with a plan in case there
4 are people there in a hurricane or emergency type of event
5 that would occur.

6 So staff does feel comfortable with this deviation.
7 It was not amended with the rest of the R.V. provisions.
8 It is a standard in Chapter 10 that is reviewed at the time
9 of development order. So, you know, again they will look
10 at whatever process is agreed upon with emergency services
11 and the applicant at that time.

12 THE HEARING EXAMINER: Okay. Do you think it might be
13 something that may be appropriate to have the board
14 consider at some point amending to tie it to the clear
15 division that is now for R.V.'s about transient and
16 non-transient?

17 MS. ROZDOLSKI: Potentially, although there could be
18 some instances where maybe it is not as ideal as this. We
19 do get a lot of transient R.V. parks out in Pine Island or
20 some of the other places that are a little harder to get
21 off and that it may be necessary.

22 THE HEARING EXAMINER: That may be necessary.

23 MS. ROZDOLSKI: Right. So I think it is going to be
24 on a case by case basis that a deviation that can be
25 requested from it. So I don't whether or not amending the

1 code is -- would solve all of the issues. It would be
2 something to consider.

3 THE HEARING EXAMINER: Okay. Thank you. Deviation 7
4 I don't think I had any issue with. I think that addressed
5 all of the deviations.

6 MS. ROZDOLSKI: All right. You still have the one
7 question on deviation five I think regarding the width
8 things. You said you wanted Rob to come up.

9 THE HEARING EXAMINER: Yes.

10 MS. ROZDOLSKI: Your turn.

11 MR. PRICE: Good morning. Rob Price with development
12 services. I am a licensed professional engineer in the
13 state of Florida and I have been recognized as an expert in
14 this forum and transportation planning, traffic engineering
15 and items in Chapter 10, Land Development Code previously
16 and wish to be recognized as such again today.

17 THE HEARING EXAMINER: Any objection?

18 MR. MARSHALL: None.

19 THE HEARING EXAMINER: So accepted.

20 MR. PRICE: All right. So I don't think there is a
21 whole lot of reason to go over the level of surface stuff
22 that Jim kind of already talked about. It is kind of a
23 moot point on this project. There is not a lot of
24 issues -- or any issues really. So I think we will dive
25 right into the deviations and the access. There was one

1 point that I made in my staff report with regard to access
2 to the plan development. The previous approval on the site
3 shows a full operational access point to Tice Street. Tice
4 Street is obviously a more heavily traveled roadway than
5 Lexington Avenue. Staff preference would have been to see
6 the project maintain full access to Tice Street but it
7 doesn't fit in the plan for what the developer would like
8 to do. So we fall back into can it meet the standards of
9 the land development code to provide the two driveways that
10 the code requires and they can. So we have asked because
11 of the design features on that southern southeastern
12 portion of that site, how that is a one-way loop road if
13 they can provide emergency access of some sort to help kind
14 of alleviate any kind of concerns if there was flooding on
15 the roads or something, you know, people could get in and
16 out if there was an emergency feature there and they have
17 agreed to provide that. So while it is not the ideal
18 configuration for staff, staff's preference, it's not our
19 property and the developer is proposing something that
20 meets the standards of the land development code so we can
21 support it.

22 Moving on to the deviations, obviously, we have had a
23 lot of discussion about deviation number five so I will get
24 to that one in a second. Deviation number seven you said
25 you didn't have much of a problem with and if you are

1 curious about deviation number 11, we asked them to
2 withdraw it because usually when we grant that deviation it
3 is at the time of D.O. and we have got letters and no
4 objection from all of the affected utility parties and it's
5 an automatic approval for us. It is not something that we
6 ever have said, well, the utility companies are okay with
7 you not having the easement but we still didn't feel
8 comfortable with it. That's not how it works. Whenever we
9 get the letters of no objection we process the deviation.
10 Chapter 10 section 104 allows administrative deviations
11 from several provisions in Chapter 10 and that kind of
12 dovetails into the discussion on deviation number five.

13 One of those sections that we can deviation from
14 administratively is 10-296 and I think what is kind of
15 unique about this project is, you know, the bulk of
16 projects we come in in front of you we don't really have a
17 real project that has got design plans and know these type
18 of details are going to be needed to be deviated from
19 already when we come before you. This particular case we
20 have a project that the developer is anxious to get
21 constructing and they actually know what the road
22 configuration needs to look like in order for it to work
23 for them and so the type of review that we would typically
24 see at the D.O. stage we were able to do some of that
25 through the zoning review.

1 So the 11-foot lanes with the 4-foot side -- or
2 walkways and on the two-way sections and also the valley
3 gutters that can be mountable and on the one-lane sections,
4 you know, the 16 full feet of pavement, you know, it is
5 something that we see typically in these R.V. parks. The
6 one that is to the east on Tice that we have recently
7 permitted they don't have sidewalks internally. They
8 actually use the roadways to -- for their walking and it's
9 an important point to make is the bulk of the traffic on
10 these roads is going to be passenger cars or golf carts.
11 Yeah, the R.V.'s have got to use the road but, generally,
12 they are pulling those R.V.'s in and they are parking them
13 and they are leaving them for multiple days, so the usage
14 on the road is primarily going to be pedestrian oriented
15 stuff, golf carts and passenger cars. So that's a factor
16 in our decision as to what we would do and how we would
17 look at the deviations for the roadway widths.

18 You know, another reason for including it in this
19 process, obviously, if we were to have to deviate from this
20 later after the zoning has already been approved there is a
21 thousand dollar fee to amend the zoning resolution to
22 provide a deviation of this nature. When we know the
23 details, what's the point of us delaying the decision. So
24 that was an important point to point out that the fee to
25 get the administrative review and to get the deviation is a

1 thousand bucks.

2 THE HEARING EXAMINER: Could this be granted
3 administratively?

4 MR. PRICE: Absolutely. Absolutely. 10-104 allows us
5 to deviate from 10-296.

6 THE HEARING EXAMINER: Okay. To the degree requested?

7 MR. PRICE: Yes, ma'am.

8 THE HEARING EXAMINER: Okay.

9 MR. PRICE: Absolutely. So that is all part of our
10 decision-making. Like I said, I mean, if we didn't know
11 the details and they weren't ready to move forward and they
12 weren't able to provide us specific cross sections, then we
13 would ask for this deviation to be withdrawn and be looked
14 at at the time of the D.O. but right now we know and these
15 guys are chomping at the bit to submit their development
16 order and, you know, it would raise significant questions
17 to us if they came in with a cross section that was
18 different than what they are showing on their M.C.P. here
19 and we would kind of get into a further discussion about
20 that.

21 So we are comfortable that with the additional
22 four-foot walkways on both sides on the two-lane road it
23 can more than offset the foot of pavement that we are
24 loosing and, you know, another -- another factor is, you
25 know, these roads aren't going to be having people carrying

1 high speeds out there. I mean, it's -- it's a unified
2 project. Everyone kind of recognizes that there is no need
3 for driving 30 miles an hour on these streets. There is
4 going to be pedestrians out there. It kind of acts more of
5 as a rural roadway with respect to, you know, it gets
6 shared by all of the different modes of transportation. So
7 we are comfortable with the deviations they have requested.
8 Did you have any other questions for me?

9 THE HEARING EXAMINER: Well, the point that you just
10 made about the speed was something that I also was somewhat
11 concerned about because typically when you have the wider
12 areas and if it is not marked off and delineated as a
13 sidewalk then people think, oh, it is a big road, let's
14 just go and I would suspect with an R.V. it would be
15 difficult to have speed bumps or whatever to -- when you
16 are trying to pull R.V.'s over them. What sort of -- it is
17 a private road. What typically would the staff require in
18 keeping the speeds low and to keeping everything oriented
19 to sharing the roads like you were talking about?

20 MR. PRICE: Right. Well, I mean, interestingly enough
21 narrower lanes is a traffic calming measure. So providing
22 narrower lanes actually does have a tendency to slow
23 traffic down. I don't know that we would be looking for
24 any kind of speed humps or anything like that but you do
25 have some curves in the road that kind of help -- will help

1 slow the traffic down some. I just think the nature of the
2 development what we have seen on other ones in the county
3 is it has a tendency to be the type of place where you are
4 not carrying a lot of speed on the roads. Everyone is
5 familiar with everyone else that's at the park and, you
6 know, it's kind of an amenity almost as much as it is a
7 road just to carry vehicles.

8 THE HEARING EXAMINER: All right. I had a couple of
9 other questions although I think you answered. The
10 traffic -- was the figure I heard correct that it was four
11 times less or one fourth the amount of what it is currently
12 approved; is that correct?

13 MR. PRICE: It is significantly less. I don't know
14 the number exactly. I wouldn't doubt that Jim was accurate
15 when he stated that.

16 THE HEARING EXAMINER: Okay. Significantly less than
17 what is currently approved.

18 MR. PRICE: Yes.

19 THE HEARING EXAMINER: Okay.

20 MR. PRICE: Also, I was going to point you were
21 talking about the cul-de-sac on the north side. Our code
22 does require cul-de-sacs at the termination of roadways.
23 We have been getting a lot of people lately that want to
24 deviate to put hammer heads instead of cul-de-sacs. We
25 would much, much, much prefer the cul-de-sac design. So we

1 appreciate the request or the actual proposal to put the
2 cul-de-sac in especially when you are looking at the R.V.'s
3 having to be able to make those maneuvers. We think it is
4 safer. We think it is a better design. Obviously, we are
5 sensitive to the buffer issue and that being in that
6 location. As long as environmental sciences is comfortable
7 with it, we are good with it, so...

8 THE HEARING EXAMINER: I don't have any problem with
9 there being a cul-de-sac. My only concern was whether it
10 is appropriate for it to intrude into the buffer.

11 MR. PRICE: Right. I think they could do a design
12 where they put a hammer head instead of a cul-de-sac and
13 stay out of it but I think it is more of a benefit to have
14 a cul-de-sac.

15 THE HEARING EXAMINER: Also they could pull the whole
16 thing down 20 feet. Whether they would loose a lot and
17 whether there is anything gained from that I guess is the
18 question.

19 MR. PRICE: Right.

20 THE HEARING EXAMINER: All right. I think that was
21 all of the questions that I had. Did you want to ask Rob
22 any questions?

23 MR. STUART: No, I would like to make a comment
24 though. Should I do that at closing?

25 THE HEARING EXAMINER: Yeah, I would suggest doing

1 that at closing.

2 MR. PRICE: All right. Thanks.

3 THE HEARING EXAMINER: Okay. Thank you. There was
4 two things that I forgot, Mikki, to ask you. One is in the
5 conditions on the use list there are some strike throughs
6 and underlines. What are those strike throughs and
7 underlines from?

8 MS. ROZDOLSKI: From the applicant's request. The
9 underlines are uses that staff added. The strike throughs
10 are ones that we struck through. It was more for benefit
11 of applicant to see what modifications that was
12 recommended.

13 THE HEARING EXAMINER: Okay. So in going forward with
14 the recommendation, they don't need to be there?

15 MS. ROZDOLSKI: No, please take out the ones that are
16 struck through and add what is underlined.

17 THE HEARING EXAMINER: Okay. And the other question I
18 don't know that it was specifically addressed one way or
19 the other. The commercial locational requirements in 6.1.6
20 I believe they are or seven of the Lee Plan.

21 MS. ROZDOLSKI: Uh-huh.

22 THE HEARING EXAMINER: Do they apply? I know this is
23 considered commercial. Do those locational criteria apply
24 to R.V. parks?

25 MS. ROZDOLSKI: No. This is -- this is a --

1 THE HEARING EXAMINER: It's a cross. It's kind of a
2 hybrid.

3 MS. ROZDOLSKI: It's a cross. I don't think it
4 applies to those standards.

5 THE HEARING EXAMINER: Okay. All right. Does that
6 complete staff's presentation?

7 MS. ROZDOLSKI: Yes. We are all done. Of course, if
8 you have any questions, we are here to answer them. I know
9 that there is one member of the public here but he is not
10 wanting to talk. He did submit his information for --

11 THE HEARING EXAMINER: To get a copy?

12 MS. ROZDOLSKI: To get a copy of everything.

13 THE HEARING EXAMINER: Okay. All right. So do we
14 have anyone who wishes to speak? Okay. If I could ask you
15 to fill out one of those forms on the wall after you speak
16 that would be appreciated. Were you sworn in previously?

17 MR. ALAN ERP: Yes.

18 THE HEARING EXAMINER: Okay.

19 MR. ALAN ERP: I'm Alan Erp. I'm one of the property
20 owners and we have been working on this for quite awhile
21 and feel it is a great fit for the neighborhood, you know,
22 and coinciding with our other business across the street
23 and if there are any other questions I'm here to answer
24 them.

25 THE HEARING EXAMINER: Okay. Staff have any

1 questions?

2 MS. ROZDOLSKI: No, I don't have any questions.

3 THE HEARING EXAMINER: Thank you very much.

4 MR. ALAN ERP: Thank you.

5 THE HEARING EXAMINER: Anyone else who wishes to
6 speak? Yes. Okay. I need two forms then or you actually
7 could sign in on the applicant's sheet, whichever way you
8 all want to do it but that's fine.

9 MR. AL ERP: I'm sworn in already.

10 THE HEARING EXAMINER: All right. Thank you.

11 MR. AL ERP: My name is Al Erp. I'm Alan's father. I
12 don't have any claims to be an expert of anything other
13 than over the years since 1986 in Lee County creating a
14 great family business with great people and I really
15 appreciate what staff has done here and asking good
16 relevant questions. We are excited about the project and
17 it has been going on for quite a few years. We employ 200
18 people. A lot of people don't understand what North Trail
19 does. We do employ 200 people. We continue to improve our
20 properties. We are a family business. My son and I
21 founded it in 1986, so we are here to stay.

22 THE HEARING EXAMINER: Okay.

23 MR. AL ERP: Thank you. Any questions?

24 THE HEARING EXAMINER: Thank you. All right. Seeing
25 no one further that wishes to speak, if anybody wants to

1 get a copy of the recommendation but doesn't necessarily
2 want to speak, if you will fill out one of these forms and
3 provide it to us, we can make sure you get a copy of the
4 recommendation.

5 MR. STUART: Am I able to speak? I'm sorry.

6 THE HEARING EXAMINER: Then I was going to come back
7 to you.

8 MR. STUART: I thought you were closing.

9 THE HEARING EXAMINER: No, I wasn't closing. I just
10 want to make sure everybody had their say in this.

11 MR. STUART: Before my voice goes.

12 THE HEARING EXAMINER: Yes.

13 MR. STUART: Excuse me for interrupting. I thought
14 you were closing the record.

15 THE HEARING EXAMINER: No problem. Go ahead.

16 MR. STUART: Staff's presentation was salient, to the
17 point. Rob's comments about deviation five were much more
18 articulate than mine. I certainly point out if you look at
19 the functional nature of an R.V. resort as Rob pointed out,
20 you come in at any time of the day or night. It is not
21 peek hour. Weekend, weekday, it doesn't matter. You park
22 your R.V. You go back about your business. Sometimes they
23 have cars. Sometimes they have golf carts or bikes. So
24 the pedestrian conflict is not -- the potential for
25 pedestrian conflict is not that great inherent in the use

1 itself and, again, Rob made some good points and I made
2 some good points but I would like to add this. To leave
3 this issue as an administrative issue raises a significant
4 problem, significant business problem which is, again, we
5 are striving to get our development order and everything in
6 line before the March deadline. Certainly, you need --
7 road geometry on a project like this is probably the key
8 design factor from a horizontal design perspective. We
9 need absolute certainty at this stage of the game. We
10 can't just say, hey, after zoning we will finalize this
11 issue. We would rather have it now because it helps with
12 the design and permitting process. That is really a big
13 issue.

14 And, finally, we really do appreciate the hard work
15 with staff. I think Rob also pointed out how, in fact,
16 this was a quasi D.O. review because, you know, we have a
17 specific plan. We ironed out a lot of the issues. It was
18 a real pleasure working with staff. I think once we get
19 this thing up and running the community is going to love
20 it. It is going to be first rate. So that concludes my
21 testimony.

22 THE HEARING EXAMINER: Okay. All right. I have
23 already done the site visit on this one and you have
24 indicated you will pay -- I don't know that it necessarily
25 needs to be expedited as in having it by next week because

1 I don't think I will have the other cases done by next week
2 but providing the transcript will help so that as soon as
3 I'm through with the other cases I will have everything I
4 need to go forward and I will do my best to have it -- I
5 think the board is only meeting once in December but if we
6 don't make it in December, I think it is reasonable to
7 expect that you would have a hearing by -- in January
8 sometime.

9 MR. STUART: That would be wonderful.

10 THE HEARING EXAMINER: Before the board.

11 MR. STUART: That will be great.

12 THE HEARING EXAMINER: So we will do our best to get
13 it out as quickly as possible. This hearing is now closed.

14 (The hearing was concluded at 12:50 p.m.)
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1 STATE OF FLORIDA)

2 COUNTY OF LEE)

3
4 I, Tammy S. Hoffmann, do certify that I did
5 stenographically report the foregoing proceedings and that the
6 typewritten transcript, consisting of pages numbered 3 through
7 138, is a true record.

8 Dated this 17th day of November, 2014.
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12 Tammy S. Hoffmann, RMR FPR
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